

THE UNITED STATES, PLAINTIFF, VS. THE MORO MANALINDE, DEFENDANT.*G.R. No. 5292. August 28, 1909*

Ponente: TORRES, J.

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Between 2 and 3 o'clock on the afternoon of the 19th of January, 1909, while Juan Igual, a Spaniard, was seated on a chair in the doorway of Sousa's store in Cotabato, Moro Province, he suddenly received a wound on the head delivered from behind and inflicted with a kris. Ricardo Doroteo, a clerk in the said store, who was standing behind the counter, upon hearing the noise and the cry of the wounded man, ran to his assistance and found him lying on the ground. Meanwhile the aggressor, the Moro Manalinde, approached a Chinaman named Choa, who was passing along the street, and just as the latter was putting down his load in front of the door of a store and was about to enter, attacked him with the same weapon, inflicting a severe wound in the left shoulder, on account of which he fell to the ground. The Moro, who came from the rancheria of Dupit and had entered the town carrying his weapon wrapped up in banana leaves, in the meantime escaped by running away from the town. Both wounded men, the Chinaman and the Spaniard, were taken to the hospital, where the former died within an hour, the record not stating the result of the wound inflicted on the Spaniard Juan Igual.

In view of the above a complaint was filed by the provincial fiscal with the district court charging Manalinde with the crime of murder, and proceedings having been instituted, the trial judge, in view of the evidence adduced, rendered judgment on the 5th of February of said year, sentencing the accused to the penalty of death, to indemnify the heirs of the deceased in the sum of P1,000, and to pay the costs. The case has been submitted to this court for review.

From the above facts fully substantiated in this case, it appears beyond doubt that the crime of murder, defined and punished by article 403 of the Penal Code, was committed on the person of the Chinaman Choa, in that the deceased was unexpectedly and suddenly attacked, receiving a deep cut on the left shoulder at the moment when he had just put down the load that he was carrying and was about to start for the door of the store in front of which he stopped for the purpose of entering therein. As a result of the tremendous wound inflicted upon him by the heavy and unexpected blow, he was unable, not only to defend himself, apart from the fact that he was unarmed, but even to flee from the danger, and falling to the ground, died in an hour's time. It is unquestionable that by the means and form employed in the attack the violent death of the said Chinaman was consummated with deceit and treachery (alevosia), one of the five qualifying circumstances enumerated in the aforesaid article as calling for the greatest punishment.

When Manalinde was arrested he pleaded guilty and confessed that he had perpetrated the crime herein mentioned, stating that his wife had died about one hundred days before and that he had come from his home in Catumaldu by order of the Datto Rajamudah Mupuck, who had directed him to go juramentado in Cotabato in order to kill somebody, because the said Mupuck had certain grievances to avenge against a lieutenant and a sergeant, the said datto further stating that if he, Manalinde, was successful in the matter, he would give him a

pretty woman on his return, but that in case he was captured he was to say that he performed the killing by order of Maticayo, Datto Piang, Tambal and Inug. In order to carry out his intention to kill two persons in the town of Cotabato he provided himself with a kris, which he concealed in banana leaves, and, traveling for a day and a night from his home, upon reaching the town, attacked from behind a Spaniard who was seated in front of a store and, wounding him, immediately after attacked a Chinaman, who was close by, just as the latter was placing a tin that he was carrying on the ground and as he was about to enter a store near by, cutting him on the left shoulder and fleeing at once; he further stated that he had had no quarrel with the assaulted persons.

From the statements made by the accused his culpability as the sole-confessed and self-convicted author of the crime in question has been unquestionably established, nor can his allegation that he acted by order of Datto Mupuck and that therefore he was not responsible exculpate him, because it was not a matter of proper obedience. The excuse that he went juramentado by order of the said datto and on that account killed only two persons, whereas if he had taken the oath of his own volition he would have killed many more, because it is the barbarous and savage custom of a juramentado to kill anyone without any motive or reason whatever, can not under any consideration be accepted or considered under the laws of civilized nations; such exhibitions of ferocity and savagery must be restrained, especially as the very people who up to the present time have been practicing such acts are well aware that the established authorities in this country can never allow them to go unpunished, and as has happened a number of times in towns where juramentados are in the habit of appearing, the punishment of the author has followed every crime so committed.

In the commission of the crime of murder the presence of aggravating circumstances 3 and 7 of article 10 of the Penal Code should be taken into consideration in that promise of reward and premeditation are present, which in the present case are held to be generic, since the crime" has already been qualified as committed with treachery, because the accused confessed that he voluntarily obeyed the order given him by Datto Mupuck to go juramentado and kill some one in the town of Cotabato, with the promise that if he escaped punishment he would be rewarded with a pretty woman. Upon complying with the order the accused undoubtedly acted of his own volition and with the knowledge that he would inflict irreparable injury on some of his fellow-beings, depriving them of life without any reason whatever, well knowing that he was about to commit a most serious deed which the laws in force in this country and the constituted authorities could by no means permit. Datto Mupuck, who ordered and induced him to commit the crimes, as well as the accused knew perfectly well that he might be caught and punished in the act of committing them.

As to the other circumstance it is also unquestionable that the accused, upon accepting the order and undertaking the journey in order to comply therewith, deliberately considered and carefully and thoughtfully meditated over the nature and the consequences of the acts which, under orders received from the said datto, he was about to carry out, and to that end provided himself with a weapon, concealing it by wrapping it up, and started on a journey of a day and a night for the sole purpose of taking the life of two unfortunate persons whom he did not know, and with whom he had never had any trouble; nor did there exist any reason which, to a certain extent, might warrant his perverse deed. The fact that the arrangement between the instigator and the tool considered the killing of unknown persons, the first encountered, does not bar the consideration of the circumstance of premeditation. The nature and the circumstances which characterize the crime, the perversity of the culprit, and the material and moral injury are the same, and the fact that the victim was not predetermined does not affect nor alter the nature of the crime. The person having been deprived of his life by deeds executed with deliberate intent, the crime is considered a premeditated one as the firm and persistent intention of the accused from the moment, before said death, when he received the order until the crime was committed is manifestly evident. Even though in a crime committed upon offer of money, reward or promise, premeditation is sometimes present, the latter not being inherent in the former, and there existing no incompatibility between the two, premeditation can not

necessarily be considered as included merely because an offer of money, reward or promise was made, for the latter might have existed without the former, the one being independent of the other. In the present case there can be no doubt that after the crime was agreed upon by means of a promise of reward, the criminal by his subsequent conduct showed a persistency and firm intent in his plan to carry out the crime which he intentionally agreed to execute, it being immaterial whether Datto Mupuck did or did not conceive the crime, once Manalinde obeyed the inducement and voluntarily executed it.

The facts in this case are quite different from those in the proceedings instituted by the United States vs. Caranto et al., wherein the decision on page 256 of Volume IV of the Philippine Reports was rendered, as may be seen from the mere perusal of the statement of facts. It is also different from the case where a criminal who has made up his mind to kill a certain individual kills a person other than the object of his criminal intent. On going to Cotabato the Moro Manalinde intended to and did kill the first two persons he encountered, and the fact that the Victim was not predetermined does not alter the nature, conditions, or circumstances of the crime, for the reason that to cause the violent death of a human being without any reasonable motive is always punishable with a more or less grave penalty according to the nature of the concurrent circumstances.

For the above reasons and in view of the fact that no mitigating circumstance is present to neutralize the effects of the aggravating ones, it is our opinion that the judgment appealed from should be affirmed with costs, provided however, that the penalty imposed on the culprit shall be executed in accordance with the provisions of Acts Nos. 451 and 1577, and that in the event of a pardon being granted he shall likewise be sentenced to suffer the accessory penalties imposed by article 53 of the Penal Code. So ordered.

Arellano, C. J., Johnson, Carson, and Moreland, JJ., concur.

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