

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. VICENTE MAQUIRAYA AND JOSE ACQUEBAY, DEFENDANTS AND APPELLANTS.

G.R. No. 4846. October 09, 1909

Ponente: MORELAND, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-4846/>

MORELAND, J.:

The defendants in this case were charged with the crime of frustrated assassination (*asesinato frustrado*). They were tried in the Court of First Instance of the Province of Cagayan on the 3d day of March, 1908. They were convicted of the crime charged and sentenced under that judgment of conviction as follows;

Vicente Maquiraya to fourteen years eight months and one day of *cadena temporal*; Jose Acquebay to eight years and one day of *presidio mayor*. Each one was sentenced to pay one-half of the costs of the trial.

From that judgment and sentence the defendants appealed to this court.

On or about the 9th day of April, 1907, A. C. Wright, an agent of the Internal Revenue Service in the district of Pamplona, Province of Cagayan de Luzon, assisted by Damian Magudatu, was engaged in an investigation of a clan-destine distillery, which, according to information received by the said agents, was being conducted by the accused Maquiraya, near a small barrio situated very close to the division line between the pueblos of Abulug and Pamplona. Having reached the locality where he had been informed the distillery was located, he searched the neighborhood very closely and finally discovered the distillery, which, at the time, was being conducted by two girls, a woman, a person by the name of Jorge Mangabilin, and another *irian*. All of the persons who were in the distillery at the time of its discovery escaped except Mangabilin and the women. The agent, in company with Mangabilin, then went to the latter's house for the purpose of obtaining assistance to remove the effects from the distillery. On the way Mangabilin told Wright that there were other persons associated with him in the operation of the distillery, including Vicente Maquiraya, Fernando Ballatin, Domingo Gumerang, and Jose Acquebay. All of these persons were found at the house of Jorge Mangabilin. Upon his request they agreed to assist the agent in removing and transporting the articles and effects contained in the distillery. For that purpose they accompanied him to the building. Arriving there the persons mentioned began the work requested of them while Wright entered the distillery, sat down upon a bench in one corner thereof and began to make notes and memoranda in a small book in connection with the matter in hand. While so engaged, and intent upon such entries, he was interrupted by seeing a man's foot glide alongside of him from his rear, and, turning to see who was approaching him from that direction, he received a terrible blow in the face from a bolo in the hands of the accused Maquiraya. The wound received was a fearful one, being 6 centimeters in length, passing from the left side of the forehead downward across the face to the lobe of the left ear. The left eye was destroyed instantly and the jawbone cut in two. The accused Maquiraya then attacked Damian Magudatu and wounded him with the bolo. While these two were engaged in combat Wright, although blinded by his injury and the flow of blood, was able to draw his revolver and fire several shots, whereupon the accused and those who were removing the effects from the distillery ran off.

It was also shown upon the trial that, as soon as possible after the accused knew they were to be arrested and tried for the crime of operating the distillery aforesaid, Mangabilin, Diosdatu, Dasil, Jose Acquebay, and others, on the invitation of the accused Maquiraya, entered into an agreement to kill Wright and his companion. This agreement was made while they were at the house of Mangabilin, the accused and the others having gone outside of the house and talked among themselves for a considerable time.

These facts were found fully and completely established on the trial of the case.

The defense presents two questions:

1. The claim is made that Fernando Ballatin and not Maquiraya delivered the blow against Wright.
2. That there is no proof of premeditation.

As to the first claim the evidence is clear that the assault upon Wright was made by the accused Maquiraya. Wright himself saw him and recognized him clearly at the time the blow was delivered. His testimony is supported by that of Damian Maggudatu, the assistant of Wright, and by the testimony of Fernando Ballatin. As to the second claim, Fernando Ballatin testified that the accused Maquiraya asked him to assist in killing Wright and his companion. While it is necessary to take the declaration of an accomplice with much caution (U. S. vs. Quiamson, 5 Phil. Rep., 444), nevertheless, where such testimony is thoroughly corroborated by the circumstances of the case, it may be given its due weight (U. S. vs. Monzones, 8 Phil. Rep., 579). The circumstances corroborating the testimony of Ballatin are:

- (a) The accused were all armed with dangerous weapons, were about to be arrested upon a charge on which conviction was absolutely certain and from which would result a long term of imprisonment.
- (b) The accused were seen by Wright and his companion engaged at various times in secret conversation, which ceased immediately upon the approach of Wright.
- (c) The attempt to kill Wright was actually made and the accused Maquiraya, on making the assault and observing that his companions were not assisting him, said to them, "What are you doing? Come on and let us kill all of them,"

And lastly, when Wright opened fire with his revolver, not only Maquiraya but all of the accused ran away.

The trial court in his decision condemning the appellants says:

"From the proofs in the case there exists in the mind of the court no doubt that it was Vicente Maquiraya who inflicted the wound upon Mr. Wright as alleged in the complaint. The proofs clearly demonstrate that the action was premeditated."

He further says:

"That it is the crime of frustrated assassination there is no doubt whatever. A simple glance at the face of Mr. Wright, which demonstrates the terrible nature of the wound which he received, extending from the forehead above the eye in a downward direction across the eye to the jawbone on the left side, shows clearly that a blow of that nature could not possibly have been given unless the intention of the one who delivered the blow was to cause the death of the person against whom it was delivered. The defense has introduced some proofs. That all the testimony submitted by the defense is false I have not the slightest doubt."

We see no reason whatever for disturbing the conclusions of the court above expressed. (Supreme court of Spain, February 17, 1871; U. S. vs. Dasal, 3 Phil. Rep., 6; U. S. vs. Larion, 2 Phil. Rep., 476; U. S. vs. Santos, 2 Phil. Rep., 453.)

It is apparent, however, that the court erred in convicting Jose Acquebay. It appears from the proof that at the time Wright was assaulted the defendant Jose Acquebay was outside, in front of the distillery, occupied in removing some large earthen jars. It also appears from the testimony of Fernando Ballatin that Jose Acquebay in no way assisted in the assault on Wright. It does not appear that he took part in the arrangement to kill Wright. Under the holdings of this court the evidence produced in this case against Acquebay is not sufficient to sustain a conviction. (U. S. vs. Empeinado, 9 Phil. Rep., 613; U. S. vs. Dasal, 3 Phil. Rep., 6.)

In condemning Maquiraya, the court did not take sufficiently into consideration the aggravating circumstance of alevosia and that of the crime having been committed in an uninhabited place (*en despoblado*). Mr. Wright testified that the distillery was located in a sparsely settled district at a distance of at least one mile from any habitation. The fact that the distillery was a clandestine one is also evidence of the uninhabited nature of that district. The court should have imposed upon Maquiraya the maximum penalty.

The judgment of the lower court is therefore reversed as to Jose Acquebay and he is found by this court not guilty and his discharge is ordered forthwith. The judgment of the lower court is modified as to Vicente Maquiraya and he is hereby condemned to imprisonment in the Insular Penitentiary of the Philippine Islands for the term of seventeen years and four months of *cadena temporal*, to suffer the accessories prescribed by article 57 of the Penal Code and to pay the costs of the action. There being no proof of the damages sustained by Mr. Wright by reason of the injury complained of, no award of damages in his behalf is made but his right to maintain a civil action in respect thereto is hereby expressly reserved to him.

Arellano, C. J., Torres, Mapa, Johnson, and Carson, 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.