

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. JUAN AGUINALDO, DEFENDANT AND APPELLANT.

G. R. No. 33843. February 11, 1931

Ponente: VILLAMOR, J.

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VILLAMOR, J.:

The accused was tried for the crime of murder by the Court of First Instance of Ilocos Norte on the following information:

"That on or about the 29th of April, 1930, in the municipality of Bacarra, Province of Ilocos Norte, Philippine Islands, the above-named accused did wilfully, unlawfully, and feloniously kill one named Anselmo Oao, with a bolo, the crime being committed in an uninhabited place, with evident premeditation, treachery, and cruelty.

"Contrary to law."

At the preliminary investigation the defendant pleaded guilty before the justice of the peace of Bacarra, but in the Court of First Instance he pleaded not guilty.

After both parties had submitted their evidence, the court found the defendant guilty of murder with the qualifying circumstance of treachery, and the aggravating circumstances of cruelty and uninhabited place, and sentenced him to life imprisonment, with the accessories of law, to indemnify the heirs of the deceased in the sum of P1,000 and to pay the costs.

The defendant has appealed to this court, and his counsel contends that the trial court erred in convicting him of murder, when the evidence of record only supports a conviction of homicide.

The record shows that the deceased Anselmo Oao and his wife, Geronima Lacar, lived at the place called Rango, in the municipality of Bacarra; that on the morning of April 29, 1930, husband and wife went to a hill in Rango to dig up some roots to be used as medicine for Geronima's toothache. While the deceased was in a sort of gully at the hillside, stooping down and digging up the roots, the defendant appeared and suddenly rushed at him, stabbing him in the neck with his bolo from behind. When he felt the blow, the victim tried to raise his head saying, "Apo, what are you going to do to me?" Geronima, in turn, demanded of the defendant: "What have you done to my husband?" But the defendant continued attacking the deceased, who was unarmed, and threatened to kill Geronima if she reported him. She fled terrified to her house. Still in fear of the defendant, Geronima told no one what had happened until the next day, when she hinted to her father and a neighbor that they might look for the deceased on that hill.

The body was found, and the authorities of Bacarra notified; and on the night of the 30th of that month, April, the justice of the peace, the chief of police, and the president of the sanitary division including said municipality of Bacarra went to the place. The last named official, Dr. Mauricio Paz, made an autopsy and mentioned the following wounds in the certificate he issued:

"(a) One on the back of the right wrist, four inches long, cutting all the muscles, bones, and vessels of that

region, and leaving only the flesh of the palm unsevered from the body.

"(b) Two wounds in the chest four inches long parallel to each other and to the sternum (bone), situated on the borders of said bone, and taking in the flesh, muscles, ribs, vessels, and both lungs.

" (c) One wound on the right side of the neck, ten inches long, from the right border of the sternum near the nape of the neck; four inches deep and three inches wide, taking in all the muscles, vessels, and nerves of that region and a part of the occiput.

"(d) Another wound on the right cheek from the chin back 'behind the right ear, taking in the muscles, vessels, and bones of the region; the right ear has not been found, for it was severed from the head.

"(e) Another wound on the head eight inches long from the forehead to the nape of the neck, dividing the cranium in two, taking in the scalp, the cranial bones, and the brain,

"(f) Another wound underneath the right eye, two and a half inches long, taking in the soft parts and bones of that region.

"(g) The forehead shows a surface wound, round and about two and a half inches in diameter, only skin-deep; the frontal bone is exposed.

"4. The wounds designated by letters (a), (b), (c), (d) and (e) are necessarily mortal.

"5. These wounds were produced by a sharp instrument.

"6. Death was due to the excitement and hemorrhage caused by these wounds."

The defendant voluntarily made the sworn statement, Exhibit B, before the justice of the peace of Bacarra and in the presence of the municipal president and the chief of police, declaring in substance that he had illicit relations with Geronima Lacar, the wife of the deceased, for a month before the incident; that the day before the 29th of April, Geronima urged him to kill Anselmo Oao; that he therefore killed Anselmo on that morning, while the latter was stooping, digging up roots in Rango; that on receiving the first slash, Anselmo confronted him, but fell upon being stabbed again; that no one witnessed the act except Geronima, who, after seeing her husband stabbed twice, ran away to her house. The defendant further admitted that the bolo Exhibit C was the weapon he had used upon the deceased, and that the shirt Exhibit D and the drawers, Exhibit D-1, were the dead man's clothing on the occasion in question.

The justice of the peace testified in the case, identifying Exhibit B, which is the sworn statement made by the defendant before him, as already stated, and in the presence of the municipal president and the chief of police. The municipal president fully corroborates the testimony of the justice of the peace.

The trial court, by an order dated May 5, 1930, delegated the justice of the peace of Laoag, capital of the Province of Ilocos Norte, to conduct the preliminary investigation in each of the two informations against Geronima Lacar and against Juan Aguinaldo, respectively. And this justice of the peace testified, identifying Exhibit E where defendant Juan Aguinaldo also pleads guilty.

In testifying, Dr. Mauricio Paz, president of the second sanitary division, after describing the wounds he found upon Anselmo Oao's body, said that they found the body on the hillside, in a hole about 1 meter deep. The body was placed face downward, with the head a little inclined to the left. The left hand was under the head, and the right hand on the abdomen. It was dressed in a shirt and short drawers, and was beginning to decompose.

The defendant testified in his own behalf that he came upon the deceased that morning as he was looking for the cattle he pastured. Without even knowing him, the deceased said to him: "You come here to look for something to rob." The accused answered that he was only looking for his cattle, but the deceased ran after him with a drawn bolo. In view of the deceased's aggressive attitude, he was compelled to fight, for he had reached an impassable place and could not flee. He then stabbed the deceased, who was more robust than he, wounding him in the neck. Without realizing what he was doing, he continued to stab the deceased, who fought back until he sank down seriously wounded. He denies that he has threatened the dead man's wife, saying that she was not present on that

occasion.

The defendant also testifies that the constabulary men arrested him in his house, tied his hands, and bound him because he refused to confess; that during the investigation which they conducted he only admitted that he had caused the deceased's death; that this admission of his was reported by the constabulary men to the justice of the peace of Bacarra, who reduced it to writing, later on making him sign Exhibit B in the presence of the constabulary men; and that some time later he was also taken by the constabulary men before the justice of the peace of Laoag, who drew up a document and made him sign it, without giving him an opportunity to secure counsel. But the defendant admitted on cross-examination, that the justice of the peace of Bacarra investigated him and reduced to writing what he had testified, and he signed it, declaring at the same time that it was true; that later on, when already in the provincial jail, the provincial fiscal read out to him in Hocano the sworn statement he had made before the justice of the peace of Bacarra, and he again affirmed under oath that it was true; and that he did not tell the fiscal that he had been maltreated by the constabulary men, because the latter were then present.

After examining the record, we are fully convinced that the defendant is guilty beyond a reasonable doubt. It will be noted that the accused, in testifying before the trial court, makes no mention of the alleged instigation of the deceased's wife to commit the crime; but even supposing that such instigation existed, there is absolutely no reason why the defendant should be exempted from criminal liability for the treacherous killing of Anselmo Oao. The dead man's position when he received the first blow, with his back to the defendant and bent down, because he was digging up medical roots in a gully, entirely unprepared and unable to defend himself from his assailant, clearly shows the defendant's treachery in attacking his victim, thereby qualifying the crime as murder, defined and penalized in article 403 of the Penal Code.

The defendant's allegation that he was pursued by the deceased and being unable to flee, he turned to bay bob in hand, is, to our way of thinking, an invention pure and simple on the part of the defendant, which the trial court did not believe, and neither do we.

The trial court accepted as aggravating circumstances, cruelty and uninhabited place. The Attorney-General holds that the number of wounds found upon the corpse does not, by itself alone, justify the acceptance of the circumstance of cruelty, it being necessary to show that he deliberately and inhumanly increased the sufferings of the victim, and this has not been proved in the present case. The Attorney-General also alleges that the circumstance of uninhabited place cannot properly be accepted, for lack of evidence to show that the appellant sought the solitude of the place where the crime was committed in order the better to attain his purpose. We agree with the Attorney-General. The evidence does not clearly show that the place was about 1 kilometer away from the nearest house.

Considering all the circumstances of the present case, we are of opinion that the judgment appealed from, imposing the penalty of life imprisonment on the defendant, which penalty is the medium degree of that fixed in article 403 of the Penal Code for the crime of murder, is in accordance with law. It must therefore be affirmed, as we do hereby affirm it, with costs against the appellant. So ordered.

Avanceña, C. J., Johnson, Street, Malcolm, Ostrand, Johns, Romualdez, and Villa-Real, JJ., concur.

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