

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. MARCELO PAAT ALIAS PEDRING, DEFENDANT AND APPELLANT.*G.R. No. L-22231. March 21, 1968*

Ponente: DIZON, J.

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Marcelo Paat alias Pedring, Virgilio Paat and Juan Donato 2.o, were charged below with murder. After trial upon a plea of not guilty, the lower court acquitted Juan Donato and Virgilio Paat on the ground of reasonable doubt, but convicted Marcelo Paat as charged and, after considering in his favor the mitigating circumstance of having acted upon an impulse so powerful as naturally to have produced passion or obfuscation, sentenced him to suffer an indeterminate penalty of from 10 years and 1 day of prison mayor to 17 years, 4 months and 1 day of reclusion temporal, with the accessory penalties provided by law, to indemnify the heirs of the deceased Teodorico Catuiran in the sum of P6,000, without subsidiary imprisonment in case of insolvency, and to pay 1/3 of the costs.

Marcelo Paat appealed to the Court of Appeals, but after a review of the evidence, said court found that, on the basis thereof, Paat was guilty of murder, qualified by treachery, and without any right to have the mitigating circumstance of passion or obfuscation considered in his favor. As the impossible penalty would then be reclusion perpetua, said court certified the appeal to Us pursuant to section 34 of the Judiciary Act of 1948, as amended.

The Court of Appeals, after a careful consideration of the testimony of prosecution witnesses, correctly found that it established the following facts:

"x x x x x x x x in the morning of August 25, 1957, Juan Donato, Virgilio Paat, and Marcelo Paat were in the market place of the barrio of Masical in the municipality of Amulong in the province of Cagayan. The three brothers Ricardo, Eulogio and Teodorico, all surnamed Catuiran, were likewise in the said market place. Eulogio and Teodorico were drinking basi in a tienda while Ricardo was reading an issue of the magazine Bannawag some distance from the tienda. Eulogio invited Juan Donato, who was nearby to drink basi; the latter excused himself, saying that he was not drinking. Eulogio felt insulted and said to Donato: 'It seems that you resent us'. An altercation ensued, in which Virgilio Paat and Teodorico Catuiran intervened. Juan Donato held the right hand of Teodorico while Virgilio held Teodorico's left hand. At this very juncture, the accused Marcelo Paat approached and stabbed Teodorico in the back with a small bolo (imuca). When Donato and Virgilio released their hold on Teodorico, the latter drew his bolo, swung it and hit Virgilio in the abdomen. Teodorico took a few steps, slumped to the ground, and expired.

"According to Dr. Dulce Donato Baculi, the municipal health officer, Teodorico Catuiran sustained a 'stab wound above the superior angle of the right scapula running horizontally, penetrating the upper lobe of the right lung about 5-1/2 inches deep and about 1 inch wide' (see exh. A, post mortem examination report). This wound was fatal; Teodorico died of hemorrhage and shock."

The same court found that the evidence for the defense tended to prove that on the morning in question -

"x x x x x x x x Virgilio Paat and Marcelo Paat were in the market place looking for men whom they could

employ to trans-plant palay in their land in Bayabat. Virgilio was invited by Eulogio Catuiran to drink basi. Virgilio declined the offer, but because of the insistence of Eulogio he drank a little. Eulogio suggested to Virgilio that the latter buy another bottle of basi so that all of them could drink. Virgilio declined, saying that he had no more than P0.20. Nevertheless, he bought another bottle and they drank. After this bottle was emptied, Eulogio again requested Virgilio to buy another bottle. Virgilio excused himself this time, saying that he had no more money. At this juncture, Eulogio hurled these remarks at Virgilio, 'You are the same as the old man your uncle Juan Donato. Vulva of your mother'. Virgilio was incensed, and he retorted, 'what is the matter with you? Because this is your place, you are scandalizing me. Leche!' As Virgilio said this, he swung his hands and struck Eulogio's forehead. Forthwith, Teodorico stabbed Virgilio, from behind, and hit the right side of the latter's abdomen, Teodorico attempted to stab Virgilio a second time, but the latter retreated. The appellant Marcelo saw Teodorico in the act of stabbing Virgilio, and he immediately ran to the rescue of Virgilio, and stabbed Teodorico in the back. Juan Donato was not pre-sent when Marcelo stabbed Teodorico, as he had walked away to return to his house in Masical.

"Virgilio was taken to the hospital in Tuguegarao, Cagayan, and was examined by Dr. Gregorio Reyes. Virgilio sustained a penetrating wound in his right loin; the right side of the middle third of his large intestine was punctured. Dr. Reyes performed the necessary surgical operation on Virgilio. In court he declared that Virgilio could not have survived for more than 48 hours without the surgical operation."

It is clear from the foregoing that the decisive issue to be resolved in this appeal is whether appellant inflicted the mortal wound that caused the death of Teodorico Catuiran in defense of his brother Virgilio.

After a careful consideration of the entire testimonial evidence of record, We have come to the conclusion that the trial court committed no error in according full credit to the testimony of the prosecution witnesses. Particular mention must be made of that given by prosecution witness Alfonso Binayug against whose credibility and impartiality the record discloses nothing. In a clear and straightforward manner he testified that while he was buying some merchandise in the market place of Masical, he heard a scream; that thereupon, as he looked in the direction the scream came from, he saw Juan Donato holding the right hand of Teodorico Catuiran and Virgilio Paat holding the left; that it was at that juncture that appellant, coming from behind, stabbed Teodorico in the back; that as appellant pulled his weapon from the back of his victim, Juan and Virgilio almost simultaneously released their hold on Teodorico and ran away; that when Virgilio passed in front of Teodorico, the latter was able to draw his bolo and stabbed him on the right side of his abdomen.

Having arrived at the conclusion that it is the prosecution evidence that has established the manner and circumstances under which appellant stabbed the deceased Teodorico, We must necessarily reject his claim that he committed the crime to defend the life of his brother Virgilio. As it was only after appellant had already mortally wounded Teodorico Catuiran that the latter, already free from the hold of Juan Donato and Virgilio Paat, was able to stab Virgilio, it is abundantly clear that the theory of the defense has no leg to stand upon.

With respect to the mitigating circumstance of passion or obfuscation, We agree with the Solicitor General that the trial court erred in taking it into account in favor of appellant. Upon the facts proven beyond reasonable doubt, there was no reason for appellant to have acted under the influence of passion or obfuscation. While it is true that Teodorico Catuiran tried - as did Virgilio Paat - to intervene in the altercation that took place between Juan Donato and Eulogio Catuiran, the evidence shows that Virgilio and Juan Donato immediately rendered Teodorico helpless by holding his hands, and it was while the latter was in such helpless condition that appellant stabbed him from behind.

IN VIEW OF THE FOREGOING, We are of the opinion and so hold, that the crime committed by appellant was that of murder, qualified by treachery. There being no modifying circumstance present, the penalty provided by law - reclusion temporal to death - should be imposed in its medium period, that is, reclusion perpetua. Thus

modified, the appealed judgment is affirmed in all other respects.

Reyes, Acting C.J., Makalintal, Bengzon, Zaldivar, Sanchez, Angeles, and Fernando, JJ., concur.
Castro, J., no part.

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