

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
MELECIO GONZALES, ET AL., DEFENDANTS. MELECIO GONZALES,
APPELLANT.**

G.R. No. L-119. April 10, 1946

Ponente: DE JOYA, J.

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DE JOYA, J.:

The defendant-appellant Melecio Gonzales, with five (5) others, was accused in the Court of First Instance of Batangas, of the crime of murder, with the qualifying circumstance of evident premeditation and the aggravating circumstances of treachery and that the offense was committed in the house of the victim, Esteban Briones, in the barrio of Pinagkawitan, municipality of Lipa, Batangas, in the morning of April 28, 1945.

Before the trial was commenced in the court below, the case was dismissed with reference to the other five accused, on motion of the prosecution, on the ground of insufficiency of the evidence; and, consequently, the case was tried only with reference to said defendant Melecio Gonzales.

At the trial of the case, several witnesses were called for the prosecution, including Jose Mision and Felisa Briones, who were at the time in the house of the deceased, and Benito Cueto, one of the five who had been originally accused with herein defendant, and afterwards discharged, on motion of the prosecution, as already stated above.

The defense presented also several witnesses, including Lieut. Col. Felino Paran of the Marking Guerrilla, in the municipality of Lipa, province of Batangas; but none of the five who had been included in the information, and who were among the most loyal soldiers and followers of herein defendant, as a guerrilla officer, according to himself.

After the trial, herein defendant Melecio Gonzales was found guilty of the crime of homicide, with an aggravating circumstance, in that the offense was committed in the dwelling of the deceased, and sentenced to the indeterminate penalty of ten (10) years and one (1) day of prision mayor as minimum to seventeen (17) years, four (4) months, and one (1) day of reclusion temporal as maximum, with the accessory penalties provided by law, to indemnify the heirs of the deceased in the amount of P2,000, and to pay the costs.

From the judgment of conviction, the defendant has appealed to this Court, assigning several errors, which may be reduced principally to the following; (1) That defendant-appellant had merely acted in self-defense; and (2) that the evidence adduced by the prosecution was utterly insufficient to establish his guilt for the crime of homicide, beyond reasonable doubt, and that he is, therefore, entitled to a judgment of acquittal.

The evidence adduced at the trial of the case in the court below has fully and satisfactorily established the following facts:

That prior to April 28, 1945, one Dionisio Lanto claimed to have lost four (4) cows,, which were allegedly found in the possession of the deceased Esteban Briones by Eugenio Laygo, a witness for the defense, and the deceased

was naturally suspected as author of the crime; that Eugenio Laygo pleaded with Esteban Briones for the return of the cows, alleging that they were the only source of livelihood of his grandfather, Dionisio Lanto, but Esteban Briones answered, stating that he could not make the return of said cows, as they had escaped from the place where he had tied them; that Eugenio Laygo, grandson of Dionisio Lanto, owner of said cows, reported the matter to herein defendant-appellant, as a guerrilla officer to secure the latter's help; that herein defendant-appellant, believing that it was his duty to help and intervene in this matter, went to investigate the deceased Esteban Briones, to demand the return of said cows; but Briones refused to give up the cows in question; and so the matter was reported to his immediate superior, Lieut. Col. Felino Paran, who instructed herein defendant-appellant to summon Esteban Briones, for questioning, but Esteban Briones refused to go to the headquarters of the defendant-appellant, and to submit to the guerrilla authorities; that defendant-appellant informed Lieut. Col. Paran of Esteban Briones' attitude, and to assert his authority, Lieut. Col. Paran issued an order of arrest, in the name of the United States Government, in the form of a letter addressed to Esteban Briones, for his apprehension; that armed with said letter or order of arrest, early in the morning of April 28, 1945, herein defendant-appellant, accompanied by five (5) of his men, three (3) of whom were armed, went to the house of the deceased, in the barrio of Pinagkawitan, municipality of Lipa, province of Batangas, for the purpose of arresting the deceased; that the said five (5) men, accompanying herein defendant-appellant, were among his most trusted and loyal men, according to the accused himself; that defendant-appellant entered the house of the deceased, accompanied by two (2) of his men, Florentino Castillo and Victor Latag, who were not armed, while the other three (3) men carrying weapons, namely, Benito Cueto, Frisco Mauhay and Leon Villapando, remained downstairs on guard; that at the time herein defendant-appellant and his companions entered the house of the deceased, there were two (2) other persons inside the house, namely, Jose Mision and Felisa Briones, sister of the deceased; that defendant-appellant, armed with said letter or order of arrest from his chief (Exh. "3"), ordered the deceased to go with him to their headquarters for questioning; that claiming that he did not understand said order of arrest written in English, the deceased refused to go with defendant-appellant, who then became so enraged that he shot the deceased Esteban Briones three (3) times, with his revolver (Exh. "B") wounding the latter on the left arm and on the left chest, killing Esteban instantly; that immediately after the shooting and killing, defendant-appellant left the house with his companions, who started blaming him for what he had done, and whom he answered, stating that, as the deceased had refused to go with him, notwithstanding said order of arrest, and not knowing what else to do, he shot and killed him.

Defendant-appellant claims that he found it necessary to fire, with his revolver, three (3) successive shots upon the deceased, as the latter had attempted to resist arrest and tried to pull his own revolver, for the purpose of attacking defendant-appellant.

An examination of the evidence presented in this case fails to support and justify such contention of herein defendant-appellant. The two other persons in the house, Jose Mision and Felisa Briones, have testified in a positive and categorical manner that herein defendant-appellant, enraged by the refusal of the deceased to go with him, after a brief exchange of strong language, pulled his revolver and fired at the deceased three (3) times successively, while the latter was absolutely defenseless, as he had no weapon of any kind whatsoever in his hand at the time. The declarations of the two witnesses in the house of the deceased were fully corroborated by the testimony of Benito Cueto and Victor Latag, two of the five companions of herein defendant-appellant, on the day of the fatal shooting. The fact that herein defendant-appellant fired at the deceased, who was unarmed at the time, is further corroborated by the fact that herein defendant-appellant had failed to call as his witnesses any of the five (5) companions, who were with him at the time, and who, according to the defendant-appellant himself, were among his most loyal and faithful soldiers and followers.

No competent evidence has been presented to show why the witnesses for the prosecution should testify falsely

against the defendant-appellant in this case. The absence of all evidence as to an improper motive actuating the principal witnesses for the prosecution strongly tends to sustain the conclusion that no such improper motive existed, and that their testimony is worthy of full faith and credit. (United States vs. Pajarillo, 19 Phil., 288; People vs. De Otero, 51 Phil., 201)

The claim of the defendant-appellant that the deceased had a revolver was mentioned for the first time by him to the authorities, when he testified in his own behalf in the court below. When the case was investigated, defendant-appellant's own revolver, marked as Exhibit B, for the defense, was immediately surrendered to the chief of police of Lipa, Batangas, but the alleged revolver of the deceased, which has been marked as Exhibit 4, also for the defense, was presented to the court by Lieut. Col. Felino Paran, defendant-appellant's superior officer, only on the day of the trial, which is conclusive evidence that said defense of the accused was an afterthought and but of recent fabrication. The testimony of Apolinario Masongsong and Lieut. Col. Felino Paran is not of much value in this case. The alleged self-defense, put up by the defendant, is, therefore, absolutely untenable.

It must have been noted that the declarations given by the principal witnesses for the prosecution and the defense are contradictory; but, in the opinion of the Court, in weighing contradictory declarations and statements, greater weight must generally be given to the positive testimony of the witnesses for the prosecution than to the denials of the defendant. (United States vs. Bueno, 41 Phil., 447)

As already stated, in the information filed against the accused, he was charged with the crime of murder, with the qualifying circumstance of premeditation. The qualifying circumstance of premeditation can be satisfactorily established only if it could be proved that the defendant had ample and sufficient time to allow his conscience to overcome the determination of his will, if he had so desired, after meditation and reflection, following his plan to commit the crime. (United States vs. Abaigar, 2 Phil., 417; United States vs. Gil, 13 Phil., 530) In other words, the qualifying circumstance of premeditation can be taken into account only when there had been a cold and deep meditation, and a tenacious persistence in the accomplishment of the criminal act. (United States vs. Cunanan, 37 Phil., 777.) But when the determination to commit the crime was immediately followed by execution, the circumstance of premeditation cannot be legally considered. (United States vs. Blanco, 18 Phil., 206.) As the shooting in this case was immediately preceded by a heated discussion between the accused and the deceased, the qualifying circumstance of premeditation cannot be properly considered.

It is further claimed that, in the commission of the crime charged, the aggravating circumstance of treachery concurs, because of the suddenness of the attack. (United States vs. Cabiling, 7 Phil., 469; United States vs. Baluyot, 40 Phil, 358.) But for the same reason that the shooting was preceded by a heated discussion between the two, it must have placed the deceased on his guard, and the alleged treachery, whether as a qualifying or an aggravating circumstance, cannot be legally considered.

But it is an admitted fact that the deceased was shot and killed, in his own house, where he had every reason to believe and expect that he would be completely safe; and for the violation of the sanctity of the home of the deceased by the defendant in this case, it can be properly and legally considered as an aggravating circumstance; with no mitigating circumstance to compensate.

The defendant-appellant had absolutely no right to take the law into his own hands; and when he did so, as in this case, he acted at his own peril.

At the time of the commission of the crime in this case, the liberation of the province of Batangas, was almost complete; and herein defendant-appellant, although claiming to exercise police authority, as a guerrilla officer, had absolutely no right to pass judgment upon the deceased and to shoot him to death. It was a simple case of display and needless use of brutal force, where anarchy practically reigned supreme. In a much-vaunted

democracy, such display and use of brutal force and terrorism, cannot, and must not, be tolerated; and those resorting to such violence, shall be held strictly responsible for the acts committed by them.

The crime of homicide imputed to the defendant-appellant, with the aggravating circumstance that it was committed in the dwelling of the deceased, having been sufficiently established, beyond reasonable doubt, and the penalty imposed upon the herein defendant-appellant being in accordance with law; the judgment appealed from is hereby affirmed. The defendant-appellant is, therefore, sentenced to the indeterminate penalty of ten (10) years and one (1) day of prision mayor as minimum, to seventeen (17) years, four (4) months, and one (1) day of reclusion temporal as maximum, and to the accessory penalties prescribed by law; and to indemnify the heirs of the deceased in the sum of Two Thousand Pesos (P2,000), and to pay the costs. So ordered.

Ozaeta, Perfecto, Hilado, and Bengzon, JJ., concur.

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