

95 Phil. 398

[ G.R. No. L-6585. July 16, 1954 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. PEDRO LIBRIA, DEFENDANT AND APPELLANT.**

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

**MONTEMAYOR, J.:**

Pedro Libria is appealing from a decision of the Court of First Instance of Leyte, finding him guilty of murder with the aggravating circumstance of treachery, and sentencing him to *reclusidn perpetua*, to indemnify the heirs of Jaime Idloy in the amount of P4,000, and to pay costs.

For the killing of Jaime Idloy, appellant Libria and Esteban Campo were originally accused of murder. Before trial, however, Campo was discharged from the information to be utilized as a witness for the Government.

We have carefully examined the evidence in this case and we agree with the trial court that the guilt of the appellant has been established beyond reasonable doubt. Briefly, the facts are as follows. During the fiesta of the barrio of Buri, municipality of Alang-alang, Leyte, and while a game of *monte* was being played, Jaime Idloy believing that Esteban Campo was keeping the tong collections, asked him for some money. Campo turned down the request, saying that he was not the tong collector and keeper, and Idloy boxed him. The same evening during a dance Idloy also boxed appellant Libria. From all this it would appear that Idloy was not exactly a peaceful citizen but rather was a bully, resorting to the use of force at the least or without any provocation.

About two weeks thereafter, or rather in the evening of June 12,

1950, Libria carrying a carbine, went to the house of Campo in the barrio of Buri. Campo and his wife Teofila Resano received him and he invited Campo to accompany him to look for Idloy to settle their differences; in other words, to avenge the wrong and injury he had committed against the two of them during the barrio fiesta and dance. Campo accompanied him on his mission of revenge, according to him, because of fear. However, it is not unreasonable to believe that he was not exactly averse to getting even with Idloy and so consented to go with Libria. In the barrio of Lingayon, they found or rather Libria found Idloy in the house of Paulino Verzosa, lying and stretched on a bench. The two remained in the yard below, Campo hiding behind a coconut tree and Libria seeking cover in a banana grove, watching. Soon Idloy got up from the bench and went down the house. Appellant was ready for him and as the victim was on the stairs and about to step on the ground Libria fired his carbine, the bullet piercing his two arms as well as the chest. Idloy collapsed to the ground and Libria fired a second shot again hitting him in the lower part of the trunk and fracturing the sacral bone. Idloy died almost instantly. It was an exhibition of sharp and accurate shooting, and it was not strange, because Libria was an ex-soldier of the Philippine Scouts. The actual shooting was witnessed and testified to by Campo, and the invitation to go out and take revenge upon Idloy was established by the testimony not only of Campo but also of his wife. The motive for the killing—revenge, has been sufficiently proved and already stated.

Appellant naturally, denied any participation in the murder and tried to establish an alibi, saying that in the evening of June 12, 1950, he was busy making copra in the house of one Pedrero, and at 11:00 pm. he was at a drinking party in the house of his witness Eleuterio Brando. The trial court did not give credence to this story and neither are we inclined to do so. Although the testimony of Campo as to the shooting is not entirely above suspicion, coming as it does from a polluted source because he was originally included in the information and he at least gave moral support to the killing, and the testimony of his wife about the invitation made by Libria may not be entirely impartial, still we find that appellant's presence at the

scene of the killing and his being identified with the shooting, to have been definitely established, thereby precluding acceptance of the defense of alibi.

As already stated, the trial court found appellant guilty of murder, the killing being qualified by evident premeditation, and aggravated by treachery, and sentenced him only to *reclusion perpetua*. The Solicitor General believes that the penalty for murder should have been imposed in its maximum degree namely, *Death*. The killing is not entirely without mitigation. Strictly speaking, inasmuch it was done several days after the wrong (boxing) committed on the appellant by the deceased, it may not be considered as sufficient provocation that "immediately preceded" the act, under Art. 13, paragraph 4; or that appellant acted upon an impulse so powerful as to have produced passion and obfuscation under the same article, paragraph 6, of the Penal Code. However, it is not difficult to see that Idloy's boxing appellant during a dance and in the presence of so many people, and he, an ex-soldier and ex-member of a military organization and unit, well-known and respected, undoubtedly produced rancour in the breast of Libria who must have left deeply insulted; and to vindicate himself and appease his self-respect, he committed the crime. The mitigation may well be found under paragraph 10 of the same article which reads—

"And, finally, any other circumstance of a similar nature and analogous to those above mentioned."

Finding no error in the decision appealed from, the same is hereby affirmed, with costs.

*Paras, C. J., Pablo, Bengzon, Padilla, Reyes, A., Jugo, Bautista Angelo, Labrador, Concepcion and Reyes, J. B. L. JJ., concur.*

