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[G.R. No. 55. March 19, 1902]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. MARIANO RICAFOR,
DEFENDANT AND APPELLANT.**

D E C I S I O N

LADD, J.:

The defendant, Mariano Ricafor, was declared guilty by the Court of First Instance of Pangasinan of the crime of assassination committed without any generic circumstance qualifying the criminal responsibility and was sentenced to life imprisonment (*cadena perpetua*). The cause is brought up to this court for review. The Solicitor-General concurred with the judgment of the trial court and asked that the same be affirmed.

It appears from the evidence that on the night of a certain Friday in the month of March, 1900, the defendant and Gabino Marquez, in company with Clemente Oli, Marcos Nares, and Cornelio Tabajonda, went to the house of Pedro Lorioda, within the limits of Pozorrubio, Province of Pangasinan; that Oli, Nares, and Trabajonda, who it appears were asked or compelled to accompany the defendant and Marquez for that purpose called Pedro Lorioda and his brother, Juan Lorioda, out of their house or in some manner induced the latter to permit the defendant and Marquez to enter the house; that the defendant and Marquez took possession of the two Loriodas and, still accompanied by Oli, Nares, and Tabajonda, conducted them to the fields of the barrio of Alipangpang within the confines of Pjozorrubio and to a place in which there was a well. Upon arriving at this spot the defendant and Marquez bound their victims and killed them by inflicting wounds upon the neck with bolos, the defendant killing Pedro and Marquez Juan. They then threw the bodies into the well.

The abduction of the two Loriodas by removing them from the house is proved by the statement of five eyewitnesses, namely, Oli, Nares, Trabajonda, and the wife and daughter of Pedro Lorioda, The remaining facts are proved by the statements of Oli, Nares, and Trabajonda, who, if they are to be believed, went, as has been stated, from the house to the

fields with the accused and Marquez after the abduction of the Loriodas, and they were present while the latter were bound and killed. It appears that these three individuals were accomplices in the commission of the crime, but as their statements were corroborated in large part— that is to say, with reference to what took place at the house—by other witnesses, and inasmuch as the latter were not impeached in any sense, and as we must presume that there was nothing in the manner of giving these statements at the trial which would affect their probability (General Orders, No. 58, art. 55), we are of the opinion that the same should be given absolute credence as was done by the trial court.

We attribute little importance to the fact that the motives for the crime were not disclosed. In this, as in almost every crime apparently without motive, the motives which might exist are innumerable—motives unknown perhaps to the relatives of the deceased who testified at the trial and not even disclosed to the three who cooperated in a certain measure in the crime.

The fact of having bound the murdered persons, inasmuch as it hindered their resistance or rendered it impossible and had for its direct and special object the assurance of the execution of the crime without personal risk to the defendant and Marquez, constitutes the qualifying circumstance of treachery, thus converting the homicide into assassination.

A majority of the court is of the opinion that the circumstance of premeditation should also be taken into account. The facts as they appear in the record and as set forth above are scanty but suffice to demonstrate the existence of a determined plan to commit the assassination conceived by the defendant and Marquez at the latest at the time of taking hold of the Loriodas and starting with them for the place where the crime was committed. It does not appear what time elapsed between the effecting of the abduction at the house and the arrival of the captors with their victims at the well, but it is to be supposed that the time was sufficient, in the language of the supreme court of Spain, for the “conscience to conquer the determination of the will.” (Opinion of November 10, 1894.) Then followed the operation of binding the deceased, affording a new opportunity for reflection upon the crime which the defendant was about to commit. In a judicial sense we believe that there was a complete opportunity for meditation and reflection, just as much as if days or weeks had elapsed between the forming of the plan and its execution.

It is true that the premeditation which the law prescribes must be “evident”—that is, must be based upon external acts and not presumed from the mere lapse of time. We do not doubt that such external acts exist in this case. In the first place there was the deceit

practiced in order to obtain possession of the persons of the murdered men; then came the abduction, followed by the conveyance of the deceased to the place where the crime was committed—a place (and this is in our opinion a very significant circumstance) which lent itself to the execution of the crime with respect to the concealment of the bodies—and after that the binding of the victims, which could not have been done with any other object than that of facilitating and assuring the commission of the crime. If all these acts, which evidently form part of a single design, directed from the beginning to the end to the realization of the same final result, would not constitute reflective meditation in the judicial sense, there would then be very few cases of this character in which it would be possible to deduce the existence of the external manifestations of the mental functions in human conduct. Any interpretation of the acts of the defendant to which we have referred excluding the idea of premeditation we do not conceive to be convincing. (See the opinion of Justice Willard in the cause of the United States vs. Teodoro de Leon, *supra*)

A majority of the court being of the opinion that the defendant is guilty of the crime of assassination committed with the aggravating circumstance of premeditation, without any extenuating circumstance, and it being our opinion that there should not be considered as an extenuating circumstance in favor of the culprit the circumstance of race as established in article 11 of the Code, in view of the nature of the crime and the conditions of the defendant, the sentence of the court below is annulled and the defendant condemned to the penalty of death and to the payment of an indemnity of 1,000 pesos, Mexican currency, to the widow and heir of Pedro Lorioda, and in the event that this sentence be not carried out by reason of the pardon of the defendant, to the accessory penalties of perpetual, absolute disqualification and subjection to the vigilance of the authorities during his life, unless said penalties are expressly included in the pardon. Let the cause be remanded to the Court of First Instance of Pangasinan for the execution of this sentence. It is so ordered.

Arellano, C. J., Torres, Cooper, and Willard, JJ., concur.

Mapa, J., dissents.

