

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. AQUILINO ARAGON AND RAMON LOPEZ, DEFENDANTS AND APPELLANTS.

G.R. No. L-13222. April 27, 1960

Ponente: BENGZON, J.

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BENGZON, J.:

For having killed their principal teacher at the Masbate National Agricultural School, these two appellants were tried and found guilty of murder. They were consequently sentenced to life imprisonment and to pay solidarily to the heirs of the deceased P6,000.00, and to defray the costs.

We find them guilty too, but only of homicide, and in view of the circumstances, we considerably reduce their term of imprisonment.

On January 12, 1956, these young men between 17 and 18 years of age, clubbed and hammered to death one Gabino G. Buhay, 55, Acting Principal Teacher of the said school, where they were students. The wounds found on the cadaver proved that such maltreatment caused his demise.

The accused Aquilino Aragon declared under oath that while he and his co-accused Ramon Lopez were sleeping in their cottage in the school campus, at Mandaon, Masbate, at about eleven that morning, Buhay violently kicked him. He rose to his feet only to be roughly pushed against the wall. Then Buhay kicked Ramon Lopez. In retaliation, the latter picked up a piece of wood and tried to hit Buhay. The latter grabbed the wood and attempted to hit Lopez in turn. It was then that he (Aragon) picked up a hammer, and struck Buhay on the head, even as Lopez retaking the piece of wood beat Buhay twice, knocking him down. Then both students left the place, and surrendered to Policeman Felixberto Laguerta in the market of the town.

Ramon Lopez testified to the same effect.

Policeman Laguerta swore that, when the two defendants surrendered to him, they admitted having killed their principal teacher because he had kicked them while they were both sleeping.

On the other hand, all the prosecution could prove by its witnesses was that the students "fought" with their principal teacher. Nilo Vargas, the only eye-witness declared that, while on his way to his cottage that morning, he saw Buhay quarreling in the cottage with Lopez and Aragon, one armed with a wooden cudgel and the other with a hammer, and that he hurried to report "the fight" to a teacher by the name of Pedro Panganiban. Indeed, the latter swore that Vargas came and reported to him that there was a "fight" between the above-mentioned parties.

His Honor, the judge of Masbate Province, discounted the story of the defense. He concluded that the attack was premeditated and treacherous. If the deceased had kicked the accused, he explained, he (Buhay) "could not have lessened his awareness to the danger of retaliation from the students whom he kicked. The two accused, as was said, are young and teenagers. They could not have thought of immediate retaliation against the principal of their school upon being kicked off their bodies by the deceased and even if they could not think immediate retaliation,

they could not have effectively attacked the deceased as to successfully disable him. The number of wounds sustained by the deceased unmistakably shows the suddenness and violence of the attack made on his person. The Court believes that the two accused were lying in ambush against the deceased and when the latter inserted his head through the door into the room where the accused had their sleeping quarters, one must have struck him with the piece of wood which made him dizzy and fall down to the floor. At this stage, the two accused struck him several times with the weapons which they have in their possession until he lost consciousness. * * *."

It is quite probable that His Honor was unduly influenced by the affidavit of Silvestre Legal, accompanying the original complaint, to the effect that both defendants had tried to convince him the night before that "if Mr. Buhay enters our cottage that night on inspection, we will kill him". However, that affidavit was not introduced as evidence. And Legal, while on the witness stand, neither ratified his affidavit nor said anything about the point.

Of course, there is some measure of plausibility to the inferences and assumptions of the judge. But the version of the accused is also plausible considering specially that the deceased was admittedly prone physically to chastise (with kicks and fist blows) the students to impose discipline, and the defendants apparently played truant: instead of attending the classes that morning, they slept in their quarters. In the circumstances, it is more consonant with the theories underlying our criminal procedure to accept—though reluctantly—the defendants' account.[1] In fact, the Solicitor-General's brief states that "the assault launched by the appellants against the principal was spontaneous and done on the spur of the moment when they were awakened from their sleep by the kiek given them by the deceased."

Therefore, not murder, but homicide is what these defendants committed. They could not plead self-defense, because at no time were their lives endangered, the kicks and blows being known to them as a mere disciplinary measure, excessive though it may be.[2]

In Article 249 of the Revised Penal Code, homicide is punished with reclusion temporal. As the offenders were, at the time of the killing between 17 and 18 years of age, under Article 68 of the same Code, the next lower penalty prision mayor[3] should be imposed in the proper period. There were two mitigating circumstances: voluntary surrender and provocation. On the other hand, the resulting insult to the offended party on account of his rank (principal of the school) aggravated the offense.[4] The proper period then would be prision mayor in its minimum. Applying the Indeterminate Sentence Law, the appellants should be sentenced to imprisonment for not less than three years of prision correccional[5] nor more than eight years of prision mayor.

Modified as to the personal penalty, the appealed judgment is affirmed in all other respects. So ordered.

Paras C. J., Montemayor, Bautista Angelo, Labrador, Concepcion, Barrera, and Gutierrez David, JJ., concur. Padilla and Endencia, JJ., took no part.

[1] Their story may not be entirely believed, because, if as they say. Buhay got the wooden piece, it is amazing that none of them suffered any contusion; strong and robust as the latter was (43 t.s.n.)

[2] U. S. vs. Carrero, 9 Phil., 544; U. S. vs. Pirmo, 37 Phil., 183; People vs. Yuman, 61 Phil., 786.

[3] People vs. Fulgencio, (L-5370) promulgated November 10, 1952.

[4] U. S. vs. Cabiling; 7 Phil., 469.

[5] People vs. Gonzales, 73 Phil., 549.

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