

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. SANTIAGO MONTECILLO, DEFENDANT AND APPELLANT.*G.R. No. 4317. August 18, 1908*

Ponente: TORRES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-4317/>**TORRES, J.:**

On the morning of the 21st or 27th of January, 1904, the eve of the fiesta of the patron saint of the pueblo of Sogod, a town annexed to that of Catmon, in the Island of Cebu, several members of the local police and volunteers of said municipality, by order of the municipal president, Santiago Montecillo, went toward the mountain that stands in the sitio of Tagaytay within the said territory, in order to capture a well-known pulajan bandit named Claudio Monsanto, who, according to reports received by the president, was that morning on the said mountain. As a matter of fact he was then and there found and, after some resistance, was captured by them. At about 4 or 5 o'clock in the afternoon they reached the pueblo and took the prisoner, Monsanto, to the president. He was suffering from two wounds, one in the forehead near the right eyebrow, and the other in the back of the head, which had been inflicted by the said police in capturing him, on account of the stubborn resistance that he offered with a bolo with which he was armed. The prisoner was taken to the camarin used as the municipal building, and, by order of the president, was tied up with a rope and hung or suspended from one of the lateral beams that supported the roof of the camarin, with his arms open and his feet raised about two spans from the ground; the policemen further tied the prisoner by the neck, waist, legs and feet to a post or supporting pillar of the camarin. At about 8 o'clock in the evening of said day the prisoner Monsanto appearing to be greatly exhausted and in a dying condition, the policemen, by order of the president, untied him and cut the rope by which he was hung; he at once fell to the ground; the president then ordered that he be tied by the hands and feet, that a stick be passed between his legs and arms and that he be carried to the cemetery and there killed and buried, saying that it was better to kill him there than to send him to Cebu, in order to avoid trouble and citations such as had occurred in other cases. In obedience to the orders of the president the policemen took the deceased to the cemetery, almost dragging him along the ground, and upon arriving there, the policeman Lope Comendador killed him by shooting him in the back, the bullet passing out through the chest. The body was immediately buried in the same place.

On the day following the events above related, the municipal president of Catmon, Santiago Montecillo, forwarded three communications, one to the judge of the Court of First Instance of Cebu, another to the provincial governor, and a third to the commanding officer of Constabulary, all of the same tenor and dated the 22d of January, 1904. Said communication read as follows:

"SIR: Yesterday, the 21st instant, Sabas Brigoli, sergeant of the municipal police of Sogod, and Rafael Baladjay, captain of volunteers of said town, captured an individual named Claudio Monsanto, at the sitio of Tagaytay, barrio of Tabonoc, within the jurisdiction of the said town of Sogod. When they reached the aforesaid place, Claudio' was in a hut in the forest; understanding that they were going to arrest him he drew his pinuti with the intent to resist the police and volunteers, for which reason they shot him with a gun, and he was mortally wounded. The above-named Claudio Monsanto is a real pulahan who, from trustworthy

information received, while roaming in the hills has killed eight men. For the information of the president and his council, the said Claudio Monsanto was conducted to the town in a dying condition, and the president directed that he be at once taken to the cemetery near by, and there dispatched and buried; the pinuti used by Claudio Monsanto is a very sharp cutting weapon of considerable length, and is deposited with the sergeant of the municipal police. I have the honor to report the foregoing for your information.

"Very respectfully,

"SANTIAGO MONTECILLO,

"Municipal President."

Thereupon the provincial fiscal of Cebu, on the 19th of July, 1906, filed a written complaint charging Santiago Montecillo and Geronimo Pepito with the crime of murder, upon which these proceedings were instituted. The court below entered judgment on the 7th of February, 1907, sentencing Santiago Montecillo, as author by instigation, of the crime of homicide, to the penalty of twelve years and one day of reclusion temporal, to suffer the accessory penalties, to pay an indemnity of P1,000 to the heirs of the deceased Claudio Monsanto, and to pay the costs of the proceedings. From this judgment the convicted man has appealed to this court. The case against Geronimo Pepito was dismissed at the request of the fiscal. (Fol. 41 of the record.)

From the facts above stated and duly proven in this case, it appears in a manner that leaves no room for doubt, that the crime of murder, defined and punished by article 403 of the Penal Code, has been committed, for the reason that in the violent death of Claudio Monsanto, carried out by certain agents of the authorities of the municipality of Catmon, by order of Santiago Montecillo, the municipal president, there is present the qualifying circumstance of treachery, inasmuch as the deceased was tied by the hands and feet after having been cruelly illtreated, and was shot in the back by the policeman Lope Comendador, while he was in such a position that it was impossible for him to defend himself or avoid the shot or escape from his aggressor; besides, the injured man had been already wounded in the morning, and had been hung up and maltreated in such a manner that, when he was mortally wounded by the shot he was in an almost dying condition.

The accused pleaded not guilty, but, notwithstanding his denial and exculpatory allegations, among which is that, at the time when the deceased Claudio Monsanto was taken to the municipal building, the defendant was not there, and that the said Monsanto died as a result of having been hung up by order of the municipal secretary, Guillermo Bragat, and of Saturnino Brigoli; full proof of the guilt of the accused as the only responsible author by instigation of the murder in question, appears in the case, inasmuch as both the said Guillermo and Saturnino denied the imputation, and testified that when the witnesses arrived at the municipal building, Monsanto was already bound and hung up by order of President Montecillo who was there present and at which place they found him.

The responsibility of the accused Montecillo is clearly shown in the proceedings, not only by the three reports or official communications informing the governor, the judge of the Court of First Instance, and the chief of Constabulary among other matters, of the fact that he ordered the captured man, Monsanto, to be taken to the cemetery and there dispatched and buried, but also from the testimony of eyewitnesses who heard the orders given by the accused. Eulalio Montejo, Nicasio Brigoli, Simplicio Nuñez, Sinforoso Simense, and Ignacio Brigoli declared that they saw the deceased, Claudio Monsanto, bound and hanging inside the municipal building; that they were present and heard when the president, Montecillo, ordered that the deceased be taken to the cemetery, and directed the conductors to there kill him and afterwards bury his body. They further declare that the place was full of people at the time, it being the eve of the fiesta of the town. These affirmations are confirmed by Mariano Montejo and Justo Umbao, who declare that the deceased was bound and hung up by order of President Montecillo, and that he was in said position when the parish priest, Father Eugenio Menchave, appeared at the

municipal building to hear the confession of the deceased, having probably been invited to do so by the president himself, or by some one interested in preparing the deceased for death. Afterwards, the accused ordered the rope cut by which Monsanto was hung up, whereupon the latter fell suddenly to the ground, and the president then ordered him taken by some policemen to the cemetery to be there killed and buried. According to the witness Umbao, the accused at this moment said: "In order to avoid trouble and summons, as has happened on other occasions, it is better to kill him here than forward him to Cebu."

Eugenia Monsanto, daughter of the deceased, declares that, upon becoming aware that her father had been captured, she went with her mother to the municipal house to speak with the accused, and begged President Montecillo to release her father because he had committed no offense, but Montecillo refused to do so, saying that he would order him killed; that protests were of no avail, and that whoever protested would join him in death. This declaration has been confirmed by Mariano Calvo who also testifies as to having seen the condition of the deceased and heard the president when he ordered him to be taken to and killed in the cemetery. It further appears that another witness, Eustaquio Monterola, who was one of those who accompanied the deceased by order of the president, asserts that Monsanto complained a great deal of thirst and asked for water, after drinking which he said: "Tell my wife and my daughter to work for their living and to look out for themselves," and that shortly after reaching the cemetery, Policeman Comendador shot him in the back, the bullet passing out through his chest, in consequence whereof he died instantly.

It follows therefore, from the facts above set forth and other merits of the case, that the guilt of the accused as the only author, by instigation, of the murder of Claudio Monsanto for which he is convicted, has been fully established. For the reasons stated in the judgment appealed from, this crime can not be qualified as homicide because treachery and cruelty are both present in the commission thereof, and because neither the state of disorder prevailing in the Island of Cebu, owing to the appearance of bandits called pulajans, nor the erroneous belief of the accused that, as municipal president, he could order the death of Claudio Monsanto as being a pulajan and seriously wounded, nor could the other reasons therein set forth ever justify the crime ordered by the; accused, and much less modify the nature of the crime in question.

In the decision of the case of the United States vs. Donoso et al. (3 Phil. Rep., 234), the following doctrine was established (p. 242):

"It is a legal principle universally recognized in all civilized countries that the power to apply the laws in criminal cases, to judge and to carry the judgment into execution, pertains exclusively to the courts and the judges, and that no penalty can be imposed for criminal acts except in accordance with the laws and by virtue of judgments rendered by competent courts and judges.

"No matter how severe the laws of war may be, some investigation, if only the summary proceeding of a drumhead court-martial, is required before a delinquent can legally be made to suffer the death penalty. Consequently the killing of Pedro Almasan can not be justified as a lawful act."

Taking advantage of his authority as municipal president, the accused, Montecillo, believed he had a right to constitute himself a judicial tribunal, judging, as he did, Claudio Monsanto, and sentencing him to death without due process of law and without giving him a hearing. He was entirely without authority of jurisdiction, and this he did after having caused the wounded man to be tortured and maltreated while he was absolutely helpless and defenseless.

In the commission of the crime the presence of aggravating circumstances 6 and 11 of article 10 of the Penal Code must be considered inasmuch as, for the deliberate purpose of increasing the evil, the accused ordered the infliction of injury unnecessary for its execution, which, owing to the existence of treachery as a qualifying

circumstance is to be considered as an aggravation; furthermore, the guilty man took advantage of his public office, and abusing his position as municipal president, was able to carry out his criminal intent to kill the deceased by means of his subordinates. The manner in which the deceased was conducted to the cemetery, in view of his condition at the time, is not sufficient in itself to constitute circumstance No. 12 of article 10 of the Penal Code. For the same reason the mitigating circumstance established in article 11 of the code should be considered on account of the race and deficient education of the accused, which circumstance, being considered as having great weight in the present case, compensates the effects of the two aggravating circumstances mentioned above. For this reason the penalty must be imposed upon the culprit in the medium degree, in accordance with the doctrine established in the decision rendered in the case of the United States vs. Bundal et. al. (3 Phil. Rep., 89), which is of the following tenor:

"In the application of article 11 of the Penal Code the courts may use it in their discretion to offset any number of generic aggravating circumstances."

Therefore, it is our opinion that the crime herein should be qualified as murder, and the judgment appealed from being hereby reversed, Santiago Montecillo is sentenced, as the author of the crime of murder, to the penalty of cadena perpetua, to suffer the accessory penalties 2 and 3 of article 54 of the code, to indemnify the widow and heirs of the deceased in the sum of P1,000, and to pay the costs in both instances. So ordered.

Arellano, C. J.; Mapa, Carson, Willard, and Tracey, 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.