

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ZACARIAS ESTOPIA ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 9411. September 29, 1914

Ponente: ARELLANO, C.J.

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ARELLANO, C.J.:

At the time when Zacarias Estopia, Dalmacio Daonoto, and Patricio Palgan were about to sit down to supper in the house of Benito Moso, who had invited them for the celebration of his saint's day, Antonio Carreon, who was another of the guests and was also about to eat supper, inadvertently-stepped on Dalmacio Daonoto's foot, and, notwithstanding his apology, Daonoto, preceded by the other two guests, Zacarias Estopia and Patricio Palgan, forcibly took him to the lower part of the house. Once below, Daonoto held Carreon fast by the neck and Palgan raised up his arms so that he might not offer any resistance, and while in this position Zacarias Estopia thrust a dagger into his abdomen. As a result of the wound the victim died on the following day. Such are the facts disclosed by the testimony given in articulo mortis by Carreon, corroborated in all their details by the eyewitnesses Juan Saquin, Melquiades Saquin, and Benito Moso. The defendants' counsel himself says in this instance that it is entirely beyond doubt and discussion, as admitted by all, that it was the defendant Zacarias Estopia who inflicted the dagger thrust, that this assault took place at the foot of the stairs of the house of Benito Moso, that the cause of the quarrel was the treading on Daonoto's foot, and that, on account of the quarrel, all the guests in the said house ran away. (Brief, p. 3.) The defense concludes that the crime was one of simple homicide and that the person solely liable therefor was Zacarias Estopia.

With respect to the participation of Zacarias Estopia, the trial court classified the crime as murder, attended by the qualifying circumstances of premeditation and treachery, in addition to the generic one of abuse of superior strength; and as regards Dalmacio Dapnoto and Patricio Palgan, also as murder, with the generic aggravating circumstances defined in Nos. 9 and 14 of article 10 of the Penal Code. He sentenced all three to suffer the penalty of death.

On the occasion that Antonio Carreon was killed, Zacarias Estopia also wounded Melquiades Saquin by stabbing him through the left forearm, likewise with a dagger; but this crime was neither included in the complaint nor in the sentence. The three defendants were only charged with and sentenced for the murder of Antonio Carreon. It is important that this point appear of record, in order that the facts relative to the said Melquiades Saquin may not be considered as *res judicata* in this case.

The crime is properly classified as murder, not on account of the qualifying circumstance of premeditation, which did not concur in the commission thereof, for the quarrel arose unexpectedly and no one had thought of it before it occurred, but because of treachery, which without the slightest doubt did exist. It is improper to take account of the aggravating circumstance of superior strength, inasmuch as it was precisely the aid and participation of Daonoto and Palgan that constituted the method which tended directly and especially to insure the commission of the crime without such risk to the person of Estopia as might have arisen from any defense which Carreon might have been able to make, and further because such acts performed by the said Daonoto and Palgan constituted the

treacherous manner of committing the crime. They are coprincipals, both being responsible for the death thus caused, and should be punished in the same degree as the defendant Estopia.

The two circumstances enumerated in the judgment, with respect to Daonoto and Palgan, are the ninth, abuse of superior strength, and the fourteenth, "that the crime be committed with the aid of armed men, or of persons who insure or afford impunity." Neither of these should be taken into consideration, because one is included in the treachery and the other is inapplicable to the case.

The crime committed is, therefore, simply that of murder, for which the law imposes the penalty of cadena temporal in its maximum degree up to death. The penalty should be imposed in the medium degree, that is, cadena perpetua, as the Solicitor-General recommends in this instance, but since the three defendants must be allowed the benefits of article 11 of the Penal Code, owing to their lack of education, the degree applicable is the minimum.

The judgment appealed from is reversed and Zacarias Estopia, Dalmacio Daonoto, and Patricio Palgan are hereby sentenced to twenty years of cadena temporal and the accessory penalties, to indemnify the family of the deceased in the sum of P1,000, and to pay, each of them, one-third of the costs of both instances.

Torres, Johnson, Carson, Moreland, and Araullo, JJ., concur.

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