

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. JOSE ANSOYON, DEFENDANT AND APPELLANT.

G.R. No. L-3. January 29, 1946

Ponente: OZAETA, J.

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OZAETA, J.:

Jose Ansoyon appeals from the decision of the Court of First Instance of Mindoro which found him guilty of homicide and sentenced him to suffer an indeterminate penalty of not less than eight years and one day of prison mayor and not more than fourteen years, eight months, and one day of reclusion temporal, with the accessories of the law, to indemnify the heirs of the deceased Jesus Marasigan in the sum of P2,000, and to pay the costs.

In support of his appeal he makes the following assignment of errors:

"I. The lower court erred in giving full credit to the testimony of the witnesses for the prosecution notwithstanding their highly biased nature, their irreconcilable contradictions and their inherent improbability on various important details.

"II. The lower court erred in not finding that the accused and herein appellant acted in legitimate self-defense.

"III. The lower court erred in not acquitting the accused and herein appellant on the ground of reasonable doubt."

It is not disputed that on the morning of February 3, 1945, in the barrio of Salong, Calapan, Mindoro, Jose Ansoyon inflicted six stab wounds on Jesus Marasigan, one of which was mortal, namely, that in the left side of the chest which cut the lower part of the heart. The only question to decide is whether he did so in self-defense, as he claims.

The respective versions of the prosecution and of the defense of what occurred are as follows:

(1) Prosecution.—"At or about 8 o'clock in the morning of February 3, 1945, a quarrel ensued between Romana Agnas and Cecilia Marasigan as the two met in front of the former's house in Salong, municipality of Calapan, Province of Mindoro. Seeing this incident, Gregoria Escares, a sister-in-law of Cecilia, who lived next to the house of Romana Agnas, intervened with her husband, Jesus Mararsigan, trying to separate the combatants (pp. 1, 2, 6, 7, t. s. n.). As Gregoria Escares was holding Cecilia Marasigan, Jose Ansoyon arrived and, armed with a balisong, immediately attacked Jesus Marasigan from behind. Jesus attempted to run away but was pursued by Jose Ansoyon whereupon he was forced to face his assailant and offer resistance. There was a scuffle between the two men until finally Ansoyon subdued Jesus Marasigan who fell down face upward near a barbed-wire fence. At this stage of the fight Ansoyon plunged his knife on the left breast of Jesus Marasigan (pp. 2, 3, 7, 8, t. s. n.)." (Pages 1-2, appellee's brief.)

(2) Defense.—"On the morning of the following day, February 3, 1945, Cecilia Marasigan, another sister of the deceased, and who lives near the Calapan wharf, passed by the appellant's house in the barrio of Salong, and while she was on the street fronting the appellant's house, she began 'scolding' and addressing the following words: 'You are all thieves' evidently towards the appellant and his family (t. s. n., p. 15). It so happened,

however, that only Jose Agnas, brother-in-law of the appellant, was in the house, both the appellant and his wife having left after breakfast—the appellant having gone to town to see one Francisco Zamora while his wife to her 'comadre' Dosiang. Soon afterwards, the appellant's wife, named Romana (alias Romi) came, and a quarrel ensued between the two women, Romana getting a piece of coconut midrib and Cecilia Marasigan a piece of wood. Seeing this Jose Agnas went down the house and tried to push his sister, Romana, towards the stairway, but Cecilia pursued them and struck Jose Agnas with the stick she was carrying hitting him on the left forearm and at his back (t. s. n., p. 16). The deceased, Jesus Marasigan, was then present but was doing nothing to separate the two women. At that precise moment the appellant, Jose Ansoyon, came, approached the deceased and asked him why he was not doing anything to stop his sister, to which the deceased answered 'You also' followed by a fist blow which, however, failed to hit the appellant. Cecilia Marasigan then faced the appellant and struck him with the piece of wood she was carrying, as a result of which the appellant suffered injuries on his left forearm (see medical certificate of Dr. Mariano Ylagan, Public Health Officer, Exhibit 2). Instantly the appellant tried to snatch the piece of wood from Cecilia Marasigan, but as he was doing this, the deceased gave him a fist blow which landed on his right jaw (see same Exhibit 2).

"The appellant then faced the deceased with the intention to retaliate but the latter pulled out his revolver ('paltik') Exhibit 3 and aimed it at the appellant- The latter, believing himself in danger, pulled out his 'balisong' from his hip pocket, opened it and stabbed the deceased, fatally wounding him in the left chest. The two then grappled together, each trying to wrest from each other their respective weapons, and during the struggle each was pushing the other until they reached the other side of the street where there was a barbed-wire fence. It was here that both contestants fell down, the appellant being on top of the deceased. It was here that the appellant was able to get hold of the revolver (Exhibit 3). He then immediately rushed to his house while the deceased died, on the spot, where the autopsy was performed by the Public Health Officer, Dr. Mariano Ylagan." (Pages 1-3, appellant's brief.)

Thus it will be seen that according to appellant's version the revolver Exhibit 3, which he himself presented in evidence at the trial, belonged to the deceased; that the deceased pulled out said revolver and aimed it at the appellant, and the latter, "believing himself in danger, pulled out his balisong from his hip pocket, opened it and stabbed the deceased, fatally wounding him in the left chest"; that the other minor stab wounds in the back, left hand, and left forearm of the deceased were inflicted by appellant subsequent to the fatal wound in the left side of the chest and during the struggle between the two combatants, "trying to wrest from each other their respective weapons." But according to the prosecution's version, which was sustained by the trial court, the deceased was unarmed; the revolver belonged to the appellant; the first wound inflicted by the latter was the superficial stab wound in the back just below the left shoulder; and the last wound was the mortal one in the left side of the chest, which cut the lower part of the heart and which was inflicted after his adversary had fallen down face up.

The wounds received by the deceased are described in the certificate Exhibit B issued by Dr. Mariano L. Ylagan as follows:

"1. On the left hand, between the small finger and the wrist, are two stab-wounds, one is 1½ inches long and the other one inch long. Both are about ½ inch wide and ½ inch deep. There is a superficial wound on the same hand located between the index finger and the thumb. This wound is about 2 inches long.

"2. On the left forearm about 2 inches above the left wrist joint is another stab wound which was about 1 inch long, ¼ inch wide and ½ inch deep.

"3. There is a stab-wound on the left side of the chest, perpendicular in position to the long axis of the body, and whose external end is about 1½ inches below the left nipple. This wound is about 3 inches long, 1 inch wide and about 3 inches deep. The lower part of the heart was cut in this region.

"4. There is a small superficial stab-wound on the back just below the left shoulder.

"The cause of death was internal hemorrhage from the wound on the chest and the above-mentioned lesions were caused by a sharp pointed instrument."

We find appellant's version incredible. We cannot bring ourselves to believe that, after receiving the mortal wound in the left side of the chest which cut the lower part of the heart, the deceased could still struggle with his assailant not only to retain the possession of his own weapon but also to seize that of his adversary. Neither can we believe that the deceased had a revolver at that time; that he pulled it out and aimed it at the appellant but never fired it nor made any other use of it to defend himself against the determined attack of his adversary, who was armed with a fan-knife and who claims that he was forced to pull it from his hip pocket and to open it and plunge it into the left side of the breast of the deceased after the latter had aimed his revolver. It certainly would have taken the deceased much shorter time to pull the trigger of the revolver than for the appellant to pull out his fan-knife from his hip pocket and open it. Even if we assume that the deceased was merely bluffing when he allegedly pulled out his revolver, we cannot believe that he would not at least use its barrel or handle to parry the blows of his adversary—Judging from the stab wounds in the left hand and left forearm of the deceased as described in the medical certificate above quoted, it is more reasonable to believe that he parried the successive blows of his adversary with his bare hand after he had received the stab wound in the back and before he fell and received the mortal wound in the left side of his chest, as testified to by the witnesses for the prosecution. The trial court found from the testimony of the witnesses for the prosecution that the revolver in question belonged to the appellant and that the latter took it from his wife when he returned to his house after stabbing the deceased in order to scare away the brothers of the latter who threatened to avenge their brother's death; and we find no basis in the record upon which to reverse or in any way disturb that finding.

The contradictions alleged by appellant in his brief to have been incurred in by the witnesses for the prosecution, even if they were real, could not alter the admitted fact that the appellant repeatedly stabbed and killed Jesus Marasigan, as alleged in the information. Having admitted that he was the author of the death of the deceased, it was incumbent upon the appellant, in order to avoid criminal liability, to prove the justifying circumstance claimed by him—self-defense—to the satisfaction of the court. To do so he must rely on the strength of his own evidence and not on the weakness of that of the prosecution, for even if that were weak it could not be disbelieved after the accused himself had admitted the killing. Inasmuch as the testimony of the appellant and his two witnesses, Jose Agnas and Hermogenes Gulimlim, to the effect that the deceased pulled out his revolver and aimed it at the appellant, for which reason the latter pulled out his fan-knife from his hip pocket, opened it, and with it stabbed the deceased in the left side of the chest, and that thereafter they grappled with each other for the possession of their respective weapons, is incredible as the trial court found and as we have shown above, it results that the appellant has not discharged the burden of proof on the question of self-defense. Hence he cannot escape the penalty for homicide imposed by article 249 of the Revised Penal Code.

Being in accordance with the law, the sentence appealed from is affirmed, with costs.

De Joya, Perfecto, Hilado, and Bengzon, JJ., concur.

Judgment affirmed.

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