

**THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. JUAN REYES ET AL., DEFENDANTS AND APPELLANTS.***G.R. No. 28197. December 29, 1928*

Ponente: AVANCEÑA, C.J.

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These two cases were heard jointly and decided in one judgment. In case 28197 Juan Reyes, Pedro de la Cruz, Pedro Ronzales and Agustin Santiago were charged with the murder of Alejandro Aquino. In case 28193 the same defendants were charged with the murder of Jose Aquino.

In the first case (28197) the trial court found Juan Reyes, Pedro Ronzales, Pedro de la Cruz and Agustin Santiago guilty, and sentenced each of them to life imprisonment, with the accessories of the law, to indemnify the deceased's heirs in the amount of P500, and to pay the proportional part of the costs of the action. In case 28198 the trial court found Pedro de la Cruz guilty as principal and sentenced him to life imprisonment, with the accessories of the law, providing that this penalty, together with the other one imposed in the other; case, should not exceed forty years; the court found defendant Agustin Santiago guilty as an accomplice and imposed upon him the penalty of twelve years and one day *cadena temporal*, with the accessories of the law; and sentenced both of them to indemnify the heirs of Jose Aquino in the amount of P500 and each to pay the proportional part of the costs, absolving the other defendants in this case.

On the night of July 25, 1927, Alejandro Aquino and his two sons, Pastor and Jose, were asleep in their hut in the sitio of Looc, municipality of Malolos, Province of Bulacan. Pastor was awakened by a certain noise, thus becoming aware that some persons had entered the hut and began to assault them; so he jumped out of the hut and went to Bonifacio Santiago's house to report the incident; thence, both of them went to the municipal building. Bonifacio Santiago is the lessee of the land which Alejandro tilled. After policemen Nicomedes Espiritu and Vicente Cruz had learned of the incident, they accompanied Pastor and Bonifacio to the hut, at which they arrived at about 2 o'clock in the morning. There they found Alejandro Aquino stretched out on the ground floor of the hut. On being asked by policeman Nicomedes, after the latter had made himself known, who had wounded him, Alejandro mentioned the appellants' names. Jose Aquino, too, was wounded, but he could no longer speak. A flashlight was found under the hut, which according to Alejandro, was carried by the appellant Pedro de la Cruz.

Upon the wounded men being conducted to the municipal building, Alejandro Aquino made a statement (Exhibit E) before the justice of the peace, as follows: That at about 1 o'clock in the morning he (Alejandro Aquino) was awakened by a bolo stab in the face and head by Pedrong Munti, who carried the flashlight; that Pedrong Munti, focused the flashlight on his son Jose Aquino, who was asleep, stabbing him, too, with the same bolo; that he then grabbed Pedrong Munti, and they clinched, and while thus engaged, Gusting, whom he recognized by his voice, pricked his foot from below saying "Hurry up, kill him!"; that while he was thus clinched with Pedrong Munti, both of them fell at the staircase, and then Juan Maitim approached, who gave him a bolo blow on his arm, and Pedrong Malaki, gave him another bolo blow on his back; so he had to let go of Pedrong Munti, who said, "I told you something would happen"; that he recognized all of them by the light of the stars; that the appellants bore him

a grudge because he tilled the land of the municipal president of Malolos leased to Bonifacio Santiago, which had been the object of a strike on the part of the appellants, all of whom were members of the Kapatirang Magsasaka society, who therefore felt vexed. Immediately after having made this statement, the appellants were presented to Alejandro one by one, and he recognized them as the same ones who entered his house, identifying Pedro Ronzales as Pedrong Malaki, Pedro de la Cruz as Pedrong Munti, and Juan Reyes as Juan Maitim, and Agustin Santiago as Gusting. Both this declaration and the identification of the appellants were made after Alejandro Aquino, when asked about his condition, and whether he believed he was going to die of his wounds, answered, "Opo, seguro po"

Counsel for the appellants in this instance alleges that this declaration of Alejandro Aquino is not an ante-mortem declaration, because he did not make it in the certain belief that he was about to die. It is contended that the words "Opo, seguro po" mean that he believed he might die, but not that he would surely die. But these words may also mean that he was sure or certain. At any rate, as they could mean both things, we believe that, considering the seriousness of his wounds, eighteen of them all told, which caused his death two days later, Alejandro Aquino signified by these words the belief that he was going to die. But even if this statement is not deemed to be an ante mortem declaration, yet it was *res gestae*, since it was made immediately after the incident, when policeman Nicomedes went to the same place, and hence is also competent evidence to support conviction. Moreover, this statement was corroborated by Agustin Santiago's testimony before the justice of the peace of Malolos.

As to case 28198, for the murder of Jose Aquino, it is alleged that there is no evidence as to the participation of the appellants, as Alejandro Aquino's ante mortem declaration cannot be considered in connection with Jose Aquino's death. But once it is admitted that it was the appellants who entered the hut of the victims, and that on the same night, besides Alejandro Aquino, Jose Aquino was also killed, it must be admitted beyond all doubt that it was the appellants, or some one of them, who murdered Jose Aquino. The circumstances of the case show that a common purpose brought them to the hut, and all of them must answer equally for the crimes committed. For this reason we find the Attorney-General's recommendation to be correct, to the effect that Agustin Santiago must be considered in connection with Jose Aquino's death, as a coprincipal and not as a mere accomplice.

Furthermore, as the act was committed in the dead of the night, while the deceased were asleep, the circumstance of treachery was present, qualifying the crime as murder.

We find the appellants' guilt proven beyond all reasonable doubt, and pursuant to the Attorney-General's recommendation, with the understanding that Agustin Santiago is sentenced to life imprisonment, the judgment appealed from is affirmed in all other respects. The sentence in case No. 28198 as to Agustin Santiago and Pedro de la Cruz must be served after the penalty imposed upon them in case No. 28197, both penalties not to exceed forty years, with the costs against the appellants. So ordered.

Johnson, Street, Malcolm, Villamor, Ostrand, Romualdez, and Villa-Real, JJ., concur.

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