

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. EUGENIO LIBED AND MARCELINO T.LIBED, DFFENDANTS AND APPELLANTS.

G.R. No. No. L-20431. June 23, 1965

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

Defendants appeal from a judgment of conviction for the crime of murder.

The prosecution's evidence, sustained by the court a quo, is as follows:

On February 20, 1959, Mariano Ringor, his sons Salvador and Isabelo, his daughter Tarcelacion, Pedro Datugan and Domingo Lapitan were planting corn on Mariano Ringor's land at barrio Candalao, municipality of Bautista, Pangasinan.

After lunchtime, Mariano Ringor's carabao went wild, ran in various directions, then proceeded towards Eugenio Libed's land where the brothers Eugenio Libed and Marcelino Libed were likewise planting corn. Mariano Ringor pursued his carabao onto the aforesaid parcel of land.

Mariano Ringor passed by them, however, Eugenio Marcelino clubbed him, each with a piece of ipil wood in planting corn. They continued beating him even when he was already down on the ground. Marcelino thereafter ran away. Eugenio left on horseback and surrendered to the authorities in the adjoining municipality of Alcalá, Pangasinan.

Alcalá Police Sergeant Casimiro Cabrerros and P.C. Corporal Clemente Parong went to the scene of the incident and found Mariano Ringor, dying, bloody and unable to talk, About 15 minutes later, Mariano Ringor died.

Postmortem examination was made by Dr. Emiliano G. Dimalanta, Municipal Health Officer of Bautista, Pangasinan, resulting in these findings:

"This is to certify that I examined the cadaver of Mariano Rigor, 49 years, male, married, farmer and resident of San Vicente, Alcalá, Pangasinan and found the following:

"I. Lesions:

"(1) Contused lacerated wounds, parietal left.

"(a)

Anterior portion-wound is roughly triangular

in shape of about 1 inch long on each side

with a gap of about 1 inch exposing the

bone.

"(b)

Middle portion-wound is about 2 inches long,

about ½ inch wide exposing the bone.

"(c)

Posterior portion-wound is about 4 inches

long, with a gap of an inch wide exposing

the bone. Wound runs antero upward and

inward.

"(2) Then: are fractures in front and posteriorly in wounds a & c.

"(3) Hemorrhage, eyeball, right.

"(4) Contusion, forearm right, upper third, lateral aspect.

"II. Death is due to shock secondary to cerebral hemorrhage.

"III. Calculation of the time of death—Death occurred in about 12 hours before post-mortem examination."
(Exhibit B)

The defendants pleaded not guilty to the information for the murder of Mariano Ringor filed against them in the Court of First Instance of Pangasinan on April 25, Defendant Eugenio Libed admitted having clubbed Mariano Ringor, thereby killing him, but claimed he did so self-defense. The defense presented evidence that deceased chased Eugenio with a bolo after the latter pulled out some bamboo sticks that the deceased had put as boundary markers of their adjoining lands. Defendant Marcelino Libed interposed an alibi, specifically, that at the time of the incident he was plowing his land, together with Quirino Velasco, about 200 meters from the scene of the killing.

Sustaining, as stated, the prosecution's version, the court a quo rendered judgment, on September 7, 1962, thus:

"IN THE VIEW OF THE FOREGOING , and after a careful examination of the evidence on record, and upon a mature weighing of the testimonies of (ho witnesses for both the prosecution and the defense, this Court is of the opinion and so finds the accused, Marcelino Libed and Eugenio Libed, guilty beyond reasonable doubt of

the crime of murder as provided for in Article 248 of the Revised Penal Code, sentencing them to suffer an imprisonment of *reclusión perpetua* and to indemnify jointly and severally the heirs of the deceased, Mariano Itiniror, in the amount of THREE THOUSAND PESOS (P3,000.00) and to pay the costs.

"IT IS SO ORDERED."

Appellants assign seven errors, all reducible to the credibility of witnesses for the prosecution and the defense. It is contended that the testimonies of prosecution eyewitnesses ought not to have been credited because the same proceeded from biased sources: Isabelo Ringor is the son of the deceased. Pedro Datugan and Domingo Lapitan are suitors of the victim's daughter. It is further argued that said witnesses—Isabelo Ringor, Pedro Datugan and Domingo Lapitan—were not present in the scene when the killing took place.

Relationship to the victim does not destroy a witness' credibility. It is not to be lightly supposed that the relatives of the deceased would callously violate their conscience to avenge the death of a dear one by blaming it on persons whom they know to be innocent thereof (*People vs. Fetalvero*, 111 Phil., 718). Similarly, the fact alone that Pedro Datugan and Domingo Lapitan were suitors of to falsely impute on appellants the serious crime of murder.

The presence of the aforementioned witnesses during the incident cannot be doubted in view of their positive and convincing testimonies as to what then and there took place. Said witnesses were there as companions of the deceased in planting corn on the latter's farm that day. They stated that from a distance of about 30 meters they saw appellants club the victim to death when the latter passed by in pursuit of his carabao. The court *a quo*, finding them credible, believed their testimonies. Since credibility of witnesses is within the special competence of the trial court to discern, in view of its observation of the witnesses as they testified, we find in the records no fact nor circumstance that impels us to doubt or reject what the court *a quo* has found credible.

Furthermore, as regards appellant Eugenio Libed, the act of having clubbed the deceased to death is admitted. It was therefore incumbent upon him to prove, by clear and convincing evidence, his plea of self-defense (*People vs. Berio*, 59 Phil. 133; *People vs. Ansoyan*, 75 Phil. 772; *People vs. Bauden*, 77 Phil. 105; *People vs. Cabrera*, L-6197, March 18, 1957.). It is rather obvious that no such proof was adduced. As the court *a quo* significantly pointed out, appellant Eugenio Libed's affidavit, executed the day following the incident, does not state the all-important detail testified to by him in court, namely, that the deceased chased him with a bolo. The contention that the victim first struck at Eugenio with a bolo, and that the latter parried the blow with a piece of wood, is belied by the absence of any deep cut on said piece of wood (Exhibit A). The only cut appellants could show on the piece of wood in question was admittedly "very shallow only cutting the skin of the ipil wood", which could not have been caused by a parried blow from the deceased's bolo alleged by appellants themselves to have been very sharp (Tsn. p.30, Rollolazo).

As regards appellant Marcelino Libed, he was positively identified by eyewitnesses to have likewise hit the deceased with a piece of wood. Such being the case, his defense of alibi cannot prosper (*People vs. Fetalvero*, supra). We may add that it was not physically impossible for him to have been at the scene of the crime at about the time it was committed, since under his own evidence he was never farther than 200 meters away. The fact that his brother and co-accused is willing to exclusively own the act of killing is not a reliable proof of Marcelino's innocence, since said co-accused has nothing to lose thereby, in view of his claim of self-defense (*People vs. Fetalvero*, supra).

The evidence, therefore, leaves no reasonable doubt that appellants, with abuse of superior strength, clubbed the deceased as he passed by them in their land in pursuit of his carabao, thereby causing his death. The records reveal furthermore that appellants pleaded for forgiveness from their sister, the widow of the deceased, for such

act. Their attempt to placate her and compromise the case by an offer of P2,000.00, later raised to P3,000.00, but not finally complied with, likewise appears of record. (Tsn., pp. 29-30, Abalos) The alleged inconsistencies and contradictions in the statements of some prosecution witnesses—as to who of the appellants struck the victim first, the number of blows inflicted on the deceased, the location of said blows, etc.—do not serve to detract from the credibility of their testimonies positively establishing appellants' guilt. Appellants' evidence as to a grudge between them and the deceased, who was their brother-in-law, arising from the latter's having mortgaged their father's land after obtaining in his name a duplicate title thereto, only lends further credence to appellants' guilt, for it shows that they had sufficient motive to kill the deceased.

The penalty for murder is *reclusión temporal* maximum to death (Art. 248, Revised Penal Code). In the absence of generic aggravating or mitigating circumstance, the penalty of *reclusión perpetua* imposed on Marcelino Libed is correct. The court *a quo*, however, failed to consider in Eugenio Libed's favor the mitigating circumstance of voluntary surrender, unattended by any generic aggravating circumstance. Accordingly, as correctly recommended by the Solicitor General, the penalty imposable on him is *reclusión temporal* maximum (17 years, 4 months and 1 day to 20 years). Applying to him the Indeterminate Sentence Law, his indeterminate minimum may be anywhere within *prisión mayor* maximum to *reclusión temporal* medium (10 years and 1 day to 17 years and 4 months). Regarding, the amount of indemnification, the same should also be increased from P3,000.00 to P6,000.00 in line with our rulings thereon (*People vs. Banloc*, L-3413, December 29, 1955).

WHEREFORE, the judgment appealed from is modified so as to lower appellant Eugenio Libed's penalty to an indeterminate sentence of not less than ten (10) years and one (1) day of *prisión mayor* to not more than seventeen (17) years, four (4) months and one (1) day of *reclusión temporal* and to raise the amount of the indemnity from Three Thousand Pesos (P3,000.00) to Six Thousand Pesos (P6,000.00); in all other respects the same is hereby affirmed. No costs in this instance. It is so ordered.

Bengzon, C.J., Concepción, Paredes, Regala, Makalintal, and Zaldivar, JJ., concur.

Judgment, affirmed with modification.

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