

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS.
BUENAVENTURA BLANCO, DEFENDANT AND APPELLANT.***G.R. No. 6071. January 04, 1911*

Ponente: CARSON, J.

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The defendant and appellant in this case was convicted of the crime of asesinato (assassination) by the Court of First Instance of Leyte and sentenced to death. The court found that the defendant unlawfully took the life of one Pedro Coimpio with treachery (con alevosia) and with deliberate premeditation (premeditacion conocida).

The facts as found by the trial court and fully established by the evidence of record are as follows:

On the 26th day of February, 1910, the defendant was a corporal and the deceased a sergeant in a company of Constabulary stationed in the municipality of Burawen, in the Province of Leyte. At about 6.20 on the morning of that day, the deceased, who was shown to have been of a tyrannous and overbearing disposition, severely reprimanded the defendant for some alleged negligence in the performance of his duties, and ordered him out to work with a small detachment of Constabulary soldiers. At the same time he cursed and abused the defendant, called him foul names, and there is evidence in the record which tends to disclose that he went so far as to strike the defendant with a belt. The order to go out to work was obeyed, but some half hour after the work had begun the defendant quit his task without permission and returned to the cuartel. While out with the working party he was much excited, and evidently full of resentment against the deceased because of the bad treatment to which he had been subjected; and just before leaving, he jumped up and declared that he was the only brave man in the company, and reproached his companions for their cowardice in submitting to the tyranny and abuse of the deceased. Upon returning to the cuartel he took his rifle from its place on the wall of the room where it was kept, loaded it, went to another room where the deceased was sitting down engaged in putting on his puttees, and without warning shot him through the body, and again discharged his piece against the deceased, who had fallen to the floor, as a result of the wound inflicted by the first shot. The death of his victim followed almost instantaneously. Again loading his piece the defendant held his comrades at bay for a short time, declaring that he was "the king of the cuartel," but promptly surrendered the rifle to one of his officers who came up a few moments later. The shooting took place between 7.15 and 7.20 a. m.

These facts, which are conclusively established by the evidence of record, leave no room for doubt as to the guilt of the accused of the crime of assassination, in that he unlawfully took the life of the deceased with treachery (con alevosia), the suddenness of the attack with a rifle depriving the deceased of all opportunity to defend himself, and making it possible for the defendant to take the life of his victim without any risk to his own person. (Art. 10, Penal Code.)

We do not think, however, that the facts proven sustain a finding of deliberate premeditation (premeditacion conocida) in the commission of the crime. The resolution to take the life of the deceased is not shown to have entered into the mind of the accused before the moment when he left the working party, and, indeed, it may be

doubted whether the evidence as to his boasts and reproaches directed to his companions upon that occasion, taken together with his subsequent conduct, is sufficient evidence to sustain a finding that even at that time his mind was made up to take the life of the man who had insulted and maltreated him. The evidence discloses that he left the working party some little time after it reached the place where the work was being done at a considerable distance from the cuartel. At that time, therefore, it must have been getting well on toward 7 o'clock. All the witnesses agree that the shooting took place between 7.15 and 7.20 that morning. It thus appears that from the earliest moment at which there is any evidence which even tends to disclose the resolution of the defendant to commit the crime, until the moment of its commission there could not have elapsed a period of much more than twenty-five to thirty minutes; and a considerable part of that time must have been occupied in returning from his work to the cuartel, finding his rifle, loading it and going to the place where he found his victim. The mere lapse of such a period of time, under the circumstances of this case, is not sufficient to establish the existence of that form of deliberate premeditation which constitutes the qualifying aggravating circumstance which under the law raises the crime of homicide to that of assassination. This court in the case of the U. S. vs. Gil (13 Phil. Rep., 531) laid down the doctrine as to deliberate premeditation as follows, quoting the language of the syllabus:

"The period of time necessary to justify the inference of deliberate premeditation is a period sufficient in a judicial sense to afford full opportunity for meditation and reflection, and sufficient to allow the conscience of the actor to overcome the resolution of his will if he desires to hearken to its warnings."

Our attention has been called to the case of the United States vs. Beecham (15 Phil. Rep., 272), wherein we held, upon a finding of facts in many respects very similar to those in the case at bar, that the crime was committed with deliberate premeditation. That case, however, is clearly distinguishable from the case at bar, in that the court held that the evidence therein submitted disclosed that the defendant in that case had formed the resolution to take the life of his victim many days prior to the date of the commission of the crime, and that the commission of the crime substantially in the manner and form in which it was committed was definitely resolved upon at least four or five hours before the shooting took place. In this case, as we have shown, there is nothing whatever upon which to base a finding that the resolution to take the life of the deceased was formed more than half an hour before the act was committed, and it may perhaps be doubted whether the evidence conclusively establishes that the intention to kill was actually formulated prior to the moment when the defendant returned to the cuartel and loaded his rifle.

The commission of the crime of assassination of which the defendant was proven guilty not being marked with either aggravating or extenuating circumstances the penalty prescribed therefor should have been imposed in its medium degree. We therefore reverse the judgment of conviction and sentence of death imposed by the trial court and find the defendant guilty of the crime of assassination without aggravating or extenuating circumstances and impose upon the defendant the penalty of cadena perpetua, together with the accessory penalties prescribed by law, the indemnification of the heirs of Pedro Coimpio, the deceased, in the sum of P1,000, and the payment of the costs in both instances. So ordered.

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

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