

[G.R. No. 1290. January 05, 1905]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. REGINO AYAO ET AL.,
DEFENDANTS AND APPELLANTS.**

D E C I S I O N

MAPA, J.:

The defendants were sentenced by the Court of First Instance of Abra to the penalty of death as principals in the crime of murder committed upon the person of Pio Benedito, except Antonio Banza, who was sentenced to *cadena perpetua* as an accomplice to the said murder. This latter did not appeal from the judgment against him, and the same is therefore in force.

On the morning of Sunday, November 16, 1902, the deceased, Pio Benedito, residing in San Jose, Province of Abra, started on a journey to the town of Narvacan, Ilocos Sur, accompanied by his wife, the defendant, Gregoria Miranda, his servant Faustina Bobiles, and one Romualdo Espiritu. Arriving at a place called Denden, within the jurisdiction of the town of Pilar, Province of Abra, they made a halt and Benedito availed himself of this opportunity to take a bath. While he was bathing, the defendant Regino Ayao arrived at the same place, pretending to be looking for a dog which had escaped from him, and he joined the deceased and his companions when the latter continued their journey, immediately after the said deceased had taken his bath. They were walking in single file apparently on account of the jungle that made the way difficult, Romualdo Espiritu going first, Faustina Bobiles second, Gregoria Miranda third, Pio Benedito fourth, and last, behind Benedito, was Regino Ayao, who, taking advantage of this circumstance, at the moment of going up a slope inflicted a blow with his bolo upon

Benedito, wounding him in the right shoulder. Benedito thereupon ran to his companions, who had gone on ahead of him, and asked them for help, saying that he had been wounded by Ayao, while the latter ran away in the opposite direction in order to fetch his codefendant, Saturnino Bobiles, with whom he reappeared a moment later on the scene of the crime to renew together the attack upon Pio Benedito, who received new wounds which caused his instant death; meanwhile, the aggressors compelled Romualdo Espiritu and Faustina Bobiles to return, threatening to kill them, and the latter then returned in company of Gregoria Miranda. Almost at the same time Antonio Banza approached them and made himself known to them as a companion of Saturnino Bobiles and Regino Ayao, compelling Gregoria and her companions, under grave threats, to stop at a certain place of the road and there wait for Saturnino Bobiles and Regino Ayao, who joined them shortly afterwards. Upon the arrival of Regino Ayao he asked Gregoria Miranda and Saturnino Bobiles what they should do with Faustina Bobiles and Romualdo Espiritu, to which Gregoria said that they had better let her deal with them and that she would give them the necessary instructions, after which she gave 15 pesos to Regino Ayao as a reward for having wounded her husband, Pio Benedito, and five pesos to Romualdo Espiritu, so that he would not tell anybody what had happened. After this Regino Ayao and Antonio Banza left the group and at nightfall on the same day of the occurrence the rest of the company continued their journey back to the town.

These facts are fully and uncontestably proven by the testimony of the eyewitnesses Faustina Bobiles and Romualdo Espiritu, who further state that Gregoria Miranda did not show the least anxiety nor call for assistance when she saw that her husband was assaulted, and the first witness furthermore states that Gregoria slept in the house of Antonio Banza on the evening of the day on which the crime was committed. The testimony of these witnesses is supported by the statements made by the defendants Regino Ayao and Antonio Banza before the Constabulary inspector, Honorato E. Ballesta. Antonio Banza declared that he was with Regino Ayao and Saturnino Bobiles when the crime was committed, although he did not participate directly in the commission of the

same. The statement of Ayao was that he himself and Saturnino Bobiles by inducement of Antonio Banza and Gregoria Miranda assaulted and killed Pio Benedito, his account of the facts being substantially the same as that given by Faustino Bobiles and Romualdo Espiritu.

The defendants Antonio Banza and Regino Ayao acknowledge having made said confession, but they say that they were forced to it by the ill treatment and threats of death made to them by the municipal president of San Jose, who is a brother of the deceased, and that the statements they made in their confession are false. We can not accept this exculpation, as the reality of the ill treatment and threats alleged by the defendants has not been proved. Against that statement stands the affirmation of Inspector Ballesta that the confession was made freely and voluntarily, and above all, there is conclusive evidence corroborating the truth of said confession apart from the fact that what has been confessed by the defendants agree substantially with the statements made by the eyewitnesses—there is the detail given by the aforesaid Ballesta in his testimony that the dead body of the deceased, the whereabouts of which was unknown until then, was found exactly in the place indicated by Ayao in his confession.

The defendant Gregoria Miranda testified to the fact that she and her husband, Pio Benedito, left their house on the morning of Sunday, November 16, 1902, in company of Romualdo Espiritu and Saturnino Bobiles, for the purpose of going to the town of Narvacan, but they had hardly walked three hundred feet when they returned to their house, giving up the journey on account of their having seen certain things which they considered a bad omen; her husband, however, started out alone the next morning for the place called Denden, and nothing had since been heard of him. Three witnesses have testified as to these facts being true, but it need only be taken into account that those witnesses are the defendant Antonio Banza, his wife, and a sister of the other defendant Regino Ayao, to give little credit to their testimony because of its interest and partiality. Much more is it to be doubted when conclusively denied by Romualdo Espiritu and Faustina Bobiles, whose statements are, moreover, corroborated by Luisa Avella, servant of the deceased, who states that since November 16, when the

said deceased started on the above-mentioned journey to Narvacan, she did not see him again, and, as only Gregoria Miranda and Faustina Bobiles returned to their house on the evening of that day, she asked the latter for her master, the deceased.

Neither can more credit be given to the evidence introduced by Antonio Banza and Saturnino Bobiles in trying to establish an *alibi*.

This evidence, consisting almost entirely of the statements of persons closely related to the said defendants, as their respective wives are, can not impeach the impartial testimony of Faustina Bobiles and Romualdo Espiritu, which testimony is corroborated in all its parts by the confession of the defendants themselves in the manner described above.

The liability of the appellants is evident. Regino Ayao and Saturnino Bobiles were the perpetrators of this crime, wounding and killing Pio Benedito. They are, therefore, principals in the crime with which they are charged.

Gregoria Miranda is principal by inducement. Whatever be the object which moved her to do it (the case does not furnish sufficient information about this), the truth is that she was the person who conceived the crime, and, feeling undoubtedly incapable of perpetrating it herself, intrusted the execution thereof to Saturnino Bobiles and Regino Ayao. The latter stated so to Inspector Ballesta, and his own actions also prove it in a manner beyond every possible doubt. Not only did she witness the attack upon and killing of her husband, not only did she show no surprise nor the least alarm, nor the slightest grief for it, but immediately after the crime was accomplished and in the very spot where it was consummated she agreed with her accomplices to properly instruct the eyewitnesses Faustina Bobiles and Romualdo Espiritu so that they would not disclose the crime, as in fact she afterwards did according to the testimony of the eyewitnesses named above; and furthermore, she at once gave 15 pesos to Ayao as compensation for the service just rendered her by him in killing her husband, and 5 pesos to Romualdo Espiritu so that he would not tell anybody what he had witnessed. And as if all this were not sufficient

to demonstrate her criminal bargain and understanding with the slayers of her husband, she is afterwards seen journeying back to her town in friendly company with one of said slayers, Saturnino Bobiles, and sleeping that same night in the house of Antonio Banza, who is found, in a final judgment, to be an accomplice to the same crime.

In the commission of this crime the circumstance of treachery, which raises it to the degree of murder according to article 403 of the Penal Code, is to be taken into account inasmuch as the aggression was made while the deceased was entirely unawares and the aggressor walking behind him, and when the apparently peaceful attitude of the said aggressor could not raise in him the least suspicion that he was going to attempt anything against his person.

The prosecution says that the murder was perpetrated in an uninhabited place, and with the concurrence of this aggravating circumstance, asks that the penalty of death be imposed upon the appellants. We do not agree with this view, although the complaint establishes that the place called Denden, where the crime was committed, is uninhabited; the evidence in the case does not prove sufficiently that it was really so. The only witness who was interrogated about this matter was Faustina Bobiles, who testified that at the place in question "there are houses," although they are at a distance from the site where the deceased was wounded. This distance not being clearly specified, there is not a good basis from which to determine accurately whether the site was inhabited or not, and the defendants should be given the benefit of the doubt.

There being no circumstances modifying the penalty prescribed by law, this penalty should be imposed in the medium degree, which is that of *cadena perpetua* in the present case, with the exception of Gregoria Miranda, on whom, by reason of her sex, the penalty of *reclusion perpetua* should be imposed, as provided for in article 95 of the Penal Code.

In strict law the crime should be designated as parricide with reference to Gregoria Miranda, as the deceased is her husband, in accordance with article 402 of the Penal Code; but inasmuch as the

complaint charged the crime of murder and the trial was consequently had for the same crime, it is not possible in law to use that more serious qualification to the prejudice of said defendant, for she has, in accordance with the principles governing the criminal procedure now in force, the unquestionable right not to be sentenced for a crime more serious than that with which she had been charged in the complaint For this reason only we designate the crime as murder, inasmuch as it is cognate with that of parricide and it is comparatively less serious than the latter, for which reason Gregoria Miranda is really benefited and not prejudiced, because her condition as wife of the deceased was not taken into consideration in the complaint, at the trial nor in the judgment appealed from.

By reason of the foregoing considerations and with reversal of the judgment appealed from, we sentence the defendants Regino Ayao and Saturnino Bobiles to *cadena perpetua*, and Gregoria Miranda to *reclusion perpetua*, and all of them to pay five hundred pesos, Philippine currency, as indemnity to the heirs of the deceased, and the costs of this instance. So ordered.

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