

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. THE MOROS IPIL ET AL., DEFENDANTS. MANDANI AND PARIA, APPELLANTS.

G.R. No. 9653. August 21, 1914

Ponente: JOHNSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-9653/>

JOHNSON, J.:

On the 10th day of December, 1913, the acting prosecuting attorney of the Province of Palawan filed a complaint against the said defendants, charging each of them with the crime of "robo con homicidio" in an armed band. The complaint alleged that on or about the 18th day of July, 1913, in the sitio of Delawan, within the jurisdiction of the settlement of Balabad, Province of Palawan, Philippine Islands, the above-named accused, in a band armed with deadly weapons, intentionally, voluntarily, criminally, and for the purpose of stealing personal property, attacked the house of Loudon, situated in the sitio of Delawan, and by use of violence and intimidation against persons and force upon property, with intent to gain, took possession of rice, clothing, jewelry, and other personal effects belonging to Loudon, to the total amount of P700; that in making said attack, said accused willfully, deliberately, and treacherously assaulted Mrs. Cornelia Loudon, her baby named Nellie, Eusebio Quiron, Carlota Quiron, Esteban Cervantes, Alejo Diaz, Vicente Cabanillas, and Simeon Maglumot, inflicting upon each of them several wounds, which caused their sudden and violent death, all contrary to the statute in such cases made and provided.

The said defendants were duly arrested, arraigned, and tried. Some of them at the close of the trial were acquitted and some of them were convicted. None of them appealed. The defendants, Mandani and Paria, having been sentenced to death, the cause relating to them was brought here "en consulta" in accordance with the provisions of section 4 of Act No. 194 of the United States Philippine Commission.

From an examination of the record brought to this court, we find that the following facts seem to be proven, beyond a reasonable doubt:

First. That upon the 18th day of July, 1913, and for some time prior thereto, a corporation known as "The Delawan Bay Company," existed and was doing business in the sitio of Delawan, settlement of Balabac, Province of Palawan.

Second. That said corporation was under the management and control of Thomas F. Loudon.

Third. That said corporation, in addition to its other business, kept and operated a store upon the lands belonging, to the company and had a house or building in which Loudon, the manager, lived with his family.

Fourth. That several weeks before the said 18th day of July, 1913, the said Loudon, having noticed that the people; of the settlement were growing uneasy and somewhat excited concerning conditions of which he had no knowledge, asked for and obtained a detachment of Philippine Scouts, to be located in the sitio of Delawan, for the purposes of protection, as well as to maintain peace and good order.

Fifth. The Scouts, after having been in said sitio for some weeks, left for other parts early in the morning of the

18th of July, 1913.

Sixth. That about an hour and a half or two hours after the Scouts had left the sitio of Delawan, some of the defendants appeared at the house and store of Loudon, on the pretext of asking for quinine. The lower court found that their purpose was not to secure quinine, but to ascertain whether or not the Scouts had left. These defendants, without buying the quinine, left the house of Loudon and very soon after many Moros approached the house of Loudon from two directions, all of them being armed with barongs or badongs, krisses and lances.

Seventh. It appears that Loudon and his wife, Cornelia, were out in the yard of their house when they saw the said Moros. Mrs. Loudon at once ran into the house. Loudon approached said Moros for the purpose of ascertaining what they desired. He at once noted their intimidating attitude and tried to escape to his house also, but was prevented by the intervention of said band. He thereupon escaped in the direction of the sea and was followed by a number of the band to the edge of the sea. Loudon, upon reaching the sea, entered and swam out some two miles distant from the shore to a place of safety.

Eighth. On the following day Loudon, with an expedition, returned to the house where his family had lived, and found his wife dead, with cuts across her back and with her arms cut into three or four separate pieces. He found his child, Nellie, also dead in her bed, with a cut at the base of the skull, and the left side of her face wholly cut off. Later the bodies of Eusebio Quiron, Carlota Quiron, Esteban Cervantes, Alejo Diaz, Vicente CabaniJias, and Simeon Maglumot were found dead and were duly identified.

Ninth. The said expedition entered the house where Loudon and his family had lived and found that the same had been rifled and despoiled of its contents. A bed and some table linen, clothing, and wearing apparel had been carried away. The cash box of the corporation had been opened and P40 taken therefrom. It was also found that merchandise had been taken out of said store, amounting in value to about P400.

Tenth. Later a detachment of Scouts and Filipinos who had volunteered for the expedition, captured the Moro band, killing some of them and capturing others. The said defendants were among those captured.

Eleventh. After the defendants had been arrested, many of them confessed freely and voluntarily, without any intimidation or compulsion, to the participation of themselves and others in the robbery and murder committed as above described.

Twelfth. Loudon identified practically every one of the defendants. He said that each of them had been working for his corporation. In addition to the confession made by some of the defendants, in which they narrated their own participation in the commission of the robbery and murder, and the participation which others took in said robbery and murder, we have the declaration of an eyewitness, Feliciano Castro, the cook of Loudon, who was present and saw from a window in the kitchen of the house of Loudon, the horrible crimes committed as above described.

In view of the fact that there are only two defendants before this court, we deem it unnecessary to discuss the participation of the other defendants in the commission of the crime charged. The only two defendants before this court are Mandani and Paria. In addition to the testimony of some of the codefendants and the confession of the others, we have the positive testimony of Loudon and Feliciano Castro to the effect that the said Mandani and Paria were present at the time of the robbery and murder and took a direct part therein; that they were the leaders and chief men of the band and as such were legally and personally responsible for the crimes committed. For the reason that they were the leaders and chief men of the band the lower court imposed upon them the most severe penalty provided for by the law. Many of the other defendants were let off with a very light penalty, because of their ignorance, and because of the fact that they had been induced simply to become members of the band. The

evidence seems to demonstrate, beyond a reasonable doubt, that Paria not only acted as one of the leaders of the band and as one of the chief men, but that he actually assisted in killing Eusebio Quiron. There does not seem, however, to be any direct and positive evidence showing that Mandani, with his own hands, actually inflicted any of the blows which caused the death of any of the persons named in the complaint. The proof does show, however, that he was present and acted more or less as a chief or head man of the band during all their marauding in and about the house of the said Loudon.

The concert of the action of the two bands which arrived at the house of Loudon simultaneously from two directions, and their joint cooperation in attacking Loudon and the inhabitants of his house and robbing the same, taken together with the fact that three men, members of one or the other of said bands, went to the house evidently as spies a short time before the two bands arrived, convince us that there was a conspiracy on the part of the members of said band to commit the crimes which they committed. There being a conspiracy, each of the conspirators is liable for the crimes which were committed under the conspiracy. When two or more persons agree or conspire to commit a crime, each is responsible for all the acts of the others, done in the furtherance of the agreement or conspiracy. (U. S. vs. Grant, 18 Phil. Rep., 122.) In a conspiracy every act of one of the conspirators, in the furtherance of a common design or purpose of such conspiracy, is, in the contemplation of the law, the act of each one of them. (U. S. vs. Gooding, 12 Wheaton, 460; Lincoln vs. Claflin, 7 Wallace (U. S.), 132; Logan vs. United States, 144 U. S., 263; Boyd vs. United States, 142 U. S., 450.)

After a careful consideration of the record and all of the evidence brought to this court, we are persuaded, beyond a reasonable doubt, that the defendants are guilty of the crime charged and that the penalty imposed by the lower court is justified by the evidence and the law. The same is, therefore, hereby affirmed with costs.

Arellano, C. J., Torres, Carson and Araullo, JJ., concur.

CONCURRING

MORELAND, J.,

The crime charged and that of which the accused were convicted is robbery with homicide.

In determining whether a crime is murder or robbery with homicide it must not be forgotten that robbery with homicide is, primarily, a crime against property and not against the person. Homicide is a mere incident of the robbery, the latter being the main purpose and object of the criminal. As is clearly seen by article 503 of the Penal Code, robbery with homicide is committed when it is shown that there was a homicide which occurred "in consequence or on the occasion of the robbery." It has been held by the supreme court of Spain, and approved by the great commentator Viada, that where a person is killed and robbed afterwards and it is shown that the authors of the crime had agreed among themselves to rob the man but planned to kill him first in order that he should be unable to identify or testify against them, two crimes were committed, namely, murder and robbery, the first of which the Spanish court regarded as a necessary means of committing the second; and as a logical and inevitable conclusion article 89 of the Penal Code was held to be applicable and the accused was punished for the highest crime in its maximum degree. (Decisions of supreme court of Spain of 23rd of August, 1872, and 13th of July, 1880; 3 Viada, 348.) That doctrine, however, seems to have been modified by a decision of the supreme court of Spain of the 29th of July, 1880. Viada, discussing these opposing decisions, unhesitatingly declares the doctrine stated in the judgments of the 23rd of August, 1872, and the 13th of July, 1880, to be the correct doctrine. Comparing the doctrine laid down in those two decisions with that in the subsequent decision of the 29th of July, 1880 and answering the question which of the two doctrines is preferable, Viada says:

"We do not hesitate to assert that it is the first construction that is the most in harmony with the law. Article 516, paragraph 1, is very clear; it treats of robbery on account of or on the occasion of which homicide results. If this latter crime is not the result, a consequence, of the robbery, but, on the contrary, precedes it, is schemed in cold blood and with premeditation and, as in the case at bar, is carried into execution with the most atrocious treachery for the purpose of robbing afterwards, then the case does not fall within the purview of article 516, paragraph 1, for the crime is not that of homicide, but of murder, nor was this latter crime a consequence of the robbery, but was a prior act, precedent thereto, carried into execution, not by reason of or on the occasion of the robbery, that is, while the robbery was being committed, so as to avoid any hindrance, or after its commission, in order to efface the traces of the crime, but prior to the commission of the robbery and was perpetrated with deliberation and premeditation, as a principal and necessary act and in no wise as a consequential incident of the robbery." (3 Viada, 349.)

From the observations of Viada it is clear that, before the crime of robbery with homicide can be committed, the homicide must be in reality a homicide and not murder. But when, as says Viada, a criminal, with reflection and premeditation, commits a homicide as the primary act and thereafter commits in addition a robbery, the crime is not robbery with homicide but robbery with murder, a crime unknown to the Penal Code. I repeat, when the crime against the person is murder and not homicide, the crime cannot be robbery with homicide, because there is no homicide.

In the case before us the primary and principal purpose of the Moros, a part of whom are the defendants in this case, was to murder Loudon and his family. They particularly wanted to murder Loudon. This is evidenced by the fact that they went to his place once or twice and, not finding him, stayed their hands until they did find him, when they immediately attacked him and his family, murdering all that were unable to escape. The robbery was evidently a mere incident; as Viada calls it, an "accidente."

I am inclined to believe, therefore, that the crime is murder and robbery and not robbery with homicide. A number of statements made in the opinion indicate that there was a conspiracy to murder and the evidence indisputably demonstrates that there was such a conspiracy and that there was an agreement on the part of the accused and the others, to murder Loudon.

The court has not always strictly adhered to the principles herein laid down and on one or two occasions has convicted of robbery with homicide when there should have been a conviction for murder and robbery. The sentence being the same in this particular case whether the crime charged be robbery with homicide or murder and robbery, I do not object to the sentence imposed. My only purpose is to prevent the principles governing the two classes of crime from being confused. Aside from the mere confusion itself, which should always be avoided by a judicial tribunal, serious results might follow to the criminal or to the public by such confusion.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.