

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. FRANCISCO CAGOCO Y RAMONES (ALIAS FRANCISCO CAGURO, ALIAS FRANCISCO ADMONES, ALIAS BUCOY, ALIAS FRISCO GUY), DE...

G.R. No. 38511. October 06, 1933

Ponente: VICKERS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-38511/>

VICKERS, J.:

The accused was charged in the Court of First Instance of Manila with the crime of asesinato, committed as follows:

"That on or about the 24th day of July, 1932, in the City of Manila, Philippine Islands, the said accused did then and there willfully, unlawfully and feloniously, without any just cause therefor and with intent to kill and treachery, assault and attack one Yu Lon by suddenly giving him a fist blow on the back part of the head, under conditions which intended directly and especially to insure the accomplishment of his purpose without risk to himself arising from any defense the victim Yu Lon might make, thus causing him to fall on the ground as a consequence of which he suffered a lacerated wound on the scalp and a fissured fracture on the left occipital region, which were necessarily mortal and which caused the immediate death of the said Yu Lon."

After hearing the evidence, Judge Luis P. Torres found the defendant guilty as charged, and sentenced him to suffer reclusion perpetua, with the accessory penalties of the law, to indemnify the heirs of the deceased Yu Lon in the sum of P1,000, without subsidiary imprisonment in case of insolvency, and to pay the costs.

Appellant's attorney de oficio makes the following assignments of error:

"1. The trial court erred in finding that the appellant is the person who committed the assault on Yu Lon, the victim of the crime charged in the information.

"2. Assuming that the appellant is the person who committed the assault on Yu Lon (a fact which we specifically deny), the trial court erred in finding that the appellant struck his supposed victim.

"3. Assuming that the appellant is the person who committed the assault on Yu Lon, and that the appellant did strike his supposed victim (facts which we specifically deny) the trial court erred in finding that the blow was dealt from the victim's rear.

"4. The trial court erred in finding that the identity of the appellant was fully established.

"5. Assuming that the four preceding errors assigned are without merit, the trial court erred in convicting the appellant of the crime of murder, under article 248 of the Revised Penal Code, instead of convicting him of the crime of maltreatment, under article 266 of the said Code."

It appears from the evidence that about 8.30 on the night of July 24, 1932 Yu Lon and Yu Yee, father and son, stopped to talk on the sidewalk at the corner of Mestizos and San Fernando Streets in the District of San Nicolas.

Yu Lon was standing near the outer edge of the sidewalk, with his back to the street. While they were talking, a man passed back and forth behind Yu Lon once or twice, and when Yu Yee was about to take leave of his father, the man that had been passing back and forth behind Yu Lon approached him from behind and suddenly and without warning struck him with his fist on the back part of the head. Yu Lon tottered and fell backwards. His head struck the asphalt pavement; the lower part of his body fell on the sidewalk. His assailant immediately ran away. Yu Yee pursued him through San Fernando, Camba, and Jaboneros Streets, and then lost sight of him. Two other Chinese, Chin Sam and Yee Fung, who were walking along Calle Mestizos, saw the incident and joined him in the pursuit of Yu Lon's assailant. The wounded man was taken to the Philippine General Hospital, where he died about midnight. A post-mortem examination was made the next day by Dr. Anastacia Villegas, who found that the deceased had sustained a lacerated wound and fracture of the skull in the occipital region, and that he had died from cerebral hemorrhage; that he had tuberculosis, though not in an advanced stage, and a tumor in the left kidney.

Yu Yee promptly reported the incident to the police, and about 3 o'clock the next morning Sergeant Sol Cruz and other detectives, accompanied by Yu Yee, went to the scene of the crime and found blood stains in the street. Yu Yee said that he could recognize his father's assailant, and described him as being about five feet in height, 25 or 30 years old, with long hair and wearing a suit of dark clothes. After Sergeant Sol Cruz had been working on the case for three or four days he received information that the accused might be the person that had assaulted Yu Lon, and on August 4th the accused was arrested by detectives Manrique and Bustamante. He was wearing a dark wool suit. Yu Yee was immediately called to the police station. The accused was placed near the middle of a line of some eleven persons that had been detained for investigation. They were wearing different kinds of clothes. Yu Yee without hesitation pointed out the defendant as the person that had assaulted Yu Lon. He identified him not only by his long hair combed towards the back and worn long on the sides in the form of side-whiskers (patillas), but also by his high cheek-bones and the fact that his ears have no lobes. The defendant was identified at the trial not only by Yu Yee, but also by Chin Sam and Yee Fung.

With respect to the first four assignments of error, which raise questions of fact as to the identification of the accused, and whether or not he struck the deceased, and if he did assault the deceased, whether he did so in a treacherous manner, we see no sufficient reason, after considering the evidence and arguments of counsel, to doubt the correctness of the findings of the trial judge. The accused was identified by Yu Yee and two other Chinese, and although Yu Yee may have overstated at the trial some of the facial peculiarities in the defendant that he claimed to have observed at the time of the incident, it must be remembered that Yu Yee without hesitation picked the defendant out of a group of eleven persons as his father's assailant, and that he had exceptional opportunities for observing his father's assailant, because while that person was walking back and forth behind Yu Lon, Yu Yee was facing the assailant.

We find the testimony of the defendant and his witnesses as to the whereabouts of the defendant on the night in question unworthy of credit.

The testimony of the three Chinese that a man struck the deceased and then ran away is corroborated by the testimony of a 15-year old boy, Dominador Sales.

As to the contention that the deceased would have fallen on his face if he had been struck on the back of the head, the expert testimony shows that in such a case a person instinctively makes an effort to preserve or regain his balance, and that as result thereof the deceased may have fallen backwards. Another consideration is that sidewalks almost invariably slope towards the pavement, and this being true, when the deceased straightened up, he naturally tended to fall backwards. The evidence leaves no room for doubt that the accused struck the deceased on the back of the head, because when the deceased was assaulted he and Yu Yee were standing on the sidewalk,

facing each other, and if the accused had not struck the deceased on the back of the head, it would have been necessary for him to go between the deceased and Yu Yee. Since the accused struck the deceased from behind and without warning, he acted with treachery. "There is treachery when the offender commits any of the crimes against the person, employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make." (Article 14, No. 16, of the Revised Penal Code.)

The fourth assignment of error is a repetition of the first.

In the fifth assignment of error it is contended that the appellant if guilty at all, should be punished in accordance with article 266 of the Revised Penal Code, or for slight physical injuries instead of murder.

Paragraph No. 1 of article 4 of the Revised Penal Code provides that criminal liability shall be incurred by any person committing a felony (delito) although the wrongful act done be different from that which he intended; but in order that a person may be criminally liable for a felony different from that which he proposed to commit, it is indispensable that the two following requisites be present, to wit: (a) That a felony was committed; and (b) that the wrong done to the aggrieved person be the direct consequence of the crime committed by the offender. (U. S. vs. Brobst, 14 Phil., 310; U. S. vs. Mallari, 29 Phil., 14; U. S. vs. Diana, 32 Phil., 344.)

In the Brobst case, supra, it was held that death may result from a blow over or near the heart or in the abdominal region, notwithstanding the fact that the blow leaves no outward mark of violence; that where death results as the direct consequence of the use of illegal violence, the mere fact that the diseased or weakened condition of the injured person contributed to his death, does not relieve the illegal aggressor of criminal responsibility; that one is not relieved, under the law in these Islands, from criminal liability for the natural consequences of one's illegal acts, merely because one does not intend to produce such consequences; but that in such cases, the lack of intention, while it does not exempt from criminal liability, is taken into consideration as an extenuating circumstance. (U. S. vs. Luciano, 2 Phil., 96.)

The reasoning of the decisions cited is applicable to the case at bar. There can be no reasonable doubt as to the cause of the death of Yu Lon. There is nothing to indicate that it was due to some extraneous cause. It was clearly the direct consequence of defendant's felonious act, and the fact that the defendant did not intend to cause so great an injury does not relieve him from the consequence of his unlawful act, but is merely a mitigating circumstance (U. S. vs. Rodriguez, 23 Phil., 22).

The next question is whether the crime committed by the defendant should be classified as homicide or murder. Can the defendant be convicted of murder when he did not intend to kill the deceased?

We have seen that under the circumstances of this case the defendant is liable for the killing of Yu Lon, because his death was the direct consequence of defendant's felonious act of striking him on the head. If the defendant had not committed the assault in a treacherous manner, he would nevertheless have been guilty of homicide, although he did not intend to kill the deceased; and since the defendant did commit the crime with treachery, he is guilty of murder, because of the presence of the qualifying circumstance of treachery.

The Supreme Court of Spain has held that there is no incompatibility, moral or legal, between alevosia and the mitigating circumstance of not having intended to cause so great an injury:

"Considering that there is no moral or legal incompatibility between treachery and the mitigating circumstance No. 3 of article 9 of the Penal Code, because the former depends upon the manner of execution of the crime and the latter upon the tendency of the will towards a definite purpose, and therefore there is no obstacle, in case treacherous means, modes or forms are employed, to the appreciation of the first of said circumstances

and simultaneously of the second if the injury produced exceeds the limits intended by the accused; and for that reason it cannot be held in the instant case that this mitigating circumstance excludes treachery, or that the accused, being chargeable with the death of the offended party, should not be liable for murder, inasmuch as this was the offense committed due to the voluntary presence of treachery in the act perpetrated, although with the mitigation corresponding to the disparity between the act intended and the act consummated, etc." (Decision of May 10, 1905, Gazette of April 20, 1906; Viada: 5th edition, Vol. 2, p. 156.)

In the case of the United States vs. Candelaria (2 Phil., 104), this court speaking through Chief Justice Arellano said:

"In tying Jacinto to a tree the three defendants acted treacherously (alevosamente). Whether it was to prevent him from making resistance, whether it was to torture him for the purpose of making him give information, or whether it was for the purpose of inflicting further punishment, the fact is that by this means the defendants secured themselves against any risk which might have arisen from an attempt at self-defense on the part of the victim. We are of opinion that they had no intention to cause so great an evil as that which resulted, but this does not neutralize that other qualifying circumstance of the resulting death, because if there was no alevosia for the purpose of killing there was alevosia for the purpose of illtreating. The means employed were not made use of for the precise purpose of making certain the death of Jacinto de Jesus, but as a safe means of illtreating him without risk to the persons who were doing so. If by this means the ill treatment was aggravated, it follows that it is a qualifying circumstance in the death which resulted. It was not a condition of the purpose, but it was a condition of the criminal act itself, in whatever sense this be taken."

The penalty for murder (article 248 of the Revised Penal Code) is reclusion temporal in its maximum period to death, and there being present in this case one mitigating and no aggravating circumstance the prison sentence of the appellant is reduced to seventeen years, four months, and one day of reclusion temporal. As thus modified, the decision appealed from is affirmed, with the costs against the appellant.

Avanceña, C. J., Street, Abad Santos, and Butte, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.