

4 Phil. 120

[G.R. No. 2094. January 11, 1905]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. MANUEL TOMINES,
DEFENDANT AND APPELLANT.**

D E C I S I O N

JOHNSON, J.:

This cause comes here *en consulta*. The defendant was charged with the crime of assassination, committed as follows:

That on the night of the 2d day of January, 1904, in the pueblo of Naguilian, Province of Isabela, Philippine Islands, he did, with premeditation and treachery and with the aid of other armed persons, enter the house of Maria Patiac and did then and there kill, by shooting, the said Maria Patiac, contrary to the statutes in such case made and provided.

He was arraigned upon the 7th day of April, 1904, and plead guilty to the crime charged in the complaint. Notwithstanding this fact the court proceeded to take the evidence of the witnesses in said cause. After hearing the proof the judge found the defendant guilty of the crime charged and sentenced him to the penalty of death.

The evidence shows that upon the night of the 2d of January, 1904, the defendant, together with several other men armed with deadly weapons, entered the house of the justice of the peace of the pueblo of Naguilian, in the Province of Isabela. Upon entering the house the defendant inquired for the justice of the peace, stating at the same time that he desired to kill him. Being unable to find the justice of the peace, he, the defendant, inquired for the wife of the said justice of the peace, whose name was Maria Patiac, and he began to look through

the house for the purpose of finding her. He found her lying upon the floor covered with blankets and pillows. The evidence shows that when he thus found Maria Patiac he uncovered her and threatened to shoot her. She fell upon her knees and began to pray and beg for mercy, and while in this attitude the defendant shot her with his rifle in the left eye, from the effects of which shot she died immediately. After killing the said Maria Patiac, the defendant with his companions took and carried away by force and violence from the same locality Victoria Ramirez, Pia Gamud, Bartolome Manzano, and Alejandro Ramirez, at the same time stating that they would not cease looking for the justice of the peace, the husband of Maria Patiac, until they had found him. The evidence shows that the defendant and his companions entered the house of Maria Patiac between 11 and 12 o'clock at night.

The evidence further shows that the defendant was the head of an association known as the "Nuevo Katipunan" and that on the same night he, together with his armed companions, made repeated threats and statements that they were going to kill the justice of the peace of the pueblo of Naguilian, as well as his wife, giving as a reason therefor that the said justice of the peace and his wife had been traitors to the said society.

These facts are sufficient to constitute the crime of assassination, under article 403 of the Penal Code, qualified with the circumstance of *alevosia*. Besides the qualifying circumstance of *alevosia* there exists also the following aggravating circumstances: (1) Premeditation and (2) nocturnity.

There were no extenuating circumstances connected with the commission of the offense. The crime being qualified as the crime of assassination, and there being one or more aggravating circumstances, the defendant should be punished with the maximum penalty provided for in article 403 of the Penal Code. The penalty imposed by the judge of the Court of First Instance of the Province of Isabela is therefore affirmed.

It is the judgment of this court, therefore, that the said defendant should be condemned to the penalty of death, according to the

provisions of Act No. 451, and shall be hanged by the neck until dead; and to be executed in the manner prescribed by paragraph 2 of article 101 of the Penal Code, in the public place generally set aside for the purpose of executing the death sentence, or in some public place to be determined by the Court of First Instance of the Province of Isabela at the time of the announcement of this sentence. So ordered.

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

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