

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. LUCIANO GARCIOLA, ACCUSED AND APPELLANT.

G. R. No. L-4015. October 30, 1951

Ponente: BENGZON, J.

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BENGZON, J.:

Convicted of homicide and sentenced to imprisonment ranging between prison mayor and reclusion temporal, Luciano Garciola appealed to the Court of Appeals from the Leyte court of first instance. After careful examination of the record, the appellate tribunal reached the conclusion that as charged in the information, the offense was murder, punishable with reclusion perpetua. Wherefore it forwarded the expediente to this Supreme Court pursuant to pertinent provisions of the Judiciary Act of 1948.

According to the witnesses for the prosecution in the afternoon of February 22, 1946 Carlos Cale was seen running towards the house of his mother in Barrio Badiang, Jaro, Leyte. He was pursued by Gaudencio Garciola and Pablo Garciola, who having found the door closed after Carlos had entered, tried vainly to force it open. A few minutes later the accused Luciano Garciola, the father of the Garciolas, arrived, bolo in hand. Being a barrio lieutenant he ordered the fugitive to open up saying "Carlos, beware I am a peace officer." Upon hearing this, and believing he would not be harmed, Carlos Cale opened and appeared at the window. In a flash Luciano stabbed him on the right chest with his bolo, inflicting a deep wound that penetrated the thoracic cavity. Brought to the hospital without unnecessary delay, Carlos Cale died five days later due to excessive internal hemorrhage.

In August, 1947 the prosecution presented its witnesses. For reasons that do not appear, the accused began introducing his evidence in February 1949. In the meantime Pablo Garciola died. The line of defense then was that Pablo Garciola had wounded and killed Carlos Cale under the following circumstances:

That day Carlos Cale while plowing on the field hit the post of Simplicio Capatoy's house. Gaudencio Garciola reprimanded him for it. Resenting the interference, Cale picked a stick and hit Gaudencio on the head. Pablo who was behind his brother, rallied to his aid and stabbed Cale.

This unlikely version was rejected by the trial judge. It was obviously an eleventh hour attempt at exculpation by "passing the buck" to a dead man. It was not shown that Capatoy's connection with the Garciolas called for such heated denunciation and defense as to cause the loss of one man's life. The stick was not even submitted in evidence if only to lend plausibility to the retaliation story.

On the other hand the eyewitnesses (Marcela Juliano and Benita Morfe) have no motive whatsoever falsely to attribute the death to Luciano Garciola, who, by the way, is a relative of Benita. And this defendants alibi turned out to be inadequate. His account was that on February 22, 1946, he proceeded to the poblacion summoned as "barrio teniente" by the municipal mayor for a meeting of barrio lieutenants, and ate his meal in the house of Vedasto Samson returning home on the next day. But Vedasto Samson did not testify to corroborate his story. And he presented Exh. 1 supposedly the order of the mayor calling him to the meeting. Yet the exhibit is dated February 20, 1949.

True there is in the stenographic notes a statement by defendants counsel that the accused desisted from presenting Vedasto Samson, since his testimony "would only be corroborative." However such statement can not take the place of declarations under oath made in court by the witness himself, inasmuch as the other party is entitled to cross-examine him.

The offense is murder, qualified by treachery as set out in the amended information. The Solicitor-General points at two aggravating circumstances to wit: taking advantage of public position and dwelling. Probably defendant's act in mentioning his office was a part of the scheme to catch the victim unawares. It may therefore be considered as imbibed in the element of treachery. Anyway there are not enough votes to impose the capital punishment.

Therefore the appealed decision will be modified in the sense that appellant shall be imprisoned for life. He shall indemnify the heirs in the amount of 2,000 pesos fixed by the lower court. Furthermore he shall pay costs in both instances. So ordered.

Paras, C. J., Feria, Pablo, Padilla, Tuason, Reyes and Jugo, JJ., concur.

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