

PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ELADIO BALOTOL, DEFENDANT AND APPELLANT.

G.R. No. L-1935. August 11, 1949

Ponente: OZAETA, J.

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OZAETA, J.:

This is an appeal from a sentence of the Court of First Instance of Samar convicting the appellant of double murder and sentencing him to suffer life imprisonment and to indemnify the heirs of the deceased Potenciano Sabasido and Bernardino Lacambra in the sum of P2,000, respectively, and to pay the costs.

In 1941 the deceased Potenciano Sabasido wounded the appellant. He was prosecuted for less serious physical injuries, pleaded guilty, and was sentenced to suffer fifteen days of imprisonment.

On the afternoon of May 24, 1942, the appellant saw Potenciano Sabasido for the first time since the latter was released from jail, at a cockpit in the barrio of Silaga, municipality of Santa Rita, Samar. According to the witnesses for the prosecution Sabasido was standing outside the ring close behind Bernardino Lacambra with his two hands holding the shoulders of the latter, witnessing a cockfight. The appellant approached Sabasido from behind and stabbed him with a bolo in the back. The weapon pierced thru the body of Sabasido at the abdominal region and wounded Lacambra also. Sabasido fell face downward and the appellant stabbed him again in the back near the right shoulder, the bolo again piercing thru his body. Sabasido died instantaneously and Lacambra, seven days later.

The appellant admits having caused the death of Potenciano Sabasido but denies having wounded Bernardino Lacambra. "I do not know who caused the wound of Bernardino Lacambra," he testified. According to him, while he was walking around the ring of the cockpit looking for a bet, Potenciano Sabasido saw him and said to him: "So you are the one who filed a complaint against me. I am going to kill you." At that very moment, he said, Sabasido stabbed him and hit him on the left forearm above the elbow; that Sabasido again stabbed him and hit him on his left buttock; that then he held the right arm of Sabasido with his left hand and stabbed Sabasido on the right side of his body, "which is a little bit to the back. Sabasido released my hand which was holding his right arm and then stabbed me from left to right. Then I held his right wrist with my left hand and pushed same towards Sabasido's body and I thrust him on his abdomen." After that he ran away, he said.

The accused called two witnesses, Celso Palo and Basilio Lacambra, to corroborate his story. These two witnesses testified in substance to the same effect as the accused, except that they added that it was the deceased Potenciano Sabasido who wounded Bernardino Lacambra accidentally while the accused was running away and Sabasido was pursuing him.

The trial court did not believe the testimony of the accused and his witnesses and believed that of the witnesses for the prosecution.

After a careful and thorough study of the record we agree with the trial court. The nature and the position of the

wounds of Potenciano Sabasido completely belie the theory of the defense. Both wounds pierced thru the body from back to front and could not have been inflicted by the accused in the manner claimed by him, that is to say, in a face-to-face fight. Moreover, the story of the witnesses for the defense as to how Bernardino Lacambra was wounded, namely, that Sabasido accidentally hit him while he was pursuing the appellant after the latter had wounded him twice, is unbelievable. No man with two bolo wounds thru his body, one thru the abdominal region and the other thru the thorax, could possibly run in pursuit of another. Those wounds were necessarily so fatal as to cause instantaneous death. On the other hand, the testimony of the witnesses for the prosecution as to how both Sabasido and Lacambra were wounded, is confirmed by the nature and the position of the wounds of the two victims.

The crime committed by the appellant was murder, defined and penalized in article 248, in relation to article 48, of the Revised Penal Code. Article 48 provides that when a single act constitutes two or more grave or less grave felonies, the penalty for the most serious crime shall be imposed, the same to be applied in its maximum period. The penalty for murder is reclusion temporal in its maximum period to death. Since under article 48 this penalty must be applied in its maximum period, the appellant should be sentenced to death. However, in view of the lack of the necessary number of votes to impose the death penalty, we are constrained to apply the penalty next lower in degree, which is life imprisonment.

The judgment is affirmed, with costs.

Moran, C. J., Paras, Feria, Bengzon, Padilla, Tuason, Montemayor, and Reyes, JJ., concur.

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