

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. LUIS REOGILON AND PAULINO DINGLE, DEFENDANTS AND APPELLANTS.

G.R. No. 6783. March 01, 1912

Ponente: CARSON, J.

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CARSON, J.:

The defendants and appellants in this case were convicted of the crime of assassination as defined and penalized in article 403 of the Penal Code, the defendant Luis Reogilon as principal, and Paulino Dingle as an accomplice. Pending the proceedings in this court, Reogilon withdrew his appeal and the only question now presented for our consideration is the appeal of Paulino Dingle.

We are of opinion that the evidence of record fully sustains the contention of the prosecution in this case and the findings of the lower court as to the facts. The learned trial judge went very minutely into the evidence and we are in entire accord with his findings of fact; we shall not, therefore, review the evidence in detail.

It appears that on the night of October 5, 1910, the two defendants in this case went to the house of one Gregorio Ballesteros, a resident of the village of Natividad, district of San Jose de Barangobong, of the Province of Pangasinan, and that Luis Reogilon entered the house, cut the throat of Gregorio Ballesteros with a bolo, almost severing the head from the body at one stroke, whilst his codefendant Paulino Dingle remained outside on guard at the window with a drawn bolo; and that their victim died soon thereafter and was unable to speak or show any material sign of consciousness.

The trial judge, upon proof of these facts, held the defendant Paulino Dingle guilty as an accomplice. We are of opinion, however, that he should have been convicted as a principal.

Principals, under the definition of article 13 of the Penal Code, are those (1) who take a direct part in the commission of the act; (2) those who directly force or induce others to commit it; and (3) those who cooperate in the commission of the act by another, and without which it would not have been accomplished. We have frequently held that under this definition one who aids and abets in the commission of a crime by standing guard while others actually commit it, is guilty as a principal.

In standing guard to keep others away, or to warn his companion and fellow-conspirator of danger of discovery, the accused took "a direct part in the commission of the crime." The fact that he was standing at the window, outside the house, rather than inside, does not change his essential relation to the commission of the crime, and to his codefendant who was guilty of the specific material act which resulted in the death of their victim. He was in fact present, aiding and abetting in the commission of the crime.

"One who shares the guilty purpose and encourages and abets the crime by his presence at the time of its perpetration is guilty as principal even though he may have taken no part in its material execution." (U. S. vs. Santos et al, 2 Phil. Rep., 453.)

"Where it appears that the defendants, after conspiring together to kill the deceased, went to his house for the

purpose of carrying out their common intent and prepared to cooperate to that end, and some of them actually killed the deceased, while the others posted themselves around the building ready to prevent his escape or render any assistance which might be necessary, all will be held equally guilty as principals, irrespective of the individual participation of each in the material act of the murder." (U. S. vs. Bundal et al, 3 Phil. Rep., 89.)

"When the object of the crime is robbery, for the execution of which the defendants prepared themselves and began with the killing of the victim, all are principals and liable for the consequence of the unlawful acts committed by any one of them, even though some of them have not actually participated in the execution thereof, where it is shown that they have agreed upon and planned the crime of robbery, were present intentionally when the overt acts were committed, accompanied the actual executor of the crime to the place where said crime was to be carried out, cooperated in the consummation of the crime, and, finally, participated in the distribution of the effects robbed." (U. S. vs. Santos et al, 4 Phil. Rep., 189.)

We are of opinion, therefore, that the judgment of conviction of the defendant Paulino Dingle as an accomplice, and the penalty imposed upon him should be reversed, and we find the said Paulino Dingle guilty as principal of the crime of assassination with which he was charged, with the aggravating circumstances that the crime was committed at night, and in the house of the offended person, and the extenuating circumstance set forth in article 11 of the Penal Code. We, therefore, impose upon the said Paulino Dingle the penalty of cadena perpetua (life imprisonment), together with the accessory penalties prescribed by article 54 of the Penal Code, the payment of one-half of the costs of these proceedings, and jointly and severally with his codefendant Luis Reogilon the indemnification of the heirs of the deceased, Gregorio Ballesteros, in the sum of P1,000. So ordered.

Torres, Mapa, Johnson, Moreland, and Trent, JJ., concur.

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