

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. ALFREDO ROSIL (ALIAS LIBAT), DEFENDANT AND APPELLANT.

G.R. No. 35867. March 31, 1932

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

Alfredo Rosil (alias Libat) appeals to this court from the sentence, of the Court of First Instance of Palawan convicting him of the crime of parricide without any modifying circumstance, and sentencing him to life imprisonment, the accessories of law, an indemnity of P500 to the heirs of the deceased, and to pay the costs.

In support of his appeal, the appellant assigns the following alleged errors as committed by the trial court in its judgment, to wit:

- "1 The lower court erred in holding the accused and appellant guilty of the crime of parricide.
- "2. The trial court erred in sentencing the herein appellant to cadena perpetua.
- "3. The court of origin erred in not estimating the following attenuating circumstances: (1) vindicacion proxima, de una ofensa grave al acusado; (2) arrebatado y obcecacion; and (3) lack of instruction on the part of the accused herein appellant.
- "4. The court below erred in not acquitting the accused from the crime charged in the information.
- "5. The court below erred in denying the petition for continuance of the hearing of this case by the defense."

The following facts were proved at the trial beyond a reasonable doubt:

The accused Alfredo Rosil (alias Libat) married the deceased Tomasa Magalito according to the rites of the Tagbanua tribe to which both of them belonged. Prior to October 13, 1930 the accused became suspicious that his wife was unfaithful to him, because she would leave their home alone and go with a man named Urbano. Later she deserted the conjugal home for another house, refusing to return when her husband begged her to do so. On the afternoon of the day of record, October 13, 1930, the accused spoke to his wife about her conduct, and she answered that she had a right to act as she did. At this the defendant slapped her and beat her with a strip of rattan. As she resisted, he stabbed her in the left side of the breast with the knife Exhibit B, and then gave himself up at once to the barrio lieutenant, Santiago Garcia, his half-brother, to whom he said he had killed his wife, and delivered up the knife, Exhibit B. An hour later his victim died. The following morning Santiago Garcia went to the defendant's home, where the crime had been committed, in the sitio of Cumapcap, barrio of Bucungan, municipality of Puerto Princesa, Province of Palawan, and there he found the body of the deceased Tomasa Magalito on a bed, with a wound in the right side of her breast. On October 20, 1930 while the defendant was under arrest, he was investigated by the provincial fiscal, Antonio Lacson, who questioned him in English, the clerk of court Pedro Valdes interpreting into the Cuyuno dialect which is the defendant's native dialect. The

statement he made at that investigation appears in Exhibit D, which he signed after its contents had been interpreted for him into Cuyuno, and wherein he relates the same facts he had recounted to his half-brother.

At the preliminary investigation held on October 22, 1930 before Gaudencio Abordo, the justice of the peace of Puerto Princesa, the accused, with counsel de oficio, upon arraignment pleaded guilty, ratifying what he had stated before the provincial fiscal (Exhibit D) and signing Exhibit C of his own free will, after its contents had been interpreted into the Tagbanua dialect, which he understands.

The above statement of facts, proven beyond a reasonable doubt at the trial, leaves no room for doubt that the accused was the one who caused the death of the deceased Tomasa Magalito, to whom he was married according to the rites of the tribe of Tagbanuas to which both of them belonged, which rites sanctioned said marriage according to the admission of the accused, and constitutes the crime of parricide, denned and penalized in, article 402 of the Penal Code, the penalty fixed by law being life imprisonment to death. To graduate said penalty the mitigating circumstance of passion and obfuscation must be considered, without any aggravating circumstance to offset it, for which reason the penalty must be imposed in the minimum degree, that is, life imprisonment.

Wherefore, finding the judgment appealed from to be in conformity with the law and the evidence, it is hereby affirmed in its entirety with costs against the appellant, it being understood that in accordance with the Revised Penal Code the penalty is reclusion perpetua and not cadena perpetua. So ordered.

Avanceña, C. J., Johnson, Street, Romualdez, and Imperial, JJ., concur.

CONCURRING

MALCOLM, J.

The decision prepared by Justice Villa-Real contains the following very significant language: "The above statement of facts, proven beyond reasonable doubt at the trial, leaves no room for doubt that the accused was the one who caused the death of the deceased Tomasa Magalito, to whom he was married according to the rites of the tribe of Tagbanuas to which both of them belonged, which rites sanctioned said marriage according to the admission of the accused, and constitutes the crime of parricide." This means, I take it, the definite abandonment of the doctrine announced in the cases of *United States vs. Tubban* ([1915], 29 Phil., 434), and *United States vs. Verzola* ([1916], 33 Phil., 285), refusing to recognize a tribal marriage ceremony—a doctrine which this court has heretofore declined to follow in the civil case of *Adong vs. Cheong Seng Gee* ([1922], 43 Phil., 43). Such action also conforms to the portion of section 25 of the existing Marriage Law providing: "Marriages between persons who do not profess the Mohammedan or Christian religions nor any particular religion and who inhabit any of the regions of the Philippine Islands which are under the jurisdiction of the Bureau of non-Christian Tribes may also be performed in accordance with the rites and practices of their religion, if they have any, or with tribal customs if not." Marriage relations among individuals living in regions ordinarily referred to as non-Christian are just as sacred and should be just as much respected as are the marriage relations of individuals settled in more advanced communities and adhering to recognized religions. With the understanding, therefore, that the decision means a complete reversal of the attitude adopted in the two cases previously referred to, I concur in the result.

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