

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS. TEOTIMO RUBINIAL AND ACASIO RUBINIAL, DEFENDANTS AND APPELLANTS.

G.R. No. L-12275. November 29, 1960

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Teotimo Rubinial and Acasio Rubinial, who are brothers, were charged with murder before the Court of First Instance of Surigao for having inflicted serious wounds on one Inocencio Davila causing his instant death. They were found guilty as charged but were given different penalties; appreciating in his favor the mitigating circumstance of voluntary surrender, Teotimo was sentenced to 18 years of reclusion temporal while Acasio was sentenced to reclusion perpetua because no modifying circumstance was entertained in his favor, and both were ordered to indemnify jointly and severally the heirs of the deceased in the sum of P6,000.00 and to pay one-half of the costs.

The case was brought on appeal before this Court apparently in view of the penalty of reclusion perpetua imposed on Acasio Rubinial by the trial court.

On the occasion of the celebration of the fiesta of barrio Bacolod, Cagwait, Surigao, on June 9, 1956, a benefit dance was held at about 1:00 o'clock p.m. in the house of Francisco Climaco during which Inocencio Davila, a member of the Climaco household, approached Teotimo Rubinial to inquire why he was dancing although he had no paid ticket. Rubinial who had just finished dancing a piece with a lady showed a ribbon to justify his presence at the dance. Dissatisfied with the explanation, Davila went to the ticket seller to inquire why Rubinial was dancing when he had no paid ticket, later returning to Rubinial to whom he said: "You are a garboso person." Apparently, the dance went on, and at about 3:00 o'clock, while Acasio Rubinial was standing by the roadside about 20 meters away from the house of Climaco, Teotimo approached him and told him of the incident he had with Davila in the course of the dance. After relating to him the incident, Teotimo said that it was impossible that he should not avenge himself. Teotimo then went to the house where he was boarding.

Shortly after the people had stopped dancing Teotimo went up the Climaco house accompanied by Acasio. He had in one of his hands an open knife, and when Constanica Balatbat saw it she shouted to Acasio to stop Teotimo from making use of it, but this outcry notwithstanding Acasio went straight towards Davila whose back was turned to the Rubinials because he was seated eating a meal in the dining room. At the time, Eladio Climaco a barrio lieutenant and son of the house owner, was in the porch. He saw Acasio Rubinial embrace Davila with his left hand who after drawing a small bolo from his waist struck Davila's left breast. Davila stood up running to the kitchen door where the cook Juan Corvera was cleaning utensils but Davila was pursued by Teotimo who, overtaking him, stabbed him with a knife on the right side of his back. Davila fell by the kitchen door only to be kicked by Teotimo causing him to fall to the ground from the kitchen door which had no stairs. Davila stood up on falling to the ground but immediately fell again and died. Amidst the outcries of some people around asking

for help the two brothers ran to the stairs and left the house. As Acasio went down the stairs Eladio Climaco saw him throw his bolo near the post of the house. Later, in the course of the investigation that followed the incident, Chief of Police Teofilo Fojas went to the house of a certain Benito Lozada where he found Teotimo who claimed that he was about to go to the municipal building to surrender. When the chief of police found a knife in Teotimo's pocket, the latter said that it was the knife he used upon Davila. Subsequently, Eladio Climaco turned over the bolo he found to the chief of police. Since Acasio Rubinial could not be found because he ran to the shore to go to the house where he was staying, he was not arrested until the following day when he was investigated by the chief of police. At the time of his arrest, the police found him about to leave the house for the town of Consuelo.

Eladio Climaco and Juan Corvera gave their sworn statements to the authorities on June 29, 1956, the day of the stabbing. Teotimo and Acasio Rubinial gave their statements on the following day. Despite Teotimo's statement that he alone stabbed Davila, the two brothers were charged with the crime of murder for which they were later convicted.

The autopsy of the dead body was performed by the Medical Health Officer of Tago, Dr. Valerio A. Montesclaros, who issued on July 1, 1956 a certification stating that the deceased received the following wounds: one penetrating stab wound on the left breast about half inch from the middle line and three inches from the left nipple, and another penetrating wound on the right side of the back three inches from the middle line and four inches above the hip bone. The death was caused by internal hemorrhage secondary to the stab wounds.

The evidence for the defense discloses the following facts: On June 29, 1956, at about 2:00 o'clock in the afternoon, Teotimo Rubinial went to the house of Francisco Climaco at barrio Bacolod, municipality of Cagwait, to attend a benefit dance that was held there on the occasion of the barrio fiesta. Although he was not Invited, he had paid his ticket and he was given a ribbon. After dancing a piece with a lady, Inocencio Davila approached him and asked him why he danced when he did not have any paid ticket to which he answered that he paid antt had a ribbon. Davila went to the ticket seller to ask him why Rubinial was allowed to dance without paying any ticket, later returning to where Teotimo was to whom he said: "You are a notorious bandit." After uttering these words Davila boxed Teotimo hitting him on the left side of the body, followed by another blow on his right side, causing him to stagger. As Davila was giving him the third blow, Teotimo drew a knife from his waist and stabbed Davila on the left side of his breast. As Davila tried to hold him, Teotimo again stabbed Davila on the left side after which Davila ran towards the kitchen at which moment Teotimo left going to his boarding house. After reaching his boarding house the chief of police came and then Teotimo surrendered to him.

Teotimo Rubinial stated that at the time of the incident his brother Acasio was not present as he did not know where he was. This was corroborated by Acasio who testified in his behalf as follows: that in the afternoon of the incident he was playing a game known as paitik at a place about 20 yards from the house of Francisco Climaco. While they were playing they heard the scream of some women indicating that something has happened "where upon the players dispersed and ran away. Afterwards, he went towards east with some fishermen and 20 minutes thereafter he learned that his brother Teotimo was arrested. He was investigated by the chief of police who took down his testimony. He claimed that what was stated in his affidavit is contrary to what he told the chief of police against which he protested to the justice of the peace when eight days later he was investigated by said official.

There is no doubt that in the afternoon of June 29, 1956, immediately after the people who attended the benefit dance in the house of Francisco Climaco had left, the two brothers herein accused went up said house and finding the deceased eating his meal in the dining room showing his back to them they assaulted him and inflicted upon him two serious wounds, one on the left side of the breast and another on the right side of his back, causing thereby his instantaneous death. The evidence shows that when the two brothers arrived in the house, Acasio

immediately went towards where Davila was seated eating his meal in the dining room, and upon reaching him he embraced him with his left hand while with the other stabbed him on the left breast with a bolo which he took from his waist. When Davila stood up and ran to the kitchen where the cook was cleaning utensils, he was pursued by Teotimo who, overtaking him, stabbed him also with a knife on the back, right side. Davila fell by the kitchen door only to be kicked by Teotimo causing him to fall to the ground from the kitchen door which had no stairs. Davila tried to stand up but fell again and died.

This tragic scene was witnessed by several persons, among them Eladio Climaco, son of the owner of the house and a barrio lieutenant, and cook Juan Corvera who at the time was cleaning utensils in the kitchen. These two bystanders were found by the trial court to be trustworthy and disinterested witnesses. Their testimony is further corroborated by Dr. Montesclaros who in his autopsy found in the body of the deceased two stab-wounds, one on the breast and the other on the back which, according to him, could have been inflicted by two different sharp pointed weapons because the opening of the wound on the breast was very much wider than the opening of the wound on the back thus supporting the claim of the prosecution that they were inflicted by two different weapons on two occasions and were not merely the result of one individual act as Teotimo has tried to establish in his testimony. We agree with the finding of the trial court that the evidence for the prosecution establishes beyond doubt that the two brothers are guilty of the crime charged.

That the two brothers sought to assail and snuff out the life of Inocencio Davila is not without motive for the evidence is also clear that the aggression was plotted by them as a result of what they believed to be an act of humiliation to which Teotimo has been subjected on the occasion of the benefit dance that was then being held in the house of Francisco Climaco. It should be remembered that after Teotimo had finished dancing with a lady on that occasion, the victim Inocencio Davila approached him to inquire why he was dancing when he had no paid ticket and that notwithstanding his explanation that he paid his ticket and showed the ribbon he was carrying, Davila still made further inquiry from the ticket seller and upon returning to Teotimo he called him a "notorious bandit." Considering that there were many people then around who must have noticed the attitude thus displayed by Davila and the embarrassment that it must have caused him, Teotimo must have harbored since then a desire to avenge such act of humiliation as soon thereafter he left the house and approached his brother Acasio who was then standing at the roadside to whom he related the incident that had befallen him. On that occasion Teotimo said that it was impossible that he should not avenge himself. And as though to implement such a design, the two brothers in no time proceeded to the house where Inocencio Davila was eating and immediately assaulted and stabbed him in the manner already above narrated.

The attempt made by Teotimo Rubinal to assume full responsibility for the death of Inocencio Davila by explaining not only in his own testimony but also thru the testimony of his three witnesses that he inflicted the two wounds that caused the death of Davila merely in self-defense is of no avail, for the same was found to be unacceptable and unbelievable by the trial court after a careful analysis of the evidence. Indeed if it were true that Inocencio Davila, after inquiring from Teotimo why he was dancing when he had no paid ticket and he explained that he had and showed the ribbon he was carrying, far from accepting graciously his explanation boxed him right and left in the presence of many people so that he had to draw his knife and stab him to defend himself, such would have produced quite a commotion in the midst of the dance and would have caused the people to disperse and scamper away thus disrupting the affair. No such thing has happened, as none appears in the evidence. Again, such a personal encounter between the two would have invited the intervention of some of the people present as is usual and common where there are many people around in order to stave off any bloody incident, or the infliction of injuries that may result in serious consequences to the struggling parties. Apparently, no one has intervened as nothing on this matter appears in the evidence thus giving the impression that the two combatants were just left to their own fate by the bystanders. Such a situation is quite unusual indeed, which makes it hard to believe.

It is for these reasons that the trial court found no other alternative than to give credence to the version of the prosecution and to disregard that of the defense. Thus, the following is what the court said on this matter: "Considering everything in the record pertinent to the issue, the Court is fully convinced that the true version of the incident is the one related by the two eye-witnesses, Eladio Climaco and Juan Corvera, whose testimonies the Court found no reason to doubt. Their relations as to how the two accused helped each other in stabbing the deceased Inocencio Bavila to death with their respective weapons to wit: the accused Acasio Rubinial with the small bolo, Exhibit D which he thrust on the left side of the chest of the victim, and Teotimo Rubinial, with the knife Exhibit C, which he thrust on, the right side of the back of the victim, concur and coincide in all respects. These two witnesses appear to be impartial and disinterested and their story is partly corroborated by the findings of Dr. Valerio A. Montesclaros * * * There can therefore be no doubt with regard to the guilt of the two defendants.

Counsel for appellants in his assignment of error made an attempt to point out certain discrepancies not only in the testimony of Dr. Montesclaros in connection with the findings he stated in his report on the autopsy he made of the deceased but as well as in the testimony of the two eyewitnesses presented by the prosecution in an effort to destroy their credibility and weaken the theory of the prosecution. But the alleged discrepancies and contradictions appear so well explained and refuted in the well-written brief submitted by the Solicitor General that we do not deem it necessary to repeat it here. Suffice it to state that we agree to the explanation given and the refutation made.

We also agree with the Solicitor General that the trial court erred in appreciating in favor of the accused Teotimo Bubinial the mitigating circumstance of surrender for the evidence shows that he was arrested in the house where he was boarding and upon being caught pretended to say that he was on his way to the municipal building to surrender to the authorities. That is not the nature of voluntary surrender that may serve to mitigate one's liability in contemplation of law.

It appearing that the wounds which resulted in the death of the victim were inflicted with treachery thus qualifying the act as murder and no mitigating circumstance can be appreciated in favor of the defendants, the penalty that should be imposed upon them as warranted by the law and the evidence is reclusion perpetua. The penalty therefore imposed upon Teotimo Rubinial should be modified in this respect.

Wherefore, with the modification above indicated, the judgment appealed from is affirmed in all other respects, with costs against appellants.

Paras, C.J., Bengzon, Padilla, Labrador, Reyes, J.B.L., Barrera, Gutierrez David, Paredes, and Dizon, JJ., concur.

Judgment modified in part.

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