

[G.R. No. 59. January 11, 1902]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. SIXTO ARRIBAS
ALCACID, DEFENDANT AND APPELLANT.**

D E C I S I O N

TORRES, J.:

On a certain day in the month of May, 1899 (the exact date does not appear), the accused, Sixto Arribas, met Victoriano Añon walking upon the highroad of the barrio of Pongol, in the capital of Ilocos Sur Province, in company with Tiburcio Alcante, Urbano Alnairo, Geronimo Arruisa, and Hilario Arribas Añon upon noting the presence of Arribas, ran away, whereupon the latter pursued him, bolo in hand. Upon overtaking Añon in a lot in which he had taken refuge he assaulted him, inflicting several wounds, some of them necessarily fatal, according to the medical report, and from which Añon then and there died. His companions, following him to the lot to see what was taking place, found him a corpse, covered with wounds, but did not find the accused, whom they supposed to be the author of his death, at the place of the assault.

These facts, fully proven in the case by ocular inspection, expert testimony, authentic documents, and the testimony of trustworthy witnesses, constitute the crime of homicide, penalized in article 404 of the Penal Code, for the reason that the wounds of Victoriano Añon were the immediate cause of his death.

Although the accused did not plead guilty of the homicide in question, it is altogether beyond doubt that Sixto Arribas was the sole confessed and convicted author by direct participation of the violent death of said Añon. This is verified not only by his own statement that he had pursued the deceased and assaulted him with the bolo which he carried, but also by the testimony of three witnesses who witnessed the pursuit which preceded the assault and who later saw the corpse of the deceased with several wounds, so that the witnesses believed that Arribas and no other was the aggressor and the author of the death

of the deceased Añon.

In the commission of this crime there is to be considered the circumstance provided for in article 11 of the Code and the extenuating circumstances 5 and 7 of article 9 of the Code, since it is an established fact that the deceased attempted to rape the wife of the accused, Perpetua Quejismundo, and on being surprised leaped through the window of the house and fled, all of which is confirmed by three witnesses who had knowledge of the facts, one of whom having heard the cries of the wife of the defendant appealing for help. The conduct of the deceased, who fled at sight of the accused, is also significant as tending to show that he had committed some grave offense against the latter. Although there is no proof of the second attempted assault upon his wife, alleged by the prisoner in his defense, to justify the attack made upon the deceased, it is altogether incontrovertible, judging from the merits of the record, that the defendant attacked and killed Victoriano Añon to vindicate a grave offense to his honor and that of his wife, and was impelled to the commission of the crime by the powerful passion of jealousy, and thus acted while under the influence of passion and obfuscation. There being no aggravating circumstances, and the two mitigating circumstances mentioned being present in a marked degree, rule 5 of article 81 of the Code is to be applied by imposing upon the accused the minimum grade of prisidn mayor, the penalty next below that assigned in article 404 of the Code.

Therefore, tke judgment reviewed should be affirmed in all respects with the costs of appeal taxed against appellant, and with approval of the order dictated in the incident of attachment, declaring defendant insolvent It is so ordered.

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

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