

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. DALMACIO PAZ AND AGRIPINA MANTALA, DEFENDANTS AND APPELLANTS.*G.R. No. L-6438. September 01, 1911*

Ponente: TORRES, J.

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This is an appeal from a judgment of conviction.

After 8 o'clock of the evening of May 29, 1910, Francisca Pestano, having prepared supper, left her house, situated in the barrio of Tarug, pueblo of Mogpog, Island of Marinduque, Province of Tayabas, in search of her husband, Januario Mantala, going in the direction of the house of Pedro Mantala, a brother of her husband, but before reaching it she heard her husband calling her and telling her to come and help him. On approaching, she found him at a distance of some 10 brazas from the road in a place about 200 brazas from her house. He was wounded and lying at full length on the ground. Francisca thereupon screamed and called the said Pedro Mantala telling him that his brother Januario was dying. Pedro then came up and, when informed of what had occurred, went to bring the *teniente* of the barrio. Francisca Pestano testified that, when she asked her husband who had wounded him, he replied that it was Dalmacio Paz and Agripina Mantala, the former with a lance and the latter with a penknife, while he was entering their house to notify them that, in accordance with an agreement, they must remove the house erected on his land and which he had given to them in exchange for two hogs; that while her husband was being conveyed from Tarug to the town, he died on the road leading through the barrio of Buló; and that the place where her husband was found in the rice field was not less than 100 brazas from the house where the fight occurred.

The post-mortem examination of the body of Januario Mantala, made by the municipal sanitary inspector, on the morning of the following day, the 30th of May, disclosed that it bore four wounds a deep wound between the second and third lower ribs of the right side; another below the last rib of the same side, through which a part of the intestines protruded; the third, penetrating the stomach; and the fourth, in the right knee. These wounds were diagnosed as having been inflicted with a sharp-pointed instrument, such as a bolo; the first three were pronounced dangerous, the second and third being necessarily mortal.

On account of the foregoing facts, the crime having been reported to the authorities, the provincial fiscal, on August 9, 1910, filed an information in the Court of First Instance of Marinduque, Tayabas, charging the said Dalmacio Paz and Agripina Mantala with the crime of homicide; the court, upon the evidence adduced, rendered judgment, on the same date, sentencing each of the defendants to the penalty of six years and one day of prison mayor, to the corresponding accessory penalties, to indemnify, jointly or severally, the heirs of the deceased Januario Mantala in the sum of P1,000, and each to pay one-half of, the costs. From this judgment the defendants appealed.

The facts above related, fully proved in the trial of this cause, constitute unquestionably the crime of homicide, provided for and punished by article 404 of the Penal Code, inasmuch as the evidence shows beyond all doubt that

Januario Mantala died a few hours after he had received four wounds, two of them of a mortal nature, in the right side and in the stomach, which caused a protrusion of the intestines; that the same were inflicted as the result of a quarrel that the deceased had with his brother-in-law, the said Dalmacio Paz, in the latter's house; and that none of the specific circumstances enumerated in article 403 of the Penal Code were present in the commission of the crime.

At the trial it was satisfactorily proven that Dalmacio Paz was solely responsible for the grave wounds that occasioned the death of Januario Mantala. The accused testified that he was obliged, in self-defense, to inflict the wounds on the said Mantala, who had assaulted him, in order to save himself from certain death. This confession of the defendant Paz involves an exculpatory allegation, not invalidated by any act or proof to the contrary; on the other hand, his plea is corroborated by the conduct of the deceased who, greatly biased in mind against his sister and his brother-in-law, the defendants, entered their house on the night of the crime, armed with a bolo, while they were asleep; after violently entering the said house, without the permission of its occupants, he insulted the latter, ill treated his own sister, the wife of the owner of the house, and assaulted the latter with the bolo; and, during the struggle, he received the wounds that caused his death.

The record shows no circumstantial evidence whatever to weaken the said plea of self-defense; and, as there were no eye-witnesses to the occurrence, there is no reason for refusing to admit the said plea.

If Januario Mantala, impelled by resentment, had not entered the house of the defendants, provided with a weapon, and insulted them and provoked the quarrel, and if he had not thus attacked his own sister and his brother-in-law with the intent to do them bodily harm, the defendant would not have been obliged to resist the assault and to act in defense of his person and his rights; hence it must be held that the commission of the homicide was attended by the circumstance of complete exemption from criminal liability, inasmuch as the said Dalmacio Paz acted in self-defense against an unlawful assault made upon him within his own house, without any provocation whatever on his part; therefore the accused, Paz, in defending himself while stretched out on the floor, with his assailant on top of him holding him by the throat, had rational need of the means he employed to free himself from imminent danger; the method which he used to defend himself was all the more reasonable since at that moment, except his wife, Agripina Mantala who was slightly wounded and frightened, no one else was present to assist him. The two brothers of the deceased were in the vicinity of the house, but instead of coming to the rescue, they took to their heels.

The present case therefore, falls within the provisions of paragraph 4 of article 8 of the Penal Code, which provides that he who acts in defense of his person and rights, provided there are attendant the three circumstances therein mentioned, is exempt from criminal liability.

According to the testimony of the defendants, for several days prior to the occurrence of the facts related, there had been trouble between them and Januario Mantala, notwithstanding their being near relatives, owing to Dalmacio's refusal to accept, because of its dilapidated condition, the house ceded to him in exchange for two hogs; that on Friday, the 27th of May, prior to the day of the occurrence of the crime charged, Januario, finding that the leaves of the coconut trees on his land had been destroyed, became very angry and, without reason, insulted the defendant and his wife notwithstanding that the damage to the trees had not been done by them.

The testimony of the widow with reference to the statements made by the deceased before he died, and the averment of the justice of the peace that this defendant had confessed to him that she had in self-defense attacked her brother Januario who had ill-treated and wounded her, is not sufficient to support the criminal charge against Agripina Mantala, inasmuch as the widow of the deceased may have been driven to give such testimony through the natural resentment engendered by her husband's death; and even though the deceased may have made

ante-mortem statements accusing his own sister of having aided her own husband, it is to be supposed that he may have believed that she did, in the confusion that must have arisen inside of a house that was at most but poorly lighted; besides, when the deceased made such incriminating statements, no one else was present or heard them except the witness. Moreover, the justice of the peace testified that neither the statements of the widow, Francisca Pestano, with reference to the deceased, nor those of the defendants, when brought before him, were taken down in writing. The testimony of the said justice of the peace appears to be contradicted by the defendant, Agripina Mantala, who denied that she had, even in self-defense, attacked her brother, the deceased, and also by the sanitary inspector who examined the wounds of the deceased and positively declared that they had been inflicted with a bolo. There is, in addition, the fact that the defendant, Dalmacio Paz, in his confession, made no statement whatever with regard to his wife's having taken part in the struggle, but, on the contrary, corroborated her testimony to the effect that, as shown by the record, she was ill treated by her brother, the deceased, when she screamed for help on seeing the attack made by the latter upon her husband.

From all the foregoing, it is apparent that no conclusive proof whatever is afforded by the evidence, to show that the said defendant Agripina took any part in the struggle between her husband and her brother; however, even though she had done so, she would in all respects be exempt from criminal liability, for, in any event, she would have had in her favor the three requisite circumstances enumerated in paragraph 4 of article 8 of the Penal Code, as she would have been in a position identical with that of her husband. It was the deceased who insulted the defendants, provoked the quarrel and with a bolo attacked the latter in their house; so if there were perversity and malicious intent to do injury, it was not on the part of the parties attacked, but on that of the aggressor.

For the reasons herein before set forth, it is proper, in our opinion, that, with a reversal of the judgment appealed from and the express finding that the defendants are entirely exempt from all liability, Dalmacio Paz and Agripina Mantala should be, and are, hereby acquitted. The costs in both instances shall be assessed de oficio. So ordered.

Mapa, Johnson, Carson, and Moreland, JJ., concur.

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