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[G. R. No. 1312. December 21, 1903]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. IGNACIO BUNDAL ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

TORRES, J.:

On October 11, 1902, the provincial fiscal of Antique filed a complaint in the Court of First Instance of the province, charging the twenty-seven accused of the crime of double assassination, punished in article 403 of the Penal Code, alleging that at 7 o'clock on the night of the 14th of April, 1902, with the pretext of going to buy some aniseed wine, Tomas Mamega and Ignacio Bundal entered the house of Marcos Buncag, municipal president of the pueblo of Cagayancillo, in said town, while fourteen of their companions remained outside, some in the street and others in hiding close to the staircase of the house; that Buncag, on being told of the object of the call of the two men first named, immediately went down into the *bodega* of the house, where the wine was kept, accompanied by Antonio Trinidad, who carried a lighted lamp; that as Buncag handed the bottle to Tomas Mamega the latter inquired the price of the wine, and when President Buncag replied that it cost 1 real, Tomas forthwith struck Buncag with a bolo which he carried, inflicting a serious wound on the left cheek and jaw; that thereupon Buncag, crying out, "I am done for," ran out into the street, and then Santiago Madiong pursued him and struck him another blow on the neck, which caused him to fall down in the middle of the street, and then the other defendants threw themselves on the victim and inflicted upon him innumerable wounds from head to foot; that after this the house of the deceased was watched by the assailants until the following day, when the body was removed to the municipal building; that the municipal secretary, Ciriaco Garrion, who lived in the same house, tried to escape, but Ignacio Bundal prevented him from doing so and inflicted on him a serious wound on the back of the neck, in consequence of which he died nine days later; that likewise the vice-president, Francisco Magbanua, was charged with being an accessory to the crime because he had written a false report of the affair to the provincial authorities, concealing the real

facts which took place in the town on the night of April 14, 1902.

The complaint having been filed, the trial was held and evidence was taken as to the facts charged as having been committed by the accused, and from the testimony of Antonio Trinidad, Apolonia Buncag, Domingo Buncag, and Maxima Buncag, witnesses who were present when the facts above charged were committed, and from the testimony of the principal defendant, Ignacio Bundal, it appeared that on the Thursday preceding Monday, April 14, when the crime was committed, Bundal called a meeting which was held in his storehouse located in the barrio of Jilaga within the limits of said town, at which meeting Dionisio Conde, Pedro Elijan, Santiago Madiong, and Domingo Cardeno were present, for the "purpose of considering the grievances which all of them had against the president, Marcos Buncag; that on the following Friday, in the same place, Gregorio Conde, Raymundo Condesa, Gregorio Elijan, Gavino Condesa, Juan Cardeno, and Ramon Condesa met again with Bundal; on Saturday there was another meeting at which Procedio Bonales, Tomas Mamega, Modesto Bundac, Vicente Bombon, Jacinto Bongar, together with Bundal, were present, and that on Sunday Tomas Mamega, Dionisio Conde, Pedro Elijan, Domingo Cardeiio, and Bundal met again in the same place and agreed to kill President Buncag on Monday night, when Bundal and Tomas were to call on the deceased with the pretext of buying wine, it being agreed that Tomas was to strike the first blow and was to be seconded by Santiago Madiong, Dionisio Conde, and the others if it became necessary; that in the meantime the other conspirators were to stay near the premises ready to fight in case the sons of the president or any other persons offered resistance. They bound themselves not to run away, and agreed that if anyone attempted to do so he was to be attacked by his companions; that once the president was killed they would expose his body to the people.

At 6 o'clock p. m. on Monday the conspirators met and about 7 o'clock they went to the house of the president. Bundal, and Tomas entered and stated the object of their call. After the president, Marcos Buncag, was told of what they wanted he at once went down to where the wine was stored, being accompanied by Antonio Trinidad, who carried a lamp, and after he had drawn the wine, when Buncag was delivering the bottle to Mamega, after replying to his inquiry regarding the price, he suddenly received a severe blow with a bolo, inflicted by the latter on his cheek and left jaw, whereupon, saying, "I am done for," he instinctively ran toward the street. Tomas then shouted for Santiago Madiong, Dionisio Conde, and Pedro Elijan, who came out and attacked the deceased, who was felled to the ground covered with serious and mortal wounds. After this the other members of the party, named Procedio Bonales, Domingo Cardeno, Vicente Bombon, Gregorio

Conde, Gregorio Elijan, Raymundo Cardeno, Gavino Condesa, Jacinto Bongar, Modesto Bundac, Ramon Condesa, and Juan Cardeno, came and flocked around the body of Buncag, crying out, "We have conquered."

While this was taking place in the wine room and in the street, Ignacio Bundal, avlio had left the house, reentered it, and on seeing Ciriaco Garrion, who was trying to leave the house, doubtless with the intent of escaping, Bundal attacked him with the bolo which he had in his hand and inflicted upon him a wound on the left shoulder and neck, in consequence whereof Garrion died nine days afterwards. The testimony of the person who attended him, and the opinion of the physician called as an expert, show that the wound inflicted tipon Garrion was very severe.

On this same night, a few moments after the murders were committed, the wife, sons, and other members of the family of the president fled from the house, and the premises were abandoned and left in the possession of the criminals, some of whom kept watch upon it for nine days, after which Gervasio Buncag (one of the sons of the deceased president) and his wife took charge of the house.

On the following day the body of President Buncag was removed to the municipal building and exposed to the public. Several of the conspirators went about the streets of the town informing the people of the death of the president, defying all those who were inclined to resent it, and inviting all the men to go and see the corpse in the municipal building, where all comers were asked by the rioters whether they approved or did not approve of what had been done, and asked whose party they favored.

On the same night, the 14th of April, after committing these crimes, the accused, Dionisio Conde, Santiago Madiong, and Pedro Elijan, went to the dwelling of Modesto Buncag, one of the sons of the deceased, in company with seven other persons, and looked for Modesto, who was then hidden up a cocoannt tree, but upon being informed by the father-in-law of Modesto that the latter was not in, they went away. These people were all armed, as well as those who were guarding his father's house, which Modesto was able to see from his hiding place.

At the time of the murder the other son of the president, Gervasio Buncag, was absent in an adjacent island called Dondonay. Ignacio Bundal sent word to him to return to the town of Cagayancillo, which, according to the messenger sent for him, had been attacked by bandits, and on receiving this message Gervasio returned with his family. As he was

approaching the beach in the vessel which conveyed him he heard the bells tolling, and when the boat anchored several armed men, among them Dionisio Conde, Pedro Elijan, Santiago Madiang, and Ramon Condesa, appeared on the beach and the first named asked him whether he carried any arms, and upon his saying that he did not, they told him to lift up his shirt to see if he had any weapons hidden, because the rioters were in fear of reprisals or vengeance on the part of Gervasio for the killing of his father. They then asked him with which party he was going to side, and he said that he would go with them, whereupon they stated to him that they had killed his father, and took him to the municipal building where he was shown the corpse, wrapped in matting, covered with wounds and with the head and face split in two.

It appears likewise from the record that on the morning of the 15th of April while the corpse of the president was exposed in the municipal building, a party commanded by Ignacio Bundal overpowered the townspeople and succeeded in inducing the people through fear to attend in large numbers a meeting convened in the municipal building, in which a session was held on that day, as well as on the following. In these meetings it was resolved that the vice-president should replace the deceased and should address a false report to the governor of the province, stating that the town had been attacked by a party of unknown bandits who had attacked the president's house and killed him and had robbed the municipal treasury, the record being signed by the vice-president, Francisco Magbanua, the councilors, and the son of the deceased, Gervasio Buncag. The report was signed by the vice-president, Magbanua, in obedience to the demand of Ignacio Bundal and his followers. It is to be noted that the person who prepared the minutes of the meeting and the false report was Ciriaco Garrion, who, on account of the seriousness of his wound, was taken to the municipal building in a hammock by order of Bundal and his associates.

It does not appear that either in the house of the deceased or in the municipal building any robbery was committed, in spite of the fact that during nine days Ignacio Bundal and his fifteen armed companions controlled and did whatever they pleased in the town. On the contrary, it appears that they mounted a guard of armed members of the band over the house of the president, and upon making delivery of the premises and the furniture and other articles contained therein to the family of the deceased nothing was missing, nor was there any money missing from the funds of the municipal treasury, which were removed from the house of the president to the municipal building. Hatred and vengeance, due to outrages, abuses, and illegal exactions, and other grievances whereof Ignacio Bundal and his companions were alleged to be the victims, were the only motives which caused them to plan and execute the violent death of the president, Marcos Buncag, who,

according to his son Gervasio Buncag, during twenty successive years, with but slight intervals, had held the offices of *governadorcillo* and municipal captain of the town of Cagayancillo under the Spanish regime, and during the present regime that of *presidente municipal* of said town. It appears that Ignacio Bundal and his followers were inhabitants of the northern part of the island, and were the enemies of those who resided in the southern part.

The judge, in view of the result of the evidence, sentenced the accused Ignacio Bundal, Tomas Mamega, Santiago Mading, and Dionisio Oonde to the death penalty, as principals of the offense charged, and the others, Pedro Elijan, Procedio Bonales, Domingo Cardeio, Vicente Bombon, Gregorio Conde, Gregorio Elijan, Raymundo" Cardeio, Gavino Condesa, Jacinto Bongar, Modesto Bundac, Ramon Condesa, and Juan Cardeio, to the penalty of seventeen years and four months of *cadena temporal* each one, and to the payment of an indemnity; Francisco Magbanua, as an accessory, was sentenced to four years and two months of *presidio correccional*. The court stated in its decision that Bundal should be sentenced to suffer the penalty of *cadena perpetua* for the murder of Ciriaco Garrion, and to the payment of an indemnity, but in accordance with the provisions of section 11 of General Orders, No. 58, the proceedings should be set aside as regards the assassination of Garrion, as this crime should be the object of another information and a separate trial. The ten remaining defendants were acquitted and discharged from custody.

The violent death of President Marcos Buncag has been fully proven in this case and constitutes the crime of assassination, because prior to its execution it was concerted, meditated, and prepared by the authors, who to that end convened and held several meetings during the four days preceding that of the commission of the crime, and in said meetings they discussed the means and manner of executing it, as has been confessed by the principal authors of the offense. For this reason it is undoubted that in the commission x>f the crime the qualifying circumstance of evident premeditation, which characterizes murder according to article 403 of the Penal Code, existed. The violent death of the secretary, Ciriaeo Garrion, is likewise an assassination, since he was wounded in the back by treachery and by unexpected and sudden attack, the criminal using for that purpose means and actions which secured directly and especially the commission of the crime, without any risk to his person which might proceed from the defense of the deceased, although this crime is not at present the subject of this decision.

The defendants Ignacio Bundal, Tomas Mamega, Santiago Mading, and Dionisio Conde plead guilty to the murder of President Marcos Buncag, but Bundal did not plead guilty to

the killing of Ciriaeo Garrion, alleging that he had wounded him involuntarily. Pedro Elijan, Procedio Bonales, Domingo Cardeno, Vicente Bombon, Gregorio Conde, Gregorio Elijan, Raymundo Cardeno, Gavino Condesa, Jacinto Bongar, Modesto Bundac, Ramon Condesa, and Juan Cardeio did not plead guilty to the murders, although they acknowledged having been present in the place where they were committed.

Vicente Conde, Laureano Cayao, Mariano Bundac, Sebastian Conde, Leonardo Fabila, Antonio Tindoc, Nicolas Cardefio, Crisanto Trinidad, Alberto Carcuera, Gregorio Namoco, and Francisco Magbanua plead not guilty.

According to article 13 of the Penal Code principals are those who take a direct part in the execution of the crime, or who compel or induce others to execute it, as well as those who cooperate in the execution thereof by means of acts without which the crime could not have been committed.

According to these provisions of the law, the participation of the defendants Ignacio Bundal, Tomas Mamega, Santiago Madiiong, Dionisio Conde, and Pedro Elijan in the execution of the violent death of the late president of the pueblo of Cagayancillo, Marcos Buncag, is evident, since Bundal was the first to conceive the commission of the crime, and he invited and convened the codefendants to discuss the means of carrying it into effect, and he presided over several meetings held four days prior for the purpose of determining the manner and details of the execution of the offense in such a way that resolutions were passed as to what was to be done in case the relatives and friends of the victim should offer any resistance. Finally, Bundal was the leader and was at the head of his codefendants, not only during the execution of the crime but likewise nine days subsequent thereto, during which period of time he and his companions overpowered the town and by their boldness and audacity controlled the situation and terrorized their fellow-townsmen with their threats. Therefore, although Bundal did not take any material part in the execution of the murder of President Buncag, it is nevertheless beyond doubt that Bundal, for the reason above stated, was the author by direct inducement of the murder committed. Soon after preparing the commission of the crime he witnessed its execution and accompanied the material executors to the house of the victim, with the purpose, undoubtedly, of securing the consummation of the crime.

The liability of the other defendants Tomas Mamega, Santiago Madiiong, Dionisio Conde, Pedro Elijan, Procedio Bonales, Domingo Cardeilo, Vicente Bombon, Gregorio Conde, Gregorio Elijan, Raymundo Cardefio, Gavino Condesa, Jacinto Bongar, Modesto Bundae,

Ramon Condesa, and Juan Cardeiio, is likewise established, since the three first named, as well as Bundal, have confessed and been convicted of having taken direct part in the murder of President Buncag, and the other twelve of them, although not pleading guilty, confine themselves to affirming having attended and been present during the commission of the crime, accompanying the first four named and stationing themselves around and underneath the staircase of the house, for which reason there is more than sufficient proof to fully convince the mind that these defendants are guilty. Several witnesses who narrated the details of the killing of Buncag by Mamega, Madiong, and Conde in the presence of Bundal, affirm that the other twelve defendants were present in the place where the crime was committed.

Although it is axiomatic that no one is liable for acts other than his own, when the evidence shows as it does in this case that the accused, under the command of Ignacio Bundal, on the night of the murder placed themselves around the house of the deceased, it is evident, notwithstanding the fact that only two entered the house and only four actually attacked the victim, that all of the sixteen conspirators, impelled by the same motive, were prepared to commit the crime or cooperate in its commission. It is impossible to graduate the separate liability of each without taking into consideration the close and inseparable relation of each of them with the criminal act, for the commission of which they all acted by common agreement, their common purpose being the murder of Marcos Buncag. The crime must, therefore, in view of the solidarity of act and intent which existed between the sixteen accused, be regarded as the act of the band or party created by them, and they are all equally responsible for the murder in question. The judgment of the supreme court of Spain of September 29, 1883, establishes a doctrine on this subject similar to the American rule laid down by Bishop (New Criminal Law, vol. 1, par. 630, and vol. 2, par. 629, and cases there cited), and to the ruling of this court in the case of the United States vs. Pedro Teodoro.[1]

There is to be considered in the execution of the said crime of murder the concurrence of the aggravating circumstances 8, 15, and 20, article 10 of the Penal Code, inasmuch as the accused undoubtedly took advantage of the darkness of night for the consummation of the crime, and made use of deceit, by means of a false pretext, in order to attack the deceased unawares and while unable to defend himself against the attack made on him in the lower story or *bodega* of his house. Nevertheless, these circumstances are compensated in their effects by the special circumstance established in article 11, which is considered in mitigation that is, the personal conditions of race and the ignorance of the accused. This was a murder committed by means of sedition or an uprising boldly carried

out by the sixteen defendants, who were impelled thereto by the hatred and ill will which they bore toward the victim on account of the abuses by him committed during a period of nearly twenty years, during which time he had been exercising the functions of the highest local authority in the town and island of Cagayancillo, a period which commenced from the previous sovereignty, and this induced the mutineers to believe that such abuses would probably continue indefinitely and that it would be difficult, if not impossible, to obtain any relief from the government of the province owing to the distance that separates this small island from that of Panay, wherein the Province of Antique is located. Therefore they sought relief by having recourse to violence and assassination. This was due to their ignorance and perhaps to the lack of means for obtaining justice. For all these reasons we are of the opinion that great weight should be given to the circumstance established in article 11, to such an extent that it should be considered as compensating in itself the three aggravating circumstances above enumerated. Therefore the sixteen defendants are to be condemned to the medium degree of the penalty prescribed in article 403 of the Penal Code.

As a consequence of what has been stated, the court considers that the assault committed by the accused upon the president of the pueblo of Cagayancillo certainly affected public order and the principle of authority, and for this reason is of a political character in a general sense. But it is not a political offense of the class covered by the amnesty of July 4, 1902, inasmuch as the defendants, when they resolved and carried into effect the death of Marcos Buncag, did so under the provocation of certain abusive acts committed by Buncag, but it does not appear that the residents of the town seconded the revolution against the Government of Spain or took part in the resistance against the sovereignty of the United States. Neither does it appear that the deceased or his aggressors took part in the insurrection. Nor has it been shown that this hatred and ill will arose from political motives or strife connected with the past revolution, and it is therefore undeniable that the murder of the said president, Buncag, did not have the particular political character contemplated by said amnesty, and that the case does not fall within the letter or spirit of the proclamation, especially paragraph 3 thereof. It would, therefore, be error to hold that the defendants are covered by the amnesty.

No appeal has been taken as to that part of the decision of the lower court by which the trial, as regards the murder of Ciriaco Garrion by Ignacio Bundal, was set aside, and this court is therefore divested of any authority whereby to make any finding as regards the said murder, and as to the liability of the alleged author thereof, since the lower court decided that the same should be the object of another information and a separate trial,

without any objection on the part of the prosecution.

With respect to the charge against the late vice-president of Cagayancillo, Francisco Magbanua, accused as being an accessory to the offense, it appears that the latter, when signing the minutes and the report forwarded to the provincial government, wherein it was falsely stated that a band of brigands had invaded the pueblo and killed the president, Buncag, acted under the impulse of insuperable fear of a greater evil, which consisted in the threat and intimidations made by Bundal and his followers after the murder of President Buncag, which said intimidations and threats were of a serious and imminent character, in view of the circumstances attending them, and caused the other townspeople to submit thereto as well as the very sons of the deceased. For this reason the defendant Magbanua is not criminally liable. The law does not consider this defendant guilty and consequently he should be acquitted. It is nevertheless to be noted that he allowed considerable time to pass without having rectified the false report by giving the provincial authorities the real facts which took place, and that he issued a passport to Bundal in order that he might be able to remove to and land on other islands. These facts may be sufficient to warrant the prosecution of this defendant for other offenses, which however are not charged in the information in the present case.

The other defendants, Vicente Conde, Laureano Cayao, Sebastian Oonde, Leonardo Fabila, Antonio Tindoc, Nicolas Cardeno, Crisanto Trinidad, Alberto Carcuera, Gregorio Namoco, and Modesto Bundac, have been acquitted, and no appeal having been taken against this decision the sentence is final and therefore the court has no power to take any action as regards these ten defendants.

In view of the foregoing, in our opinion it is proper to sentence the accused, Ignacio Bundal, Tomas Mamega, Santiago Madiong, Dionisio Conde, Pedro Elijan, Procedio Bonales, Domingo Cardeno, Vicente Bombon, Gregorio Conde, Gregorio Elijan, Raymundo Cardeno, Gavino Condesa, Jacinto Bougar, Modesto Bundac, Ramon Condesa, and Juan Cardeno, each to the penalty of *cadena perpetua*, with the accessory penalties of civil interdiction, and being subject to the surveillance of the authorities during their lifetime, and even in case of being pardoned of the principal penalty they shall suffer the penalty of absolute perpetual disqualification, and to be subject to the surveillance of the authorities during their lifetime, unless these penalties are especially included in the pardon of the principal penalty. They are likewise sentenced to the payment jointly and severally of an indemnity of P1,000, Philippine currency, to the heirs of the deceased, and to the payment of one twenty-seventh part of the costs in both instances.

It is held that the amnesty of the 4th of July, 1902, is not applicable to the sixteen defendants because they are not comprised within the terms of the same. The defendant Francisco Magbanua is acquitted, and one twenty-seventh part of the costs shall be paid *de officio*, the decision appealed from being reversed in so far as it conflicts with this decision.

Let the record be returned with a certified copy of this decision for the execution of the judgment. So ordered.

Arellano, C, J., Cooper, Willard, Mapa, and Johnson, JJ.. concur.

^[1] Not published

DISSENTING

MCDONOUGH, J.,

The object of the uprising and the killing of the president as shown in this case was of a political nature. He had been in office about twenty years, and held over after Spanish power had been swept away. The people of the town were divided into two parties, one apparently supporting the president and his policy, the other against him, claiming that he had oppressed and wronged the people. The motive of the accused was not robbery or personal revenge, but rather to rid the people of what they deemed the tyranny of an obnoxious official for during several days after his death they guarded the treasure of the town and the house of the deceased, finally turning them over intact and without injury.

In view of these facts, I am of the opinion that the petition of the defendants to be included among those to whom amnesty was given by the proclamation of the President, issued July 4, 1902, should be granted.

By this proclamation the President granted pardon, among others, for all offenses political in their character “* * * which resulted from internal political feuds or

dissensions among the Filipinos themselves during either of said insurrections.”

This crime was committed during the period of the revolutions and grew out of such political feuds or dissensions among Filipinos, and therefore the defendants are entitled to the benefits of the proclamation.

Date created: April 16, 2014