

## THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. BARTOLOME BEDIA, DEFENDANT AN APPELLANT.

*G.R. No. L-2252. May 31, 1949*

Ponente: PERFECTO, J.

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### PERFECTO, J.:

The trial court found appellant Bartolome Bedia guilty of the crime of homicide and sentenced him to suffer an indeterminate penalty of from eight (8) years of prision mayor to fourteen (14) years of reclusion temporal with the accessories of the law and to indemnify the heirs of Salvador Segovia in the sum of P2,000 and to pay the costs.

Upon examination of the evidence and perusal of the brief for the prosecution and that filed by an amicus curias, the Court of Appeals was convinced that the crime committed by appellant is that of murder and is liable to be punished with reclusion perpetua, for which reason it decided to certify the case to the Supreme Court.

There is no dispute as to the fact that on December 17, 1946, at about 3:30 o'clock p. m., while returning with two companions to his hacienda on a jeep, which he himself was driving, and upon reaching a place on a road in barrio Tubungan Barotac Nuevo, Salvador Segovia was shot to death by appellant Bartolome Bedia.

The controversy in this case arises from the conflicting versions as to how appellant killed Segovia, given by the prosecution and the defense. According to the witnesses for the prosecution, Benjamin Bayas and Maximo Doligosa, companions of the deceased on the jeep, when the jeep was at about three meters from the place where appellant was standing, the latter suddenly drew his Super-38 automatic pistol and pointed it at the deceased exclaiming: "Commend yourself to Jesus," after which the accused pulled the trigger but no shot exploded—only the clicking sound of the striking hammer was heard. Then Segovia jumped out and fled to shield himself behind the jeep, but appellant pursued him and fired again, causing him to fall to the ground. After Segovia had fallen, appellant fired more shots at his body and struck the deceased on the mouth and nose with his pistol. Appellant then took the pistol of the deceased and that same afternoon presented himself to the chief of police, with his firearm and that of the deceased.

The version of the defense, based upon the testimonies of Beatriz Botavara and of appellant himself, is to the effect that, upon reaching the place of the incident, the deceased stopped his jeep and beckoned the appellant. When appellant was at about four arms-length from the jeep, the deceased shouted at him, "So you are the brave man of Tubungan? Get ready for I will kill you." The deceased then aimed his pistol at the appellant, who in turn drew his own gun and fired at the former. Segovia, with his gun pointed at the appellant, backed away towards the left rear side of the jeep, where the appellant fired at him again. Segovia retreated farther, still pointing his gun at the appellant, and when the deceased gained the right side of the jeep, appellant fired a third shot at him. The deceased went towards the front part of the jeep and he was yet standing there when the last and fourth shot was fired by appellant. When the deceased was falling, appellant was able to hit him on the face with his pistol. Appellant wants to show that he acted in self-defense.

We, carefully considering and analyzing the evidence, came to the conclusion that the killing was committed in accordance with the version given by the witnesses for the prosecution. While Segovia had no motive at all for killing appellant, the latter's failure to secure a right of way through the land of the deceased appears to have induced appellant to obtain vengeance against the deceased. In the pre-killing incident concerning the right of way in question, it appears that Segovia had the upper hand. He was a member of the municipal council, was powerful, and had the means to exercise political influence as well as to engage in judicial litigation, while appellant appeared to be lacking the means of retrieving himself from his failure to insist on the right of way and recovering his lost face among his neighbors.

Appellant's defense hinges on the jamming of the deceased's pistol. His theory is that the deceased failed to fire his pistol because it jammed when he attempted to fire the first shot against appellant. It appears, however, upon expert testimony on record, that the jamming of the firearm was due not to any mechanical defect but to intentional insertion of a bullet from the outside into the pistol's barrel. The fact that the appellant had experience in handling firearms and the fact that it took him more than the necessary length of time from the moment he took the pistol of the deceased to the moment when he presented it to the authorities together with his own, lay strong grounds for the belief that appellant concocted the jamming of the pistol so as to enable him to present in court a self-serving evidence.

In view of the facts sufficiently established, we find no error in the trial court's finding that appellant is guilty of the crime of homicide, and in the sentence imposed, except that the indemnity to the heirs of Salvador Segovia must be increased to P6,000, in accordance with the precedent set in our decision in *People vs. Amansec* (80 Phil., 424).

In his third assignment of error, appellant's counsel alleges the following:

"The trial court erred in converting itself into a prosecuting attorney by taking upon itself the duty, burden and responsibility to examine the witnesses for the prosecution without first waiting for the prosecuting attorney to finish his examination of his witnesses, and to cross-examine the witnesses for the defense without first allowing the prosecuting attorney to finish his cross-examination; by directing questions to the witnesses for the defense without first allowing the defense counsel to finish their direct examination of said witnesses; by not permitting defense counsel to ask questions on either direct or cross-examination on matters which are material to the case; by intimidating the witnesses for the defense with imprisonment unless they answer the questions as propounded to them; by being arbitrary in its rulings; by showing partiality and bias in favor of the prosecution during the course of the trial of the case; and by not giving counsel for the defense time within which to present their written memorandum of the case by requiring the prosecution and defense to present their oral argument right after the trial and deciding the case the following morning in open court."

To this, the Solicitor General made in his brief the following answer:

"Appellant complains of alleged irregularities committed by the trial judge in the conduct of the trial of this case. While it is possible to justify one or two of the actuaciones of the court below, it must be admitted that on the whole the procedure and practice followed by the trial judge cannot be defended as proper. It is one thing, however, to say that irregularities have been committed and another thing to show that these irregularities constitute material error. Appellant not only concedes that some of the rulings of the trial judge were not prejudicial to the defense, but has in fact completely failed to establish that but for the errors and irregularities committed by the trial judge a different result would have been reached. The appellant has not undertaken to demonstrate, either here or during the trial, what facts decisive of the case in his favor might have been established if the lower court had not overly interfered with the examination of the witnesses, or if the defense had been allowed greater latitude in the cross-examination of the prosecution witnesses and in the direct examination of its own witnesses, or if the trial judge had not attempted on one or two occasions to browbeat

the defense witnesses. He has also failed to show that the appellant was denied any substantial right when Iris defense counsel, instead of being allowed to file a written memorandum, was required by the court to argue orally the case immediately upon the close of the trial, nor do we understand how the judgment of the court below would have been different had such memorandum been permitted to be filed. We cannot agree with the appellant that under Rule 115, section 3, paragraph (d) of the Rules of Court, counsel has the absolute right to file written memorandum in lieu of oral argument. This is a matter which we think lies in the sound discretion of the trial court."

There is no dispute, therefore, that the trial court had acted with arbitrariness in the conduct of the trial, as borne out by the transcript. The trial judge had shown an unnecessary impatience and had unnecessarily curtailed defendant's opportunity to cross-examine the witnesses for the prosecution and to freely enjoy all the means for defense. As shown, however, in prosecution's brief, there was not enough showing to the effect that in this regard the trial court committed errors affecting so substantially the rights of appellant as to require a reversal of the appealed judgment. There is no showing that had the acts of arbitrariness not been committed by the trial judge, the result of the case would have been different, and that appellant would have been entitled to acquittal, or, at least, to a lighter penalty than the one meted out by the court a quo.

However, we cannot remain indifferent in the face of arbitrariness committed by the trial judge. The prosecution asserts that, while it is possible to justify one or two of the actuations of the court below, it must be admitted that on the whole the procedure and practice of the trial judge cannot be defended as proper. It is admitted that the trial judge had interfered with the examination of the witnesses, that the right of the defense to cross-examine the prosecution witnesses and the rights of the defense in the direct examination of its own witnesses have unduly been curtailed, that the trial judge attempted on two occasions to browbeat the defense, that the trial judge denied defense counsel the opportunity of filing a written memorandum. The trial judge's conduct, on the whole, lays ground to the suspicion of being prejudiced against the cause of the defense as emphasized by the fact that, without waiting for any testimony or evidence that the parties may present, the trial judge had volunteered, in certain portions of the record, his personal knowledge as to the height and stature of the deceased Salvador Segovia. We feel it unavoidably our duty to express our disapproval of the acts of arbitrariness committed by the trial judge, with the hope that he will not repeat them, nor will any other judicial officer follow his example. The administration of justice is a lofty function and is no less sacred than a religious mission itself. Those who are called upon to render service in it must follow that norm of conduct compatible only with public faith and trust in their impartiality, sense of responsibility, exercising the same devotion to duty and unction done by a priest in the performance of the most sacred ceremonies of a religious liturgy.

Modified with the increase of indemnity to the heirs of Salvador Segovia to P6,000 in conformity with the ruling laid down in *People vs. Amansec*, supra, the appealed judgment is affirmed in all other respects, with costs against appellant.

Paras, Feria, Pablo, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.

**PERFECTO, J.:**

We certify that the Chief Justice and Mr. Justice Ozaeta voted in support of this decision.

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