

4 Phil. 165

[G.R. No. 1826. January 25, 1905]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. PABLO GABRIEL,
DEFENDANT AND APPELLANT.**

D E C I S I O N

JOHNSON, J.:

The defendant in this case was charged with the crime of assassination in the following words:

“That the said defendant did, in the year 1901 or 1902, together with other persons unknown, armed with gun and dagger, take one Roman de la Cruz from his house in the barrio of Taboc of the pueblo of Angat of the Province of Bulacan, at about 10 o'clock on one night, manacle him, and conduct him to a place near his house, and then and there, with premeditation and treachery, inflict numerous wounds with a dagger upon the body of the said De la Cruz, from the effect of which wounds he died.”

The defendant was tried in the month of February, 1904, and sentenced by the judge of said province, who found the defendant guilty of the crime of assassination, to be imprisoned with the penalty of *cadena perpetua*, to pay to the heirs of the deceased Roman de la Cruz the sum of P1,000, and to pay the costs of the suit. From this sentence the defendant appealed to this court.

The testimony of Gregorio Nicolas shows that he saw the dead body of Roman de la Cruz near the house of the deceased in the barrio of Taboc in the pueblo of Angat, Province of Bulacan; that there were various

wounds upon the face, head, and body of the deceased, and many bruises; that the said wounds and bruises were caused with a sharp instrument; that the body of the deceased was manacled and was lying upon the ground, face downward; that the wounds were sufficient to cause death; that he, the witness, was a councilman of the barrio, and was called to view the body of the deceased by the mother of the same.

The testimony of Felix de la Cruz shows that he was the son of the deceased Roman de la Cruz; that he was in the house with his father, at the time the defendant and his companions came and took his father, the deceased, away; that he recognized the accused on that occasion; that it was about 10 o'clock at night when the accused and his companions came to his father's house; that he found the body of his father near the house the following morning; that he found wounds upon the face, head, and body of his deceased father, Roman de la Cruz; that when he found the body of his father it was lying upon the ground, manacled, face downward; that when the defendant and his companions came into his father's house on that occasion he heard the defendant say that he came there for the purpose of killing his father, Roman de la Cruz; that the accused had been living with his mother, the wife of Roman de la Cruz, in the barrio of Santa Maria, for about one year before the time of the death of Roman de la Cruz; that there had been more or less difficulty between his father, Roman de la Cruz, and the accused, in relation to his mother; that the accused carried a Remington rifle when he entered his father's house, and that there were five other men with him, all being armed; that he was unable to give his father any assistance because of the fear which he had of the defendant and his companions.

The testimony of Lucio Santiago shows that on a certain night, in the barrio of Taboc, the accused, together with other persons, armed, sequestered him and one Lucrecio de la Cruz, manacled them, as well as the deceased, Roman de la Cruz, and took them to a place near the house of the said Roman de la Cruz; that Roman de la Cruz was separated from him and Lucrecio de la Cruz; that he and his companion, Lucrecio de la Cruz, escaped from the possession of the accused and his companions; that later he saw the dead body of Roman de la Cruz lying on the ground, face downward; that the accused and his companions were armed

with guns and daggers.

The testimony of Lucrecio de la Cruz shows that he and Lucio Santiago were sequestered one night about 10 o'clock, manacled, and taken to the house of Roman de la Cruz; that the accused and his companions sequestered Roman de la Cruz and manacled him also, and carried him to a place near the house of Roman de la Cruz; that the accused and two of his companions separated Roman de la Cruz from himself and Santiago; that he and Santiago then escaped from the possession of the accused and his companions; that the following day he saw the dead body of Roman de la Cruz, manacled, face downward; that the accused and his companions were armed with guns and daggers.

The testimony of Eulalia de la Cruz shows that she is the daughter of Roman de la Cruz; that she lived with her mother, at the time of the death of her father, in the house with the accused; that she heard the accused tell her mother (the wife of Roman de la Cruz) that he, the accused, with a dagger, had killed her father, Roman de la Cruz.

The defendant offered no evidence in his defense. The trial court found the qualifying circumstance of *alevosia* to exist, without any extenuating circumstances, and therefore pronounced the defendant guilty of the crime of assassination, and imposed the medium penalty provided for in article 403 of the Penal Code. The court found that the defendant and his companions, before inflicting upon the deceased the wounds which caused his death, manacled him, thus rendering him unable to defend himself, as constituting the qualifying circumstance of *alevosia*. We conform with this finding of the court, and therefore affirm its sentence. So ordered.

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