

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. TOMS TIM AND JESUS ANGAYANGAY, DEFENDANTS-APPELLANTS.

G.R. No. L-36. August 29, 1946

Ponente: BENGZON, J.

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BENGZON, J.:

Tomas Tiam and Jesus Angayangay have appealed from a decision of the Court of First Instance of samar that sentenced them, for the violent death of Chian Yu, to different terms of imprisonment, with the legal accessories, and to indemnify in the sum of P2,000.00, and to pay the costs.

They were prosecuted in that court for homicide, together with Leoncio de Guia, Segundo Bolos, Pascual Patiño, Gregorio Patiño, and Estanislao de Guia, because, according to the information, they had taken the life of Chian Yu, illegally conspiring for the purpose. The others were acquitted, after a regular trial.

Returning home about four o'clock: in the afternoon of March 25, 1945, Chian Yu alias Chawa happened to pass by the house of Pascual Patiño, where Jesus Angayangay and others were drinking tuba in the barrio of Tubigan, Zumarraga, Samar. Segundo Bolos (Ondoy) invited him to a drink, but he refused to tarry; whereupon Tomas Tiam. pursued him with a revolver, and shot him twice. The second shot found its mark, the bullet piercing the upper and lower left arm, and finally lodging itself in the left lumbar region. Meanwhile, Jesus Angayangay had followed Tiam with a bolo, and overtaking Chian Yu, (who had slumped slowly to the ground after being hit), he struck the latter on the left arm near the shoulder, causing a deep wound seven inches long. Ina Yu alias Ayu hurried to assist his brother Chian Yu, but he was chased off the place by all the accused, armed with bolos. In the meantime, Brigido Floretes, taking pity on the prostrate victim, brought him to the dwelling of his aunt Margarita Floretes nearby, into which the accused subsequently tried to break, unsuccessfully, it is said, because the door and the windows had been timely closed. They demanded admittance, threatening to dynamite or burn the house, but all to no avail. On the same day Chian Yu was rushed to Catbalogan for medical treatment, but he expired during the trip, on account of the wounds he had unfortunately received.

The defense does not deny the demise of Chian Yu nor the gunshot wounds of which he died. Its theory, however, is that after the manhandling his brother Ina Yu had received at the hands of Segundo Bolos, Chian Yu sallied forth with, a revolver and challenged every man on the barrio streets, shooting right and left; that he fired at Tomas Tiam, who had by accident walked into the place; that Tiam luckily dodged the bullet, rushed and grappled with the infuriated Chinaman; that during the scuffle, Chian Yu's revolver was somehow discharged and fatally wounded him. According to this story, Jesus Angayangay, boloed Chian Yu in an attempt to render assistance to Tomas Tiam, while the latter was struggling to defend himself and disarm the Chinaman.

During the trial, the Honorable Mariano Melendres, Judge, required the accused, Tomas Tiam, to indicate graphically their respective positions (of Chian Yu and Tiam) during the fight, and his decision explained in detail why he discredited the version of self-defense.

After having read at length the testimony presented, we find ourselves substantially in accord with His Honor's

observations. Their position unmistakably shows that Chawa had been fired at with his hands down; a position hardly consistent with that of a man wrestling with Tiam for the possession of the pistol.

It must be observed that the People furnished no proof of the motive underlying the unprovoked assault. It was desirable, but not essential to do so. (U. S. v. Carlos, 15 Phil. 47; U. S. v. Valdez, et al. 30 Phil. 318.) The Fiscal was not sure; but he obviously thought that inasmuch as the death and the wounds and appellants' participation had been established, (151 U. S. 396), it was incumbent upon them to explain and justify themselves without the need of convincing elucidation of their motives. On the other hand, it is unbelievable that life has become so cheap that appellants wilfully took Chawa's for no reason whatsoever. Reading between the lines of the testimony adduced, the conjecture seems plausible that by their manners and disposition Chawa and his brother had become objectionable characters in the barrio, and on that account, the men, specially the young hot-bloods of the locality, decided to do away with them. Of course, it is needless to add, the bad character of the victim does not justify manslaughter.

Counsel de oficio attempted to demonstrate in his first assignment of error that the wound on the left shoulder had not caused the death of Chawa. The move intends to divide the responsibility for the misdeed, upon the well-known principle that where several individuals, acting independently, perform acts which are calculated to produce the death of another, each is responsible only for the consequences of his own deed. (U.S. v. Abiog, 37 Phil. 137; People v. Tumayao, 56 Phil. 587.) But the signers of this opinion are persuaded that conspiracy between the accused was sufficiently established, what with their simultaneous and concerted attack and the gravity of the wounds, (See People v. Reyes, 47 Phil. 635), plus the proven circumstance, evincing unity of purpose, that in the morning of that day in the house of Pascual Patiño, (p. 12 s. n.), Jesus Angayangay had threatened "to do something to Chawa" and the accused, including Tiam, had expressly volunteered to help him do it.

Both appellants are therefore guilty as charged. It appearing, however, that they had been drinking tuba before the aggression, it probably would be in accordance with, justice and equity to give them the benefit of the mitigating circumstance of intoxication.

Article 249 of the Revised Penal Code punishes homicide with reclusion temporal. Applying the Indeterminate Sentence Law, the defendants-appellants should be, and they are hereby, sentenced to imprisonment for not less than 6 years and 1 day of prision mayor and not more than 12 years and 1 day of reclusion temporal.

Thus modified, the judgment under review, will be affirmed in all other respects. Without costs.

So ordered.

Moran, C.J., Feria, Briones, and Tuason, JJ., concur.

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