

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. CIRILO PASEDERIO, ET AL., DEFENDANTS AND APPELLANTS.

G. R. No. L-9427. July 31, 1957

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Rafael Pasederio, with his children Cirilo and Dominador Pasederio, his son-in-law Bernabe Gancia, and Leonorico Malfori, were charged with murder in the Court of First Instance of Iloilo, where, after trial, all were found guilty and sentenced each to reclusion perpetua, with the accessory penalties prescribed by law, to indemnify jointly and severally the heirs of the deceased in the sum of P6,000, and to pay proportionately the costs. They ail appealed from this decision.

In the morning of November 28, 1954, at about 6:00 o'clock, while Nilo Defensor was combing his hair in front of a mirror in the house of his sister Regina Pareja situated in Caraudan, Janiuay, Iloilo, the two brothers Cirilo and Dominador Pasederio, Bernabe Gancia and Leonorico Malfori suddenly appeared brandishing a bolo in their hands, while Rafael Pasederio and his other son Andres stood at the doorway, and three other unidentified individuals placed themselves at the balcony. At this juncture, those who' stood at the doorway shouted "You kill him now", and immediately Cirilo Pasederio attacked Nilo Defensor hitting him on the left thigh. Simultaneously, Dominador Pasederio and Leonorico Malfori shouted, "Finish him" and Bernabe Gancia also attacked Nilo hitting him on the right arm, Dominador Pasederio and Leonorico Malfori likewise assailed Nilo but missed as the latter fell on the floor. In the face of this aggression, Regina Pareja shouted for help to her husband Dionisio Pareja who was then with his brother-in-law Ernesto Defensor under a santol tree about 50 meters from the house. Thereupon, Cirilo Pasederio turned his attack on Regina who, in attempting to ward off the blow, was wounded on the left middle finger and left lower lip. Thereafter, the assailants ran downstairs.

When Dionisio Pareja heard the outcries of his wife, he ran towards his house and upon reaching the doorway, was met by Leonorico Malfori who attempted to strike him with his bolo, but fortunately Dionisio succeeded in wresting it from Malfori who then started to run. At this moment, Cirilo and Dominador Pasederio tried to chase Dionisio Pareja but the latter ran inside the house and closed the door behind him. Thereafter, the assailants left and when Dionisio Pareja and his wife were preparing to take Nilo Defensor to town for medical treatment, the latter expired. Dr. Amado R. San Diego, municipal health officer of Janiuay, arrived at the scene a little later and after treating the wounds received by Regina, he performed an autopsy on the body of the deceased. He found that the deceased received two stab wounds on the posterior portion of the left thigh and on the right arm and that the cause of his death was acute hemorrhage.

The evidence further shows that on the night previous to the date of the incident, the deceased and one Domingo Obeja met Dominador Pasederio who was in the company of some ladies near a creek in Caraudan, Janiuay, Iloilo, and on that occasion the deceased remarked that Dominador should not have taken the girls home as he had not yet danced with them. This remark was resented by Dominador who immediately grabbed his bolo to attack the deceased and, to defend himself, the latter picked up some stones and threw them at Dominador without

however hitting him. Seeing this encounter, the lady companions of Dominador ran away. The timely intervention of Domingo Obeja prevented Dominador and the deceased from causing more serious harm to one another. However, as Dominador went away, he shouted, "You will expect something."

The version of the incident given by appellants is as follows: On November 27, 1954, a baptismal party was celebrated in the house of Jose Gancia in Caraduan, Janiuay, Iloilo, wherein one Gerardo Tiron acted as sponsor. Among those who attended the party were Dominador Pasederio and two lady visitors from Cabatuan, Iloilo. In the afternoon of that day, at about 4:00 o'clock, Dominador Pasederio and his companions, including Gerardo Tiron and the two lady visitors, started their way home. While on their way to Janiuay, Iloilo, they met Nilo Defensor and Domingo Obeja. Nilo inquired from Dominador why he was bringing the ladies home since he wanted yet to dance with them, to which Dominador answered saying that they were going home because it was getting late. Nilo also inquired where were his companions from and Dominador answered that they were from Cabatuan, Iloilo. Upon hearing this Nilo said, "Ah, they are strangers" and unsheathed his bolo, whereupon Dominador and his companions ran away. The following morning, at about 7:00 o'clock, Gerardo Tiron went up to the house of Dominador Pasederio to invite him to go to Iloilo but Dominador was not able to go.

In the morning of November 28, 1954, at about 6:00 o'clock, Leonorico Malfori went to a place where illegal cockfighting was being held in barrio Caraudan, Janiuay, Iloilo, and upon nearing the house of Regina Defensor, he was approached by Ernesto Defensor who said, "Where are your companions? What do you want, fight?", at the same time giving Malfori a fist blow hitting him on the face. Leonorico fell down and Dionisio Pareja, husband of Regina, held him by his hands and shouted to Ernesto to bolo him. At this moment, Cirilo Pasederio, a relative of Leonorico came and upon seeing the predicament of the latter asked, "What is the fault of that boy? Let us settle the matter amicably only." Thereupon, Dionisio Pareja released Leonorico who immediately escaped followed by Ernesto Defensor. Nilo Defensor who was inside the house of his sister Regina, went down hurriedly with a spear in his hand and confronting Cirilo Pasederio, thrust his spear upon the latter who was hit on the right side of the chest. Nilo again confronted Cirilo and made a second thrust with his spear, but Cirilo was able to ward off the thrust, at the same time hitting Nilo with his bolo on the right arm. Undaunted, Nilo continued attacking Cirilo with his spear but again the latter ward it off and struck Nilo again with his bolo hitting him on the upper left thigh. After being wounded twice, Nilo hurriedly went up the house of his sister Regina.

Regina Defensor, after seeing what happened to her brother Nilo, approached Cirilo Pasederio and tried to grab his bolo, but in so doing she accidentally wounded herself. In her efforts to grab the bolo from Cirilo, Regina was wounded on the left middle finger and on the left angle of the lower lip. After unsuccessfully grabbing the bolo from Cirilo, Regina went up her house to attend to her brother Nilo but she found him already dead. In her desire to make it appear that the incident took place in her house, she covered with sand the blood on the ground and wiped with a wet cloth the blood on the stairway.

The fact that appellants Cirilo Pasederio and Bernabe Gancia were the ones who inflicted upon the deceased the two wounds he sustained on the left thigh and right arm which caused his death has been clearly established by the testimony of Regina Defensor who was present when the aggression took place so much so that she herself became the subject of attack but was able to ward off the blow although she was slightly wounded on the left middle finger and left lower lip. Her testimony has been substantially corroborated by her husband Dionisio Pareja who, answering the outcries for help of his wife, ran towards his house in an effort to defend the deceased, his brother-in-law, but was met on the way by Leonorico Malfori and the two brothers Cirilo and Dominador Pasederio, thus setting at naught his effort to defend him. As to the motive of the aggression, there is also enough evidence on record that sustains it. It was established that on the night previous to the date of the incident, the deceased and Dominador Pasederio had an altercation which arose from a remark made by the deceased regarding

the taking home of some girls with whom the latter wanted to dance, which remark was resented by Dominador and would have had a more serious consequence were it not for the timely intervention of one Domingo Obeja. However, Dominador, before parting, shouted, "You'll expect something." Early the next morning, the aggression took place.

The version given by appellant was not believed by the trial court which is in a better position to evaluate the credibility of the witnesses. On this point, the trial court made the following observation:

"Ademas, el Juzgado no puede convencerse que en la mañana del 28 de noviembre de 1954, Ernesto Defensor se enuecontro con el acusado Leonorico Malfori en el sitio doilde solia haber pelens'de gallo ileg'ales, prefi'untando al ultimo donrle estaban sus compaiieros y dandolo al raismo tiempo un ptmtcaso. No puede convencrcse que Dionisio Parcja, a su vez, cogio las manos del acusado Leonorico Malfori y luego instruyo a Ernesto Defensor que la diera un bolazo. Tampoco puede convencerse que con motivo de este incidente entre Ernesto Defensor y Dionisio Pareja, por un lado, y el acusado Leonorico Malfori, por otro, Nilo Defensor se bajo precipitadarnente de su casa, la de su hermana liegina, convenientementc provisto de una lanza y, sin ceremonia alguna, dio un lanzaao al aeusado Cirilo asederio, hiriendole en el pecho, lado derecho. Ademas. las pruebas en autos se han callado sobre el movil que indujo a Ernesto Defensor y Dionisio l^areja para maltratar al acusado Leonorieo Malfori.

"Si bien es verdad que la pretension del acusado Cirilo .Pasederio de que el, se habia llerido en el pecho, lado derecho, lia sido eortoborada por el Dr. Amado E. San Diego (Exhibit 3), se ha probado por la acusacitm que cuando Ceferino Sueno, que fue prcsentado en contra pruebas, se encontro con los acusadog y sus conipaneros despues del suceso de autos, el acusado Cirilo Pasederio no presentaba ninguna herida, Jo que demuestra que este aeusado se habia herido en otra parte, despues ya del sueeso de autos. Aunque Ja camiseta que sujuestamente llevaba pucsta en la maiiana de autos fue presentada (Exhibit 4), que se pretende que estaba manehada de sangrc, dicha camiseta solo se ha exhibido por primera vez durante la vista de esta causa, sin que la misma se haya presentado o entregado a los autoridades locales de Janiuay. Aun mas, si eomo se pretende, la herida que tuvicra en el peclio, lado derecho, fvie causada por lanzazo dada por Nilo Defensor, es de esperar que la herida debia ser cierta gravedad! dada la naturaleza del arma usada. Sin embargo, tanto en el certticado medico (Exhibit 3) del Dr. Amado K. San Diego como 'en el tctimonio de este medico so ha probado que dicha herida era superficial,"

We can hardly add to the foregoing observation of the trial court. We cannot certainly believe the theory that in the morning in question Ernesto Defensor attacked Leonorico Malfori without much ado upon seeing him on his way to an unlicensed cockpit and that when Leonorico fell, Ernesto's brother-in-law, Dionisio Pareja, came to his support and took part in the aggression, the reason for our disbelief being that the defense has not presented any proof showing the motive for the aggression. It is likewise hard to believe the pretense that the deceased, upon seeing the altercation that supposedly took place near the cockpit came down from his sister's house armed with a spear and after attacking Cirilo with it several times, the latter could still unsheath his bolo and inflict on the deceased two fatal wounds without himself suffering any scratch. We find still more unbelievable the pretense that though unarmed as she was, Regina had aproached the assailant and tried to wrest the bolo from him thus "wounding herself on the finger and lower lip. Considering the inherent improbability of the theory of the defense* we cannot but accept the version of the prosecution.

There is however one flaw which we find in the evidence. as regards the liability of Rafael Pasederio, father of Cirilo and Dominador, whose only participation in the incident was his having accompanied his two sons to the house of Dionisio Pareja, He may have gone with them with the only purpose of giving aid and comfort to the wounded feeling of Dominador caused by the encounter he had with' Nilo Defensor on the night previous but without expecting the unfortunate result that ensued. At any rate, the evidence on hand is not in our opinion sufficient to produce in the mind the moral conviction that he is guilty of the crime charged.

The contention that only appellant Cirilo Pasaderio may be held criminally liable for the death of the victim in the absence of proof of conspiracy among the other appellants, is without merit. With the exception of what affects Bafael Pasaderio, we find correct the following observation of the Solicitor General:

"In the instant case, the "immunity of purpose on the part of the appellants is plainly inferable, from the following circumstances: Appellants who are closely related to one another, made common cause to redress a supposed affront made by the .deceased to one of their kin, appellant Dominador, Pasaderio on the night previous, by going together to the house of the victim's sister on that fatal morning; that appellant Rafael Pasaderio who is the father of Cirilo and Dominador, induced the other appellants to kill the offended party once they were inside said house; that appellant Cirilo Pasaderio then boloed their victim on the .left thigh; that from the further prodding by appellants Dominador Pasaderio and Leonorico Malfori, appellant Gancia boloed the offended party on the right arm; that appellants Dominador Pasaderio and Leonorico Malfori made use of their bolos on their victim but missed; that Cirilo Pasaderio also attacked Regina Pareja, the victim's sister who was then present; and that afterwards all the appellants left the scene together (People vs. Delgado, et al. 77 Phil. 11; People i;s, Baltazar, et al., supra)."

Wherefore, with the exception of Rafael Pasaderio who is hereby acquitted, the decision appealed from is affirmed in all other respects, with costs against the other appellants.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Labrador, Endencia and Felix, JJ., concur.

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