

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
QUIRINO BALOYO, ET AL., DEFENDANTS. QUIRINO BALOYO,
DEFENDANT AND APPELLANT.**

G.R. No. 11215. January 30, 1960

Ponente: GUTIERREZ DAVID, J.

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GUTIERREZ DAVID, J.:

The appellant Quirino Baloyo, together with Anselmo Tuares, was charged in the Court of First Instance of Negros Occidental with the crime of murder for the death of Sergio Valderrama on February 12, 1954 in the municipality of Victorias of the same province. On a plea of not guilty, they were both tried and on August 26, 1956, the trial court rendered judgment acquitting Anselmo Tuares on reasonable doubt but convicting Quirino Baloyo of the crime charged and sentencing him to suffer the penalty of death, to indemnify the heirs of the deceased in the sum of P6,000.00, and to pay 1/2 of the costs. From that judgment, Quirino Baloyo has taken the present appeal.

The record shows that appellant Quirino Baloyo was prior to 1951 a member of the labor union Federacion Obrera de Filipinas. Sometime in 1947 or 1948, he was through the imposition of the late Jose Nava, then the Supreme President of the Union, employed as a guard in the Valderrama Lumber Manufacturers Company owned by Tranquilino Valderrama in Victorias, Negros Occidental. At the end of 1951, when the license of the Federacion Obrera de Filipinas was revoked because of its subversive activities, the Victorias Labor Union was organized, appellant joining it as one of its inspectors. In that capacity he proved to be an agitator among the employees of the company. Consequently, when the Victorias Labor Union negotiated for a collective bargaining agreement with Valderrama, the latter agreed to sign the proposed agreement only on the condition that the union would not retain appellant as an employee. The president of the union, however, after the contract had been signed, did not comply with the understanding. Whereupon, Valderrama dismissed appellant as guard in the company. This dismissal caused appellant to be so embittered that he even refused to surrender the shotgun which was given to him in connection with his work in the company.

In 1952, the deceased Sergio Valderrama, son of the owner, took over the management of the company. He allowed appellant to continue living within the sawmill compound and even gave him the authority to hold cockfights therein. But in October, 1953, the new manager issued a written order, directing the transfer or removal of some stores inside the sawmill compound, the place where they stood being needed by the company. One of the stores affected was owned by the appellant. Fernando Palma, a watchman of the company who was charged with serving notice of the order to the store-owners, showed appellant a copy of the order. The latter, however, regarding the order with a feeling of unconcern, merely took the copy shown to him, saying that he would show it to the mayor of Victorias who was then the president of the Victorias Labor Union. Again, in January, 1954, the deceased manager issued another directive, this time verbal, to stop gambling like mahjong, "hantac" and monte, except on holidays. Informed of the order through Palma, appellant received the same with anger and contempt. He also made the threat that he would not leave the premises of the company without first taking someone's life,

and that if anyone should ever attempt to stop the gambling he maintained, "it will mean a finish for either of us."

This did not prove to be an empty threat, for on February 12, 1954, appellant did in fact kill Sergio Valderrama when the latter went around the mill compound to enforce his order against gambling. According to eyewitnesses, at about 7 o'clock in the evening of that day, Sergio Valderrama, driving a weapons carrier, went around the sawmill compound and stopped at the house of Pacifico Morales, one of the company workers, where he saw his own errand-man, Fernando Palma, playing mahjong. Sergio Valderrama ordered the game stopped and reprimanded the players, particularly Palma, who left abashed.

From the house of Morales, Sergio Valderrama, together with Federico Morley, mill superintendent in the lumber company, drove to appellant's place. Alighting from the vehicle, young Valderrama asked for appellant. Upon hearing Valderrama, appellant presented himself and said, "Nonoy, I am here." Valderrama asked why he was allowing gambling games to be played at night and appellant answered that he was not tolerating any gambling game. In the face of this denial, Valderrama said, "The trouble with you is that you still want to tell a lie." As appellant insisted on his denial, Valderrama said, "If that is the case, tomorrow I will have your house removed." To this appellant snapped back, "Why wait for tomorrow yet." Appellant followed his words with a flash from the flashlight he was holding focused at the face of Valderrama, and with a "talibong" (fighting bolo) simultaneously gave Valderrama a blow hitting him between the left ear and the shoulder. Prior to the attack, Valderrama was facing appellant and leaning against the weapons carrier, his left hand holding the side of the vehicle and his foot resting on the running board, while his right hand was at his waist, the thumb hooked at the belt as was his habit. Upon receiving two other blows from the appellant, he fell to the ground. Lying prostrate on his back, he was again hit by appellant on the forehead. Appellant then stooped to get the gun from its holster at the victim's waist. At this juncture, Federico Morley, in an attempt to help the victim, approached, but appellant noticing his presence, also hit him with the bolo, saying, "So you want also to intervene". Wounded in the arm, Morley fled, with appellant firing some shots at him.

Sometime in the evening of that day, the chief of police of Victorias received a phone call informing him that appellant Baloyo had attacked Sergio Valderrama. When he was going out of the municipal building, a weapons carrier arrived and he saw appellant alight from it. Yielding a bolo and a .30 caliber revolver, appellant admitted to the chief of police that the bolo was the one he used in slaying the deceased.

Thereafter, the chief of police, together with Dr. Jose Abaquin, municipal health officer of Victorias, went to the scene of the killing at the sawmill compound. There the physician found the victim already dead with four gaping wounds. After making a post-mortem examination, the doctor issued the corresponding certificate describing the wounds and setting forth his findings as follows:

"1. Clean cut wound, incise, about 12 cms., long, gapping and exposing part of the brain at the right parietal region of the head, running about 3 cms. to the right and parallel to the sagittal line.

"2. Clean cut, open wound, incise about 20 cms. long, gaping at the left mandibular region extending about 1 cm. from the symphysis menti running posteriorly to the nape of the neck cutting the skin subcutaneous tissues, muscles, blood vessels and piercing the mandible and the cervical vertebra.

"3. Clean cut, open wound, incise, about 14 cms. long, gaping, at anterior portion of the base of the neck extending from the left lateral limit of the neck and perpendicular to the long axis of the neck, cutting the skin, subcutaneous tissues, muscles and completely severing the trachea, esophagus and large blood vessels.

"4. Clean cut, open wound, incise about 22 cms., long, gaping at the upper anterior portion of the thorax, running obliquely from a point about 2 cms. to the left of the right nipple going towards the left shoulder and cutting the skin, subcutaneous tissues, muscles, a portion of the sternum and ribs exposing part of the right lung

and part of mediastinum.

"Death was due to hemorrhage and severe shock." (Exh. A.)

Appellant admitted having boloed and killed the deceased but claimed that he acted in self-defense. He testified that when the weapons carrier carrying deceased Sergio Valderrama and Federico Morley stopped in front of his house, he was inside putting his children to sleep. When he went out, he saw Sergio and Morley alight from the vehicle and proceed to the kitchen, apparently in the belief that there was gambling in the house. As he went to the place where the weapons carrier was, Sergio and Morley appeared from behind the house and approached. On seeing him, Sergio angrily shouted, "You, Quirino Baloyo, you are making foolishness here. Why are you making abuse in the company." Appellant Baloyo answered, "Nonoy, I am not making any abuses here." But Sergio shouted the more, "How about your complaint against Rolando Fuentesbella, the logging superintendent and Tranquilino Dipalan, Chief Timekeeper, is it not that you are trying to press them of the housing facilities." Lying to Sergio because he was afraid of him, appellant said, "Nonoy, I did not say those words." Sergio, however, insisted that he was telling a lie and gave him a fist blow which landed on his left breast. As appellant staggered and leaned at the side of the weapon carrier, his right hand dropped on the floor of the front seat of the weapons carrier where the gear shift was and "by the will of God" he was able to get hold of a bolo that was there. While in that position, he saw the deceased pull his pistol which he, appellant, was able to ward off with left hand. The gun exploded. To defend himself, appellant struck the deceased with the bolo, not knowing how many times he did so.

After going over the record, we agree with the lower court that appellant's story of self-defense must be rejected. It does not seem likely that the deceased, who was shown to be a man of kindly disposition, would take an aggressive attitude as that pictured of him. As observed by the trial court, the deceased adopted a policy of attraction in his dealings with appellant even after he was dismissed from the company, allowing him to live in the sawmill compound despite his order of removal and giving him a site to hold cockfights. And immediately previous to the incident, when he caught red-handed some company workers playing mahjong in violation of his order, he merely stopped the game and reprimanded the players. On the other hand, appellant was a troublemaker, stubborn and a philosophaster. Before the incident he was heard to have voiced a resolve or determination not to leave his place within the mill compound in defiance of the order of the deceased manager of the company for him and others to transfer their stores to other sites. He also made a threat of taking someone's life if the gambling he maintained were to be stopped. Rebellious and belligerent by nature and faced with the loss of the means from which he had been eking out a living for himself and his family, appellant had more reason to take the aggressive attitude.

We find it equally hard to believe that appellant could have taken hold of the bolo, which was lying, according to him, on the floor matting near the clutch of the weapons carrier, when he was boxed by the deceased causing him to stagger against the vehicle. It would be more natural for him to have taken hold of some other parts of the vehicle in an effort to maintain his balance, it being the natural tendency of a person falling to strive to steady himself. At any rate, the evidence on record shows that the bolo did not come from the weapons carrier. Several witnesses testified that it was given to appellant by his co-accused, one of those witnesses being Florencio Villapaña, who was specifically mentioned by appellant as his friend.

Appellant, insisting that he got the bolo from the weapons carrier in the manner testified to by him, also disclaimed ownership thereof. Federico Morley, companion of the deceased in the weapons carrier, however, denied having seen the bolo before it was used by appellant in killing the deceased. On the other hand, Lourdecita Certicio testified that the bolo used in the slaying was bought by appellant from her and her husband in August, 1953. The credibility of this witness had not been impeached and "the ways she comported herself on the witness stand" impressed the trial court "that she was a candid witness."

In the course of his testimony, appellant declared that when the deceased boxed him with his right hand, the former had nothing in his left hand. He, however, changed his testimony and said that when the deceased gave the first blow, the pistol was "still on his left hand." Again, he changed his testimony saying that after delivering the first blow, the deceased followed it by drawing his pistol with his right hand. The ease in which he could change his testimony—not to mention his brazen statement that it was only at the age of 41 that he came to know it was bad to lie and his repeated, unabashed and irreverent mention of the name of God and the Holy Scriptures in the course of his testimony—tends to confirm the trial court's observation as to appellant's propensity for falsehood. Be that as it may, appellant's claim that he killed the deceased in lawful self-defense will not hold water when considered with the proven fact that the deceased had not drawn his revolver at the time he was boloed, as testified to by several witnesses, one of whom was Federico Morley, who tried to grab the pistol from the side holster of the deceased but was boloed in the arm in the attempt. That the deceased did not draw his pistol is confirmed by the fact that during the post-mortem examination conducted immediately after the incident, the thumb of his right hand was found still hooked at his belt.

The crime committed is murder, qualified by treachery, it appearing that the assault was made suddenly and unexpectedly, preceded by the focusing of a flashlight at the face of the deceased to temporarily blind his vision, which tended to insure the killing without affording the latter the least opportunity of defending himself. The trial court found that the crime was committed with the aggravating circumstances of nocturnity, evident premeditation and obvious ungratefulness. The circumstance of nocturnity, however, should not be taken into consideration because it was absorbed by the treachery employed. Moreover, it was the deceased who went to appellant's premises and the latter did not deliberately seek nighttime to commit the crime. Neither can the aggravating circumstance of evident premeditation be appreciated, the evidence not being conclusive on this point. As stated by the Solicitor General, the threat of appellant to take someone's life was conditional in that it was contingent on whether he would be forced to move out from the compound and ordered to stop the gambling games he maintained in his house. At most, appellant only expressed a determination to commit a crime, which is entirely distinct from the premeditation which the law requires to be well defined. Besides, as already stated, the appellant did not seek out the deceased in order to kill him. It was the latter who passed by the house of appellant, and it was then that the tragedy occurred.

There is, however, sufficient evidence to support the trial court's finding that the aggravating circumstance of obvious ungratefulness attended the commission of the crime. It has been shown that appellant had for a number of years been allowed by the deceased to live and even maintain a store in the premises of the company without requiring him to pay rent. He was also given a cockfight site where he could hold cockfighting. This aggravating circumstance, however, is offset by the mitigating circumstance of voluntary surrender so that the penalty prescribed for the offense should be imposed in its medium degree, or reclusion perpetua. The penalty imposed by the court below should, therefore, be adjusted accordingly.

Wherefore, with the modification that appellant is hereby sentenced to reclusion perpetua, the decision appealed from is affirmed in all other respects, with costs against appellants.

Paras, C. J., Bengzon, Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Endencia, and Barrera, JJ., concur.

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