

1 Phil. 163

[G.R. No. 522. March 10, 1902]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. TEODORO DE LEON,
DEFENDANT AND APPELLANT.**

D E C I S I O N

WILLARD, J.:

On the 28th of June, 1897, Don Julio Banson was in a small hut with his wife and child. Two men, called Fabian and Tolome, now deceased, presented themselves, apparently unarmed. After entering the hut they drew their bolos, bound the said Banson, and compelled him to go with them. Upon reaching a point near the fields of said Banson where five servants of his were working, the two kidnappers forced the said servants to proceed with them. At that point the defendant joined them, appearing from behind a knoll where he had concealed himself. Upon so appearing he exclaimed, according to one witness: "It was written that you were to fall in my power;" according to another witness: "Thanks be given that I have caught you, now you are in my hands;" according to another, "Thanks be given that you have fallen into my power." The defendant then beat him with the butt of a gun which he carried until they arrived at a place called Bulutong, where Tie made the five servants place themselves in single file and ordered Don Julio to kneel before them and maltreated the latter brutally, saying: "Give me the amount of the cedula which you collected; now you will pay me for the blows which I received in the tribunal." Not satisfied with torturing the deceased by himself he ordered Tolome to give him a blow upon the chest with a bolo. Don Julio begging for mercy, the defendant sent one of the servants to the wife of the deceased to ask for \$1,000 for his ransom. After the servant had been sent all were led to a place called Cosme and upon arriving there the defendant ordered Fabian and Tolome to conduct Don Julio to a ditch. At the same time the witness and his three companions were given their liberty by the defendant, who remained with his two companions and with Don Julio. Don Julio was never afterwards seen alive and his headless body was found two or three days later in this same place.

No eyewitness has testified to the killing of Banson by the defendant, but the violent death of the former is proved, and that the defendant is responsible for such death as principal admits of no reasonable doubt. In conformity with an apparently preconceived plan, Banson was violently taken from his house by two armed servants or dependents of the defendant; he was bound and cruelly wounded and beaten by the defendant and his henchmen at his order, and he was taken by the defendant to the place where a few days later his headless body was found. This evidence is sufficient to convict the defendant as principal.

From the evidence there appears the qualifying circumstance of treachery. To show this it is only necessary to mention the fact that the deceased was bound. There is present also the generic circumstance No. 6 of article 10. The evidence shows that the defendant was beaten into a state of almost insensibility, not with the intention of then killing him but to cause him unnecessary suffering as a preliminary to the killing. There is present also the twelfth generic circumstance of article 10, proved by the fact that the deceased, a land owner, was forced to kneel in front of his four servants drawn up in line before him.

The writer of this decision is also of the opinion that there is present the seventh generic circumstance, article 10, that of "acting with known premeditation." But it is not necessary to so decide as the two other circumstances raise the penalty to the maximum grade.

For the reasons above stated the judgment of the court below is reversed and we adjudge that the defendant is guilty of the crime of murder with the sixth and twelfth aggravating circumstances of article 10 of the Penal Code, and we condemn him to the penalty of death with indemnification of \$1,000 to the widow and heirs of the deceased and with costs of both instances. In case of the non-execution of the penalty imposed through the pardon of the accused, it shall then be understood that he is condemned to perpetual absolute disqualification and subjected to the vigilance of the authorities during his life, unless these accessory penalties be specially remitted by executive clemency.

The case is remanded to the court below with instructions to proceed therein in accordance with law.

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

Mapa, J., did not sit in this case.

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