

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
MELCHOR TAGASA, DEFENDANT AND APPELLANT.***G.R. No. 46177. May 23, 1939*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-46177/>**PER CURIAM:**

By virtue of a judgment of the trial court imposing the death penalty, the present case has been forwarded to this court to the end that it be reviewed and a judgment thereafter rendered in accordance with law. The defendant upon whom the lower court imposed said penalty was charged with the crime of murder committed under the circumstances described in article 160 of the Revised Penal Code, that is to say, while he was in Bilibid Prisons serving three sentences imposed on him by final judgments, the first being for homicide, the second for less serious physical injuries, and the third for slight physical injuries.

In the information by which the case was commenced, the following facts were alleged:

"That on or about the 27th day of February, 1937, within the premises of Bilibid Prisons, in the City of Manila, Philippines, the said accused, while serving sentence for the offenses hereinbelow mentioned, with intent to kill, did then and there willfully, unlawfully, and feloniously and with evident premeditation and treachery attack, assault and use personal violence upon the person of Policarpio Santos, a fellow prisoner, by striking the latter with a chisel, a sharp instrument, on the back, thereby inflicting upon him serious physical injuries which caused his instant death.

"That said accused is a recidivist, he having been previously convicted once of homicide, once of less serious physical injuries, and once of slight physical injuries, by final judgments of competent courts as follows.

Date of conviction

Offense

Sentence

Criminal case No.

Feb. 20, 1935 Homicide Eight years and 1 day to 14 years, 8 months and 1 day and P1,000 indemnity. 8340, Nueva Ecija.

Do - - - -

Less serious physical injuries. Four months ----- 8341, Nueva Ecija

Do - - - -

Slight physical injuries Fifteen days ----- 8342, Nueva Ecija

"Contrary to law."

The facts established at the trial and not disputed, as the record shows, are simple. Between 10 and 11 o'clock on the morning of February 27, 1937, while the defendant and Policarpio Santos were with other prisoners of the

same grade in the carpentry shop of Bilibid, each engaged in the particular work assigned to him, defendant attacked Santos with a chisel, inflicting on him a stab wound seven inches long in the right post-axillary region, which penetrated the right lung and caused his death. This took place at exactly 11:23 of the same morning. The defendant was at the time serving in prison, from February 20, 1935, three sentences imposed on him in cases Nos. 8340 for homicide, 8341 for less serious physical injuries, and 8342 for slight physical injuries, all of the Court of First Instance of Nueva Ecija, the first being from eight years and one day to fourteen years, eight months and one day plus an indemnity of P1,000; the second, fourteen months; and third, fifteen days.

The evidence does not show the cause of the aggression. Nevertheless, the eye-witness of the incident, Guillermo Tadina, and the other witnesses who saw the other acts of the defendant, affirm that, shortly before the attack, the defendant entered a toilet adjoining the shop where their fellow prisoners were working; that on coming out he met the deceased in front of the toilet and had hardly passed him when he turned back and with both hands plunged the chisel with which he was armed into the right post-axillary region of said deceased, taking his victim by surprise as the deceased was neither prepared to defend himself from the attack, nor even to dodge it; that thus wounded the deceased ran, but he fell to the ground before he could go far; and that upon being immediately brought to the Bilibid hospital, he died at 11.23 of the same morning.

After attacking the deceased, the defendant returned to the shop, and Amando Fidel, one of the prisoner-employees of Bilibid who saw him holding the chisel with which he committed the aggression, asked him why he had it. The defendant told him not to move because he (defendant) would do him no harm. Commanded to put down the chisel, defendant refused and instead acted belligerently, whereupon the other prisoners sprang upon him to subdue him, but they were able to do so only after he had wounded two of them: Ines and Mangutara, and after another had thrown a brush which hit him in the eye.

The only evidence adduced by the defense consists in defendant's own testimony. He testified that while he was performing his work with a chisel, Emiliano Ramos, who used to poke fun at him, passed by and gave him a blow on the nape of the neck; that from fright he turned to the right swinging the chisel in his left hand while the deceased was passing by; and that he unintentionally wounded the latter on the back. This defense is entirely without merit, for aside from the fact that it was denied by the witness Guillermo Tadina who saw the act of aggression, it was impossible that under the circumstances narrated by the defendant, he could have caused on the deceased a wound so large and deep as that which resulted in the death of Policarpio Santos. On the other hand, if he had not intended to stab the deceased to death, there would be no explanation for his desire to attack thereafter not only the prisoner Mangutara but also the prisoner surnamed Ines as well as for his refusal to put down the chisel when required to do so. Moreover, Emiliano Ramos, who allegedly hit the defendant on the nape of the neck, flatly denied having done so; in fact, he testified that he did not even leave the place where he had his own work at the time of or before the occurrence in question.

In the act committed by the defendant the qualifying circumstance of treachery should undoubtedly be taken into consideration because the attack upon the deceased was so sudden and unexpected that he neither had time to defend himself nor to dodge the blow. The defendant did not run the least risk arising from the defense which the deceased might have offered. Hence, the killing of the deceased under such circumstances is and constitutes the crime of murder (art. 248, No. 1; and 14, No. 16, of the Revised Penal Code; *U. S. vs. De Guzman*, 8 Phil., 21; *U. S. vs. Barnes*, 8 Phil., 59; *U. S. vs. Cabanog*, 34 Phil., 620; *U. S. vs. Eduave*, 36 Phil., 209; *People vs. Baluyot*, 40 Phil., 385; *People vs. Pengzon*, 44 Phil., 224; *People vs. Sakam*, 61 Phil. 27; *People vs. Daos*, 60 Phil., 143), And as the crime referred to was, furthermore, committed while the defendant had been serving in Bilibid, for two years, three long sentences for crimes against persons, the penalty which has to be imposed on him is the maximum of that prescribed by law for the crime of murder, which is seventeen years, four months and one day of

reclusion temporal to death, the latter being the maximum thereof.

The defense maintains that the defendant was not sane at the time he committed the crime. Unfortunately for him, this fact has not been established. Furthermore, even disregarding the fact that the presumption of his sanity militates against him (*Standard Oil Company of New York vs. Codina Arenas*, 19 Phil., 363; *U. S. vs. Martinez*, 34 Phil., 305; *People vs. Bascos*, 44 Phil., 204), and that he committed said crime intentionally under the 2nd and 3rd legal presumptions of section 334 of Act No. 190, his testimony is insufficient to destroy that of the witness Guillermo Tadina and others who testified in the case for the prosecution, and much less to overcome his behavior after the commission of the crime, which was manifestly inconsistent with the idea that he had acted without malice and was, on the contrary, revelatory of his guilt.

The defense likewise maintains that the defendant's motive in committing the crime has not been established. This is true, but this is no bar to his being found guilty thereof for it is a cold fact that he committed it under the circumstances hereinbefore mentioned. The rule that in crimes against persons the motive must be proved is, of course, not absolute. The rule holds true only in cases where proof of motive is indispensable, either because the evidence is not conclusive as to the commission of the crime, or because there is some doubt respecting the identity of the defendant (*U. S. vs. Carlos*, 15 Phil., 47; *U. S. vs. Balmori*, 18 Phil. 578; *U. S. vs. Valdez*, 30 Phil., 293; *People vs. Vizcarra*, G. R. No. 40388). The defense finally contends that, at least, the mitigating circumstance of lack of instruction should be considered in favor of the defendant. This cannot be done, first, because the evidence of record on this point shows that the defendant is sufficiently literate, as he completed the third grade; and, secondly, because he sufficiently demonstrated during the trial that he is not ignorant, as he was able to trace and explain intelligently the sketch of the place where, he said, the incident took place. Nevertheless, even if said mitigating circumstance were considered in his favor, the outcome would at all events be the same, because the provision of the above-mentioned article 160 of the Revised Penal Code is clear that the murder committed under the circumstances in which that in question was perpetrated, is penalized with death, this being the maximum of the penalty prescribed by law.

Considering that said article 160 of the Revised Penal Code provides that:

"Besides the provisions of rule 5 of article 62, any person who shall commit a felony after having been convicted by final judgment, before beginning to serve such sentence, or while serving the same, shall be punished by the maximum period of the penalty prescribed by law for the new felony," plus the fact that the crime of murder is, as has been said, punished by the aforementioned code with the penalty of reclusion temporal in its maximum period to death and that the latter constitutes the maximum degree of said penalty, we cannot but conclude that the penalty imposed by the lower court is in accordance with law, and was and is the only one properly imposable upon the defendant.

Wherefore, the judgment under review is affirmed in all its parts, with costs against the defendant. So ordered.

Avanceña, C. J., Villa-Real, Imperial, Diaz, Laurel, Concepcion, and Moran, JJ., concur.

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