

2 Phil. 113

[ G.R. No. 1086. April 07, 1903 ]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. VICENTE REGIS ET AL., DEFENDANTS AND APPELLANTS.**

**D E C I S I O N**

**WILLARD, J.:**

One morning in the month of January, 1899, as alleged in the complaint upon which this prosecution was instituted, Herm6genes Languido was attacked in the barrio of Tuyong, in the town of Carcar, by the accused, Vicente and Antero Regis, who inflicted five wounds upon him in various parts of the body with sharp weapons. In consequence of the wounds Languido died on February 2 following in the municipal building of said town, to which he was taken immediately after the attack. On the 13th of June, 1902, a complaint was filed by the widow of the deceased charging the accused with the crime of homicide.

The widow of the deceased, Don Florencio Noel, the municipal president of Carcar, Adriano Enriquez, the officer of justice, and Doroteo Tanodtanod, Domingo Caballero, Macario Cantuanco, and Benito Bolocboloc were examined as witnesses. From their testimony it appears that Hermogenes Languido was wounded by the accused. No person was an eyewitness to the attack except Domingo Caballero, who affirms that, from a distance of some 10 hrazas, he saw the accused attack Hermogenes Languido with small swords, the latter being unarmed. The witness Tanodtanod, when he approached the window of his house, attracted by the cries of the wounded man, saw him already stretched wounded on the ground, and by his side the two armed aggressors. All testified that the wounds suffered by the deceased were severe and dangerous, and that in consequence thereof Languido died on the fifteenth day thereafter. Cantuanco testifies that, according to Antero Kegis, with whom he had some conversation, Languido was wounded because he had resisted, although he did not state who was the first to make the attack.

Mariano Canaria, an herb doctor who attended the wounded man, testified that the five

wounds received by I [ermogenes we're beginning to improve when, two days before his death, he Avas attacked by a diarrhea, accompanied by hemorrhages and mucous discharges, which resulted in his death. The witness added that the wounds were not necessarily mortal, and that no one of them could have caused death, as, had the wounds been mortal, the man would not have lived for fifteen days, but would have died immediately; that when he died the wounds were already beginning to heal, and that, had it not been for the diarrhea, he would have been well in a month or two; that upon his recovery he would have been able to use his arms, but would have shown scars on his face; and that, at the time of his death, blood and matter were exuding from the wounds on the calves of his legs.

The violent death of Hermogenes Languido is a fact fully proven in this case, and constitutes the crime of homicide, as charged by the complaining witness and as defined in article 404 of the Penal Code. Even admitting that two days before the death of the wounded man he was attacked by diarrhea, the character and origin of this diarrhea not having been shown, it is reasonable to believe that it was incidental to the serious condition in which Hermogenes was at that time. He must undoubtedly have been very weak, by reason of the considerable loss of blood suffered as a result of his five wounds. Therefore, an attack of diarrhea, whatever may have caused it, must necessarily have been fatal to the patient, in view of the serious condition of his wounds, which, together with the diarrhea, undoubtedly caused his death.

His demise, therefore, is not due solely to this cause. This conclusion is supported by the testimony of the physicians who were examined upon this subject as witnesses. They testified that the diarrhea, not being the result of cholera, might be said to have originated from the debility and prostrated condition of the patient, and could be regarded as a complication of the wounds inflicted upon him. It is to be observed, moreover, that Placida Labices, the wife of the deceased, testified that the latter had contracted no illness other than the wounds, and that he died from the result of the latter.

The accused, Antero and Vicente Regis, pleaded not guilty to the crime with which they are charged. Vicente testified that one day in the month of January, 1899, he ordered Hermogenes Languido, his tenant, to go to work as a fireman at the sugarhouse; that when the witness reached his warehouse he found a considerable amount of juice uncooked, because, according to the statements made by the other laborers, the fireman Languido had not arrived. The witness immediately began to look for him, and finding him in the warehouse asked him why he had not gone to work. Hermogenes replied that he was not

obliged to do so, whereupon the witness said he would lay the matter before the authorities; that thereupon Languido attempted to attack him with a bolo which he had in his hand, and the witness, warding off the blow, fought with his aggressor and succeeded in taking the weapon from him; that, as the struggle continued, fearing that Languido might again possess himself of the weapon, he struck the latter with the bolo which he had seized from him, and inflicted upon him several wounds, until he fell to the ground; and that at this time the father of the accused, Antero Regis, arrived on the scene, he having been some 15 or 20 *brazas* away when this occurred.

Antero Regis corroborates the testimony of his son Vicente, for whom he says he was looking, not having found him in the warehouse; that the laborers told him that his son Vicente had gone to look for Hermogenes Languido; that he shortly after heard what had occurred, and saw Languido stretched on the ground, wounded, and that he immediately went to the municipal tribunal to report to the authorities what had occurred. Two other witnesses, Hugo Lauas and Julio Naviches, the latter a brother-in-law of the deceased, testified that Languido endeavored to attack Regis, who, in view of the former's attitude, seized him by the hand, and that a struggle then ensued, Vicente Regis being at that time unarmed.

There having been no eyewitnesses to the beginning of the struggle, and, accepting the confession and exculpative allegations of Vicente Regis as true, upon the whole merits of the case we must regard him as the principal by direct participation in the homicide of Hermogenes Languido. This decision is not affected by the fact that the deceased did not die immediately after receiving the wounds, but on the fifteenth day afterwards, and in consequence of a complication of diarrhea, as testified to by the herb doctor who attended him, inasmuch as the accused is responsible before the law for the act committed and for all its consequences, if there be no evidence—and there is none in this case—that such consequences were due to an extraneous cause. Consequently Vicente Regis must be regarded as having committed the offense of homicide, and not that of *lesiones*.

Nevertheless, we must consider, in favor of the accused, the special circumstance of complete exemption from criminal responsibility, in view of his testimony, uncontradicted by that of any witness for the complainant, and corroborated by the witnesses for the defense, inasmuch as there were both an unlawful aggression and lack of provocation on his part, two of the requisites assigned by section 4, article 8, of the Code. The second point is, in our opinion, also proven. This case is very similar to two others just decided by this court. The United States vs. Bernardo Patala, December 14, 1901, and the United States vs. Juan

Salandanan, November 13, 1902.<sup>[1]</sup>

With respect to the other accused, Antero Regis, it not expressly appearing that the provincial fiscal or counsel for the complaining witness has appealed from the judgment of acquittal in his favor, this part of the judgment of the court below is regarded as final. In view of these considerations, we are of opinion that the judgment of the court below should be reversed, and the accused, Vicente Regis, is acquitted, with costs *de officio*. So ordered.

*Arellano, C. J., Cooper, Mapa, and Ladd, JJ., concur.*

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*DISSENTING*

**TORRES, J.:**

Upon the statement of facts and conclusions of law relative to the actual commission of the crime of homicide, and the culpability of the accused, Vicente Regis, as expressed in the preceding opinion, and with respect to which the undersigned concurs, he nevertheless dissents from the opinion of the majority of the court with respect to the existence of the circumstance of complete exemption from criminal responsibility for the commission of the crime.

The exemption from responsibility which should be considered in favor of the accused Vicente Regis is incomplete, judging from the merits of the case, because only two of the three requisites established by section 4, article 8, of the Penal Code are present; that is, illegal aggression and lack of provocation on the part of the accused. It can not, however, be said that in the alleged defense he employed a reasonable means of repelling or impeding the aggression, inasmuch as, in the opinion of the undersigned, Vicente Regis exceeded the necessities of the defense. Once having possessed himself of the weapon with which the deceased was attacking him, there was no reasonable necessity for the infliction of five serious wounds in order to impede or repel an aggression no longer continued, or which, even if continued, could no longer be effective, inasmuch as Hermogenes Languido was already disarmed.

From this point of view, and by reason of the absence of the second of the necessary elements, the act committed by Vicente Regis is not excusable, and in accordance with the provisions of article 86 of the Penal Code should be punished, in the opinion of the writer,

by a penalty inferior by two degrees to that assigned by article 404 of the Code; that is, the medium grade of the penalty of correctional imprisonment. In view, then, of this consideration, it is the opinion of the writer that the judgment appealed should be reversed, and that it should be held (1) that the facts proved in this case constitute the crime of homicide; (2) that Vicente Regis is guilty of that crime, as principal, and that in his favor should be considered the existence of the special circumstance of incomplete exemption referred to by article 8G of the Penal Code; (3) that the said accused should be punished by the infliction of the medium grade of the penalty two degrees inferior to that assigned for the offense by article 404 of the Penal Code—that is, the penalty of correctional imprisonment and the accessories of article 61 and (4) that he has also incurred a civil responsibility, and should suffer subsidiary imprisonment in case of insolvency, and should be taxed with the costs.

Consequently the Writer is of the opinion that the accused, Vicente Regis, should be convicted and sentenced to four years' correctional imprisonment, the payment of 1,000 Mexican pesos to the widow and heirs of the deceased, Hermogenes Languido, and, in case of insolvency, should suffer the corresponding subsidiary imprisonment, the latter not to exceed one year, and to the payment of one-half of the costs of the Court of First Instance and all the costs of this instance.

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<sup>[1]</sup> 1 Phil. Rep., 478.

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