

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROBERTO VILLANUEVA, ACCUSED-APPELLANT.

G.R. No. 64165. June 25, 1984

Ponente: AQUINO, J.

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AQUINO, J.:

This is a murder case. Rufino Jamig and Ricardo Revedizo testified that at around nine o'clock in the evening of August 24, 1979, while Benjamin Liwanagan, 38, a welder, was watching a card game being played on the deck of the M/V Transmar, which was docked at the pier of Barangay Cotta, Lucena City, Roberto Villanueva, a stevedore or cargador, unexpectedly appeared. Without any preliminaries, he suddenly approached Liwanagan from behind and stabbed him once in the back (13-14 tsn October 4, 1982). Villanueva fled after inflicting a mortal wound.

Liwanagan fell on his knees. He asked to be brought to the hospital. He died because of the stab wound (Exh. A). Some hours before the stabbing, Villanueva saw Crisanto Buela and Casto Roadilla. Buela testified that Villanueva was in a belligerent mood. He was looking for the persons involved in a fight with his brother. He threatened to kill them. He was thirsting for revenge. He had a heated altercation with Roadilla.

Villanueva was charged with murder on September 17, 1979. He went into hiding. He was a fugitive from justice for more than two years until he was arrested on January 25, 1982. He did not present any evidence at the trial. He was convicted of murder qualified by treachery, sentenced to reclusion perpetua and to pay an indemnity of P12,000 (Criminal Case No. 2543).

His counsel admits the killing but contends that it was homicide because treachery was not proven. Villanueva wanted to plead guilty to homicide. The trial court did not accede to his request. He did not present evidence because allegedly the proof offered by the prosecution was sufficient to show homicide but not murder (Brief, p. 61, Rollo).

We hold that the killing was an assassination pure and simple. It was a deliberate, sudden and unexpected assault from behind, without warning and without giving the victim a chance to defend himself or repel the assault and without risk to the assailant. That is the characteristic or distinguishing hallmark of alevosia.

It was not a killing made on the spur of the moment. It was not prompted by mere impulse. It was well-planned and reflected upon as shown by the prior threatening acts of the accused and the manner it was executed. The existence of treachery cannot be doubted.

WHEREFORE, the trial court's judgment is affirmed with the modification that the indemnity is increased to P30,000. Costs de oficio.

SO ORDERED.

Makasiar, (Chairman), Concepcion, Jr., Guerrero, Abad Santos, Escolin, and Cuevas, JJ., concur.

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