

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. APOLONIO SOMBILON, DEFENDANT AND APPELLANT.

G.R. No. L-2117. May 19, 1949

Ponente: REYES, J.

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REYES, J.:

The accused in this case stands charged with murder. The evidence for the prosecution shows that in the afternoon of September 22, 1944, the barrio of Talaga, municipality of Argao, Province of Cebu, was celebrating its local fiesta. Gathered in its cockpit was a large crowd, who indulged not only in cockfighting but also in a game they call hantak, which is similar to cara y cruz. Among the participants in that game were Aguedo Camillo, Antonio Ortega and Dionisio Sombilon. Aguedo was flipping the coins, while Antonio was handling the bets for him. After winning about P40, Aguedo decided to quit. Dionisio objected to Aguedo's quitting when he himself was losing and voiced his objection by asking Aguedo: "Why stop playing when I still have money?" Provoked by this remark, Aguedo replied, "Why control a gambler's actions?" and then boxed Dionisio, hitting him in the mouth. He was about to give Dionisio another fist blow when Ortega intervened and pacified the two. Hardly had Aguedo separated from Dionisio, however, when the former withdrew from the crowd and called to his followers, saying: "Where are my boys, come here to rae." As if in answer to the call, several persons were seen to rally around Aguedo, one of them being the now deceased, Julian Camahalan. Sensing trouble, Apolonio Sombilon, brother of Dionisio, hurriedly followed Julian and stabbed him from behind with a dagger. Wounded in the back, Julian staggered, ran a distance of about 50 meters, sat down and died.

The above facts were established by the testimony of three eye-witnesses, while the doctor who examined the cadaver of Julian Camahalan gave the opinion that the wound he found in the latter's back was the cause of his death.

Testifying in his defense, the accused denied having been the one who stabbed the deceased. He admitted being in the cockpit on that occasion and having even seen his brother Dionisio with face bleeding and shaking hands with Aguedo. But he claimed that he did not see the stabbing, which, according to him, took place some time afterward, when he was already inside the ring, holding his rooster with its gaff attached and ready to fight the opposing rooster held by Jose de la Pena. He said that he was thus occupied when he noticed that there was an uproar and people were shouting from the outside: "There is a fight, and the Japanese are coming." Fearing the Japanese and seeing other people run away, he did likewise.

The accused was corroborated by Juan Templa, a compadre of his brother Dionisio Sombilon.

The trial court found the accused guilty of homicide and sentenced him to an indeterminate penalty of 8 years and 1 day of prision mayor to 14 years, 8 months and 1 day of reclusion temporal, to indemnify the heirs of the deceased in the sum of P2,000, to suffer the accessory penalties, and to pay the costs. From this judgment, the accused has appealed to the Court of Appeals. But that court has certified the case here, being of the opinion that the accused is guilty of murder and should be sentenced to life imprisonment.

The case hinges on the credibility of the witnesses. The defense tries to discredit the witnesses for the prosecution, but fails to point out any substantial flaw in their testimony. And although the accused claims that Antonio Ortega testified against him because he failed to continue supplying Mm with chickens and vegetables as he had promised, the imputation is denied by Ortega, and there is no showing that the latter is the kind of a man who, for so trivial a cause, would be capable of testifying falsely against one accused of so serious a crime as murder. On the other hand, the testimony of defense witness Juan Templa does not inspire much confidence since he is admittedly a close friend of the accused, being a compadre of his brother. On the whole, we find no reason for disturbing the findings of fact of the trial judge, who was in a better position to gauge the credibility of the witnesses after observing their demeanor on the witness stand.

The accused testified that while he had heard people say that the deceased was a trouble-maker, he himself had never had any "disgusto" with him, for they had not even met. And it is now argued by counsel that the accused could have had no motive for killing the deceased. But we "think that the unlawful aggression was sufficiently explained by the witness Antonio Ortega, who, in answer to a question of the court, declared that the accused stabbed the deceased because his brother Dionisio Sombilon was boxed by Aguedo Camillo and he believed that the deceased was an ally of Aguedo since he was one of those who rallied around the latter in answer to his call. The fact, that according to the accused himself, the deceased had the reputation of being a trouble-maker does lend weight to this theory.

While the lower court has found the accused guilty of mere homicide, we agree with the Solicitor General and the Court of Appeals that the crime proved is murder, qualified by treachery, as charged in the information, since the accused unexpectedly attacked the deceased from the rear, stabbing him in the back, thus employing a form of aggression which insured its execution without risk to himself arising from any defense which the deceased might have made.

Wherefore, the judgment below is modified in the sense that the accused is declared guilty of murder and sentenced to life imprisonment. The rest of said sentence is affirmed, with costs against the appellant.

Moran, C. J., Ozaeta, Paras, Feria, Pablo, Perfecto, Bengzon, and Tuason, JJ., concur.

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