

1 Phil. 171

[G.R. No. 422. March 14, 1902]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. NICOLAS ANCHETA ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

TORRES, J.:

Late in the night of May 26 of last year when Juana Martires was sleeping in her home in the confines of the pueblo of Amulung, she was awakened by the voice of her husband, Ventura Quinto, who called her to come to the door of the house with a light because certain individuals were there who had arrested him. But when Juana appeared at said door with a light one of the men ordered her to extinguish it or the Americans with them would kill her. She then noticed that her husband had been bound and heard one of the strangers say to him that by order of the American garrison at Alcala they were to conduct him to Pefia Blanca in connection with some affair concerning one Badajo. She recognized Nicolas Ancheta as one of the three men who kidnaped her husband—the very one who threatened her—by his voice, height, and walk. They had their faces covered with their handkerchiefs. Some were armed with daggers and bolos. Terrified, she fled from the house and hid herself at some distance away. Upon her return the following morning she did not find her husband at home and at once reported the occurrence to the authorities.

When the municipal president, who was also justice of the peace of that township, made the necessary investigation, the seven defendants were taken into custody and before the justice of the peace, his secretary, the commanding military officer of Alcala, and other persons, they confessed that they had conducted the kidnaped man, Ventura Quinto, to a place called Radap, within the confines of the same township, and that there, by order of Nicolas Ancheta and Sebastian Dayag, he was killed by Faustino Pascual, Daniel Verson, and Aniceto Javier. The latter held an end of the cord with which Ventura was bound and secured, while Nicolas Ancheta, Sebastian Dayag, Claro Ancheta, and Maximo Verson

posted themselves at some distance to watch for the approach of anyone, in order to prevent the discovery of the crime. The local authorities found the body of the deceased in a hole some 2 meters deep, near Radap, at the place designated by the accused. The body was in a state of complete decomposition and hence the practitioner who made the examination was unable to determine the number of the wounds, although he noted that both elbows were tied from behind with strips of rattan and that the abdomen had been ripped open. In addition to this the dagger and bolo were discovered in the place pointed out by the defendants Nicolas and Faustino. All these facts were confirmed by the defendants in their testimony.

A complaint having been filed by the public prosecutor and the defendants arraigned they pleaded "not guilty." At the trial the municipal president testified that in his opinion Ventura Quinto was killed as an act of vengeance on the part of Dayag, who had been ill treated the year before by the deceased. Furthermore he believed that the defendants bore resentment against the deceased because the latter, by order of the witness, had arrested the bandit Jose Badajo, who was suspected of belonging to the defendants' band. Two expert armorers testified that they were unable to ascertain if the spots noted on the dagger and bolo were or were not of blood; and that the dagger was of a kind whose use was prohibited, but not the bolo.

The foregoing facts, fully proved at the trial by ocular inspection, expert testimony, the declarations of credible witnesses, and by grave and conclusive circumstantial evidence, constitute the crime of murder, prohibited and penalized in article 403 of the Penal Code. The execution of the crime was attended with the qualificative circumstance of treachery (*alevosia*), in that the defendants, in killing Ventura Quinto while he was bound elbow to elbow, employed means tending directly and particularly to insure the consummation of the crime without risk to the aggressors, inasmuch as thus bound and disarmed the victim could not defend himself in any manner against the seven men who kidnaped him or even against the three who actively participated in his killing.

The criminal responsibility of the defendants as perpetrators of the murder which is here prosecuted is beyond question, inasmuch as all of them by previously concerted action met together and witnessed the capture and later the violent killing of Ventura Quinto. Some took a direct part in the actual commission of the crime, others were the determined instigators who induced the former to commit it, while the remainder cooperated in the same by their presence and by means of acts without which the crime would not have been perpetrated. It must be taken into account that this murder was committed by a gang

(*cuadrilla*) of seven persons, the greater part of whom were armed, and it does not appear that any of those present who were not active participants in the crime made any effort to prevent it. This latter conclusion is not affected by the unfounded allegations made by the defendants, since they inculpate each other mutually in confessing their participation and cooperation in the said murder and since it is proven that all of the four who were not the actual perpetrators thereof witnessed the commission of the crime, lending to the murderers their moral support, all are thus directly responsible for the consequences and incidents of the same.

In the commission of this murder there is to be considered, according to the facts adduced at the trial, the presence of the fifteenth aggravating circumstance of article 10 of the Code, affecting all seven of the defendants in that they committed the crime at night, in an uninhabited place, and in a band (*en cuadrilla*). These three incidents are considered, according to the decisions of the courts, as one single circumstance for the purpose of increasing the penalty for the crime. Likewise there is to be considered the presence of the seventh circumstance of the same article 10 as applicable to the defendants Nicolas Ancheta and Sebastian Dayag for the reason that these two conceived the idea and premeditated the killing of Quinto, induced the others to kidnap him in order that he might be put to death, and ordered the three to kill him. In addition, we must consider the presence of the eighth aggravating circumstance of said article of the Code as applicable to Faustino Pascual, Daniel Verson, Aniceto Javier, and said Nicolas Ancheta for the reason that they employed both disguise and fraud, covering their faces with handkerchiefs while effecting the capture of their victim to avoid being recognized and making him believe by deceit that they would conduct him to another place at the order of the commander of the American detachment at Alcala. With respect to all the defendants the only mitigating circumstance in their favor which can be applied to offset the first aggravating circumstance is that especially established in article 11 of the Penal Code, which, in view of the class to which the defendants belong, may be applied in their favor for the reduction of the penalty. It follows that even regarding the fifteenth aggravating circumstance as compensated by the mitigating circumstance of article 11, still circumstances 7 and 8 of article 10 of the Code must be applied, and to them we must add the twenty-fourth of the same article, because the murderers made use of a dagger—a weapon prohibited by the regulations.

The crime here prosecuted being thus defined by the circumstances already enumerated, it is apparent that the penalty prescribed in article 403 of the Penal Code should be imposed upon the five defendants, Nicolas Ancheta, Sebastian Dayag, Faustino Pascual, Daniel

Verson, and Aniceto Javier in its maximum grade, and upon the remaining two, Claro Ancheta and Maximo Verson, in its medium grade, with the corresponding accessory penalties.

Furthermore, in view of the nature and circumstances of the murder for which this cause is prosecuted it is evident that the fact that the deceased was captured in his house and taken by the defendants to an uninhabited place selected by them for the purpose of killing him there, does not constitute the crime of illegal detention, since it does not appear that it was the purpose of the accused to commit this offense. On the contrary they seized the unfortunate Quinto in his house with the sole object of carrying him away to a suitable place, which they subsequently pointed out to the authorities, and of there murdering him.

Concerning the petition for the annulment of the judgment reviewed presented on appeal by the Solicitor-General, and based on the ground that the same was made by a judge who should have retired on June 16, 1901, this question has been previously determined by the court, upon a similar motion of the Solicitor-General, in its decision dated November 16, 1901, in a case of grave assault (*lesiones graves*) from Ilocos Sur, register No. 412, and reported elsewhere. In that opinion the validity of the proceedings and of the judgment was sustained and the court's decision upon this point is referred to and applied in this cause.

Therefore, for the reasons above stated, it is meet in justice and in accordance with the provisions of the penal law that the defendants Nicolas Ancheta, Sebastian Dayag, Faustino Pascual, Aniceto Javier, and Daniel Verson, be condemned to the death penalty, to be executed in the township of Amulung, Cagayan, Island of Luzon, and if they should be pardoned from such penalty it shall likewise be understood that they are condemned to absolute and perpetual disqualification and subjection to the vigilance of the authorities for the lifetime of each one of the defendants unless the said accessory penalties be especially remitted in such pardon. The remaining defendants, Maximo Verson and Claro Ancheta, shall be sentenced to the penalty of life imprisonment (*cadena perpetua*) and to the accessory penalties of civil interdiction and subjection to the vigilance of the authorities during the respective lives of the culprits and in case the said defendants should obtain a pardon of the principal penalty they shall suffer those of absolute and perpetual disqualification and subjection to the vigilance of the authorities during the lifetime of each one of the defendants unless the same shall be expressly remitted in the pardon of the principal penalty. All of the seven defendants shall be sentenced to pay *pro rata* and in solidum an indemnity of 1,000 pesos, Mexican currency, to the widow and heirs of the deceased and to pay a seventh part of the costs of both instances. The arms seized are

declared forfeited. The judgment reviewed is therefore confirmed in so far as it agrees with the foregoing decision and reversed in so far as it conflicts therewith. It is so ordered.

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

Mapa, J., dissents.

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