

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. FELIPE LUMANTAS, EDILBERTO LUMANTAS AND FLORENCIO OPAY, DEFENDANTS AND APPELLANTS.

G.R. No. L-16383. May 30, 1962

Ponente: PAREDES, J.

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PAREDES, J.:

Accused Felipe Lumantas, Edilberto Lumantas and Florencio Opay, were found guilty of murder by the CFI of Lanao del Norte, for the death of Sabiniano Capua, and sentenced each "to reclusion temporal in its maximum period to death; or an imprisonment of 17 years, 4 months and 1 day, to death, and to pay the proportionate costs, subject to review by the Honorable Tribunal, the Supreme Court of the Philippines. The accused are ordered to indemnify each, Six Thousand Pesos (P6,000.00) to the heirs of the deceased Sabiniano Capua."

The record reveals two conflicting versions of the incident. From the evidence adduced by the State, We glean the following facts—

Eustaquio Colaljo (an eyewitness to the incident), and a group of settlers, numbering 15, among whom was the deceased Sabiniano Capua, were clearing a lot in Tambakan, in the interior of Tubod, Province of Lanao del Norte, in the afternoon of September 21, 1956, when the three accused Felipe Lumantas, his brother Edilberto Lumantas and Florencio Opay, arrived. Opay, with his bolo still in the scabbard, accosted the deceased Sabiniano Capua, who had his bolo in his hand, saying: "Now what is this? Could there be an agreement about this? Could we talk this over? When Capua replied in the negative, Opay immediately unsheathed his bolo and hacked Capua, who tried to parry with his right hand and at the same time stepping backwards until he reached a place where there were bushes, and then ran towards a higher ground. Colaljo run also towards the road, and the other companions scampered. Capua, however, after covering a distance of 20 meters, found his way blocked by a group of about 50 settlers, companions of the 3 accused, chanting "Bago-Ingod". On his way back, Capua was met by accused Felipe Lumantas, who hit Capua on the head with a piece of wood about the size of a wrist and one meter in length. When Capua fell on the ground, face downward, his hands were immediately held by Felipe while bending over Capua's body. Capua tried to rise and while struggling to do so, he happened to turn sidewise. At this juncture, the other accused Edilberto Lumantas stabbed Capua in the abdomen. Colaljo, who witnessed the stabbing from a distance of only 10 meters, ran to Tubod, and reported the incident to Mayor Quibranza, who with Colaljo in turn, reported the incident to P.C. station. Sgt. Cipriano Torio, and some P.C. soldiers proceeded to the scene of the killing. In a clearing near a house, they saw the inert body of Sabiniano Capua, lying face downwards and bearing multiple wounds. They also found a piece of wood, one meter long and about 3 inches in diameter, and a bolo lying near the dead body. Its scabbard was attached to the waist of the dead man.

A post-mortem performed by Dr. Procopio Lao, municipal health officer of Tubod, showed that the victim sustained multiple contused and incised wounds (Exh. A), wound No. 1, in the abdominal cavity being the fatal wound.

Sgt. Sanoga investigated Caloljo in Tubod, and took his statement (Exh. 3).

On the other hand, from the testimony of the accused Felipe Lumantas, Francisco Arena and Brigido Vinia, the following version of the incident is submitted by the defense:—

Felipe Lumantas was, on the date of the incident, the vice-mayor of Sala, and leader of the association of settlers in Bago-Ingod, called "Magsaysay Settlement Association" (MSA for short). Jesus Nemelda, member of the group, reported to Felipe that a rival group of settlers, called "Patudan Magbabaol Association" (PMA for short), headed by Francisco Apilan, was beginning to clear the land claimed by him and that this group, when accosted by him, replied that they wanted to talk to his leader. So, Nemelda relayed the message to Felipe. In the afternoon in question, Felipe, Francisco Arena, Brigido Vinia, and Nemelda went to Tambakan, 2 kilometers away. When the party (except Nemelda), who must have lagged behind was near the place, the three heard whistles and gun shots. As the three were veering away to the right, from the direction of the shots and whistles, they were met by 6 persons who, all armed with long bolos, immediately placed themselves in front and on both sides. One of them asked the three who their leader was. As soon as Felipe answered that he was, one of the 6 men immediately hacked Felipe. Felipe who was unarmed, was hit on the left hand when he tried to parry the blow. As Felipe turned to run, he tripped and stumbled on the ground. As the assailant turned to give Felipe another blow, Brigido Vinia intervened, by placing himself between the assailant and Felipe and shouting at the assailant to stop. The assailant made a thrust at Vinia, wounding the latter on his left knee. Vinia pulled out his bolo and fought with Felipe's assailant, wounding him several times. When the assailant was wounded in the stomach, he (assailant) retreated. Francisco Arena, who was armed only with a weeding bolo, upon seeing that Felipe was being hacked, started to run away, but he was stabbed by one Santiago Daligdig at the lower part of his back, lost consciousness and fell down. Their companions arrived and carried Arena in an improvised stretcher to Bago-Ingod. At this time, Pfc. Camposano, P.C., was seen bringing with him Santiago Daligdig and Ricardo de la Pena. Arena, Vinia and Felipe, were given first aid at a dispensary, and were treated at the Misamis Occidental Provincial Hospital of their respective injuries (Exhs. 5, 6 & 9, medical certificates). At the hospital, Felipe and Vinia were investigated by Sgt. Torio and executed affidavits Exh. 1 and Exh. 2, respectively. Arena was too ill to be interrogated.

Predicated upon the above evidence, the trial court, sentenced the accused in the manner heretofore recited.

Appellants alleged that the trial court erred (1) in finding that they were the aggressors in the killing of the deceased; (2) in discrediting or ignoring the testimony of Vinia that he was the one who wounded the deceased and caused his death; (3) in finding that appellants Opay and Edilberto Lumantas were present at the scene of the killing; (4) in making conclusions of fact not supported by the evidence adduced at the trial and (5) in the event, they were the aggressors, in finding that appellants acted with a preconceived plan, with treachery, with evident premeditation and with abuse of superior strength, all of which may be boiled down to the question of credibility and the nature of crime committed and the penalty to be imposed.

It is claimed that it is incredible that three men (appellants), would provoke a fight with 15 persons, all armed with bolos unsheated. It is a fact, however, that when the three approached, the rest of the Lumantas group were already on the right side of deceased Capua's group, so much so that when Capua had started to flee towards an elevated portion of the field, he was forced to return because he found himself heading towards the group of Lumantas, estimated at about 50 in number, shouting "Bago-Ingod", and it was on his return that Capua was hit on the head by Felipe with a piece of wood. The three appellants were not alone. Defense witness Vinia admitted that their companions carried the wounded Arena in an improvised stretcher. There can be no doubt in Our mind that prosecution witness Colaljo had seen what he had testified to in court, because he was merely 7 to 10 meters away when Opay, according to him, hacked Capua and later hit on the head by Felipe with a piece of wood, causing him to fall on the ground and finally stabbed in the stomach by Edilberto Lumantas. Scarcely three days

had elapsed after the incident (September 24, 1956), Colaljo executed an affidavit (Exh. 3), before Sgt. Sanoga in Tubod, wherein he gave substantially the same version of the incident as that narrated in court. The direct, positive, clear and Straight forward testimony of Colaljo, has not been successfully assailed. Of course, Vinia, like the Biblical Simon, the Cyrenean, came to the rescue of the appellants by stating that he was the one who wounded deceased Capua, and the defense wants this Court to believe him because, he testified at the risk of self-incrimination. But as remarked by the Solicitor General, "The fact, however, is that his (Vinia's) version, far from being self-incriminating, is exculpatory, in that it constitutes self-defense and defense of a stranger. If great caution has always been exercised in accepting the confession of a stranger to the information, the more so in this case, where the declarant Brigido Vinia, without risk to himself, could relieve all the accused of criminal responsibility". It should be noted that Vinia as the chief of the security guard of their group, the M.S.A., was a loyal follower of Felipe Lumantas.

The alibi of appellant Opay and Edilberto Lumantas, aside from its inherent weakness, is not corroborated by any reliable proof, except their own incredible testimony. In the face of the direct and positive testimony of witness Colaljo, who described their respective participation in the Commission of the crime, the alibi dwindles into nothingness. There may exist contradictions and inconsistencies in Colaljo's declaration in court, but they are due to human imperfections, and to lapse of time. Moreover, they refer to unimportant facts which did not at all affect the witness' veracity.

On the whole, We are satisfied, that there was a frontal clash between two groups, where men from each group have suffered injuries and even death. In order to find out who started the aggression, We should look into the motivations of each group. There were rivalries and jealousies between the two groups of settlers on the acquisition of lands. In the afternoon in question, the three appellants went to Tambakan, to the lot claimed by Jesus Nemelda of the MSA group, and upon summons of the latter, to stop the group led by the deceased Capua from clearing it. Both groups were armed, Felipe Lumantas' group, as a matter of precaution and ready for any emergency which might arise in expeditions of that kind, and Capua's group, because they were doing clearing works. It is not hard, therefore, to understand that Felipe Lumantas and his men went to Capua to ask for an explanation why they were invading Nemelda's lot and not having been satisfied with the explanation offered, should have started, as they did in fact start, the aggression (U.S. vs. Laurel, 22 Phil. 252). As found by the trial court, there might have been some feeling of resentment against Capt. Medalla, who allegedly called Lumantas group big "Huks" about May, 1956, and for this reason, they might have wanted to castigate him. But this is directed against Capt. Medalla, and not the group of Capua. There is nothing in the record which would show the existence of evident premeditation—that cool meditation and serious reflection—to kill Capua. It is not enough that the intention to kill arose at the moment of the aggression (People vs. Diokno, et al. 63 Phil. 601).

It can also be admitted that the thrust on the belly was delivered under treacherous circumstances, in that victim Capua was held prostrate to the ground; but this was a phase of an attack, a frontal and hand-to-hand clash between two groups, ready to fight each other, both sides armed, which in its inception, was not treacherous in character (People vs. Luna, 76 Phil. 101; People vs. Canete, 44 Phil. 478).

The offense was not committed with abuse of strength. The evidence does not show that the group of about 50 Bago-Ingod settlers (MSA), did anything else but stand in the way of Capua who, according to Colaljo, wanted to escape. On the other hand, the record reveals that Capua and his companions were 15 in number, armed with bolos.

We are fully convinced, that the appellants are only guilty of the crime of homicide, with no modifying circumstance to appreciate.

The appellants, except Felipe Lumantasx are, therefore, sentenced each, to suffer and indeterminate penalty ranging from 8 years, and 1 day, of prision mayor, to 17 years, 4 months of reclusion temporal, with the accessories provided by law, jointly and severally to indemnify the heirs of the deceased in the sum of P6,000.00 and to pay the proportionate share of the costs.

Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, and Dizon, JJ., concur.

Judgment affirmed with modification.

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