2 Phil. 110

[G.R. No. 1129. April 06, 1903]

THE UNITED STATUS, COMPLAINANT AND APPELLEE, VS. RAFAEL ARCIAGA, ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

MAPA, J.:

The conclusion reached by the court below with respect to the sufficiency of the evidence as to the commission of the act charged, and the guilt of the defendants as principals, is in conformity with th,e law. The offense has been properly classified in the judgment as that of robbery with homicide, denned and punished in section 1 of article 503 of the Penal Code. The judge has imposed upon the defendants the penalty of death, considering the concurrence, in the commission of the crime, of the aggravating circumstances of *aleviosa*, premeditation, and the perpetration of the offense in an uninhabited place. We can not concur in this conclusion. No witness was present at the commission of the crime, and therefore no one can testify from his own knowledge as to the manner and form in which the crime was committed. These data being absent, there is no foundation upon which to rest the circumstance of *alevosia*, which is, in its essential characteristics, a modifying condition in the commission of the crime. It can not even be presumed that the defendants tied the hands of the deceased—and this is apparently the fact upon which the judge relied for the purpose of considering that this circumstance was present—because the vague indications which appear in the record to have been made upon this point as a mere matter of hearsay are overcome by the certain and unquestionable fact that the deceased crawled on his hands and knees some 300 meters from the place where the crime was committed to the police station, where he Avas found wounded by the people of the barrio in which the crime occurred. This proves positively that his hands were free and not tied. This conclusion is corroborated by the circumstance that none of the various witnesses.who saw him in the station could testify to the contrary at the trial.

With respect to premeditation, there are no data whatever to *show* when the idea of killing and robbing the deceased first arose in the minds of the accused. This idea might well have occurred to them at the very moment they met him in the place where the crime was committed. This mooting, in accordance with all conjectures possible upon the record of the case, was casual, and therefore it can not be affirmed, because of the lack of any evidence, that the commission of the crime was preceded by a reflexive and premeditated purpose or intent, this being precisely what constitutes premeditation. In consequence, we hold that this circumstance did not exist in this case.

With respect to the circumstance of the commission of the crime in an uninhabited place, we do not find this circumstance sufficiently proven in the case, in consideration of the fact that a short distance from the place where the crime was committed there was a station, the precise purpose of which was to serve as a shelter for the peace officers of the town. On the other hand, it does not appear that when the offense in the case at bar was committed there wore no watchmen at the station; therefore it can not be said, strictly speaking, that the place in question was an uninhabited, solitary place, and that its isolation made it easy to commit the crime with impunity. This is the very el onion t upon which rests the increased responsibility for crimes committed in uninhabited places.

There being no aggravating circumstance which can be considered to have concurred in the commission of the crime, the accused should be convicted, in accordance with the provisions of paragraph 2 of article 80 of the Penal Code, to suffer the lesser of the two indivisible penalties prescribed by paragraph 1 of article 503, which, as we have already stated, is the one applicable to the case.

We therefore condemn the accused to the penalty of life imprisonment (*cadena perpetua*) and to the payment of the sum of 500 Mexican pesos to the heirs of the deceased. The judgment of the court below, so modified, is affirmed, Avith the costs of this instance to the defendants. So ordered.

Arellano, C. J., Torres, Cooper, Willard, and Ladd, JJ., concur.

Date created: April 14, 2014