

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. THE MOROS LUKES (ALIAS PAKIRA DATU), MANIGCAN, SANDO, AND AMANI BULU, DEFENDANTS AND APPELLANTS.

G.R. No. 11314. July 28, 1916

Ponente: JOHNSON, J.

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JOHNSON, J.:

It appears from the record that on the 31st of May, 1915, a complaint was presented in the court of the justice of the peace of the municipal district of the Province of Cotabato, accusing said defendants of the crime of homicide. A preliminary examination was held by said justice of the peace on the 1st of June, 1915. After said hearing, the justice of the peace found that there was reasonable ground for believing that the said four defendants were probably guilty of the crime charged in the, complaint, and ordered them held for trial in the Court of First Instance.

On the 1st of September, 1915, the assistant prosecuting attorney for the Province of Cotabato presented a complaint in the Court of First Instance, charging said defendants with the crime of homicide. The complaint alleged:

"That on or about the 31st of May, 1915, in the sitio of Bakung, municipal district of Nuling, Province of Cotabato, Department of Mindanao and Sulu, P. I., the said accused, armed with various kinds of cutting weapons called krises, bolos, and kampilan, willfully, intentionally, illegally, and feloniously struck therewith one Maining, inflicting upon him serious wounds in various parts of his body, to wit; on the shoulder, near the left breast, which affected the heart, on the head and on the rump, in consequence of which injuries said Maining died on the spot. Act committed in violation of law."

The defendants were duly arraigned upon said complaint, each pleaded not guilty, and the cause proceeded to trial. After hearing the evidence, the Honorable George N. Hurd, judge, found that each of the defendants was guilty of the crime of homicide as described in the complaint and sentenced the said Lukes, alias Pakira Datu, to be imprisoned for a period of 10 years of prison mayor; the defendants Manigcan and Sando each to be imprisoned for a period of 4 years of prison correctional, and Amani Bulu to be imprisoned for a period of 6 years of prison correctional. The said defendants were further sentenced to indemnify the heirs of the deceased, Maining, in the sum of P1,000 and the defendants, Amani Bulu, Manigcan, and Sando, in case of insolvency, to suffer subsidiary imprisonment in accordance with the provisions of the law, together with the accessory penalties mentioned in article 61 of the Penal Code and each to pay one-third part of the costs. From that sentence each of the defendants appealed to this court. In this court an attorney de officio was appointed to represent them.

The attorney for the appellants in this court, after a careful examination of the record, reached the conclusion that there was nothing in the same upon which he could base a plea for a modification of the sentence imposed in the trial court, in favor of the defendants.

The Attorney-General, in a carefully prepared brief, reached the conclusion that the sentence of the lower court

should be affirmed.

That the Moro Maining mentioned in the complaint was killed by the defendants is not only fully proved by the record, but is admitted by them. The defendants not only admit that they killed the said Maining, but each of them, in a more or less degree, describes the manner in which he was killed and the method employed by them for that purpose. There is an effort on the part of the defendants to show that they killed the said Maining in self defense; that they had been attacked by the said Maining and that in their effort to repulse the attack they killed him. The record shows that a quarrel arose between the said Maining and the defendants over a certain farm implement called a ligis. It appears from that record that the said ligis was in the possession of Maining; that the defendants attempted to take possession of it; that Maining objected; that a fight ensued; that all of the defendants joined together in attacking Maining, each one of them inflicting one or more wounds upon him as a result of which Maining died immediately. While the most serious blow seems to have been inflicted by the Moro Lukes, alias Pakira Datu, the record shows that each of the defendants took a direct part in the commission of the crime charged, and that they were, so far as the record shows, equally guilty of the intent to commit the crime which they actually did commit. While there may have been some quarrel between the defendants and the deceased concerning the possession of the said ligis, the record discloses no sufficient reason for the commission of the crime which the defendants committed. If the defendants were entitled to the possession of the said implement, the law afforded them a remedy. They had no right to take the law into their own hands. One of the purposes for which governments are organized is to settle differences between its people, such as existed in the present case. When differences exist, such as the defendants allege existed in the present case, they should quietly and peaceably refer the same to the authorities constituted for the purpose of settling such questions. By referring such questions to the constituted authorities, public order is maintained and crimes such as the present are avoided.

The sentence of the lower court contains no reason for imposing the penalties which were imposed. Neither aggravating nor mitigating circumstances are mentioned as a cause or reason for imposing different sentences upon the defendants. We have examined the record in vain to find any mitigating circumstance or circumstances justifying the conclusions of the lower court with reference to the sentences imposed. Evidently the penalty was imposed in the minimum degree by virtue of the provisions of article 11 of the Penal Code as amended by Act No. 2142.

The penalty provided for the crime of homicide is reclusion temporal. Taking into consideration the fact that there were neither aggravating nor mitigating circumstances, the ignorance of the defendants, and the provisions of article 11, as amended, we are of the opinion that the defendants should be sentenced in the minimum degree of reclusion temporal. Therefore the sentence of the lower court is hereby modified and it is hereby ordered and decreed that a judgment be entered in which each of the defendants shall be sentenced to be imprisoned for a period of twelve years and one day of reclusion temporal with the accessory penalties of article 59 of the Penal Code, and each to pay one-fourth part of the costs. So ordered.

Torres, Moreland, Trent, and Araullo, JJ. concur.

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