

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. DARIO PADILLA, DEFENDANT AND APPELLANT.

G.R. No. 11597. August 01, 1916

Ponente: TORRES, J.

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TORRES, J.:

About 4 o'clock on the morning of the 5th of April, 1915, Dario Padilla left his house and started for the woods in order to gather bejuco. On passing by the house of Severino Mateo, which was not very far distant from his own, he was observed by Severino, who invited him to accompany him fishing; Padilla refused to go and continued on his way. A little later on he remembered a box of matches that he had left at home and immediately returned to get it. On entering the house he surprised Severino Mateo in the act of holding his (Dario's) wife by the hands, evidently with the intention of abusing her. Blinded by passion and in defense of the honor of his wife, he struck the aggressor with a bolo which he was carrying and inflicted two wounds on Severino, one on the left forearm and the other on the left thumb, of which wounds the more serious one took over sixty days to cure and rendered the left hand useless.

The injured person Severino Mateo testified that on the morning referred to, in company with Fortunato Agcaoili, his brother-in-law, Enrique Agtang, and Bernardino Telan, he went to the house of the accused to invite the latter to go fishing and, notwithstanding that the wife, on being asked the whereabouts of her husband, replied that Padilla was absent, Mateo entered the house for the purpose of lighting a cigar by the lighted lamp inside, and it was when he was leaving the house that Dario Padilla suddenly appeared and immediately attacked him and inflicted the wounds referred to.

The accused admits having attacked Severino Mateo, but he alleges that he acted in lawful defense of the person and honor of his wife when he saw that Severino was holding her by the hands, evidently with lewd designs, he having found near the door of the house the hat which Severino Mateo had been wearing, together with a box of matches.

Of the three companions of the injured party, Fortunato Agcaoili, his brother-in-law, testified that although the accused was away from his house, according to the answer given by his wife, Severino Mateo entered therein for the alleged purpose of lighting his cigar and, without hearing any noise or disturbance whatever in the interior of the house, a few moments later his brother-in-law, Severino Mateo, came out and displayed a wound on the left forearm; on seeing him in this condition he called upon his two companions Agtang and Telan, who were some distance away, as was also the witness, and that he did not see the accused Dario Padilla when the latter entered the house. Enrique Agtang, one of the three companions of the injured party, testified that he heard Agcaoili call to them and, on approaching, he found Severino Mateo injured and hatless; that on that morning he did not see the accused Dario Padilla.

It cannot be doubted that Severino Mateo was attacked by the accused Padilla in the latter's house on the morning of the date mentioned; that the latter inflicted, by means of a bolo, a serious wound on the left forearm and a lesser

wound on the left thumb of the injured party, but it is also shown that the accused, in inflicting these wounds, acted in defense of the person and rights of his wife, Tomasa Barot, at the moment when Severino Mateo was surprised holding his wife by the hands with the intention, as declared by the wife, of lying with her; and as from the proceeding it does not appear that either the wife or the husband provoked or gave any occasion to Mateo to enter the house where the wife was alone at that unseasonable hour of the morning, or that they gave him any excuse for acting in the manner he did in attempting to violate the honor of the said woman with whom he attempted to lie by force and, in order to repel and prevent this attack, the husband found himself obliged to employ rational means, whereupon, availing himself of the only weapon which he possessed and which he seized the first thing under the impulse provoked by the disagreeable surprise of seeing Mateo at grips with his wife, the accused is undoubtedly exempt from all responsibility under article 8, paragraph 5 of the Penal Code, for having made use of his legitimate right in the premises.

The testimony of Fortunato Agcaoili confirms the statement that although Dario Padilla was absent, his brother-in-law, Severino Mateo, entered the house on the futile pretext of lighting his cigar at a lamp within, a thing which he had no need to do, because when, on being surprised by the offended husband, he fled, a box of matches was found in his hat which was lying near the door.

For the rest, the foregoing testimony of the witness Agcaoili can in no manner affect the certainty of the facts as they occurred, or the testimony of the offended woman, since it is certain that the said witness remained at a considerable distance from the house where the affair took place, and that if he was aware of the intention of his brother-in-law, he did not wish to testify to the truth. But the best proof that he was quite a distance away was that he did not see the husband when the latter entered the house and surprised his brother-in-law Mateo struggling with his wife; neither did Agcaoili's other companion, Enrique Agtang, see the said husband, and it may be held that Severino Mateo, knowing that the accused was absent from the house, went there and entered alone, with lewd designs.

For the foregoing considerations, the judgment of the lower court should be and is hereby reversed, and we absolve Dario Padilla as being exempt from all criminal responsibility, with the costs of both instances de officio. So ordered.

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

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