

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. TOMAS DOMINGO 1ST ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 12926. January 21, 1918

Ponente: MALCOLM, J.

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MALCOLM, J.:

This is an appeal by the seventeen defendants from a judgment rendered by the Honorable Francisco Santamaria, judge of the Third Judicial District, finding Tomas Domingo the First, Tomas Domingo the Second, Catalino Domingo, Isidro Domingo, and Teodorico Domingo guilty as principals of the crime of homicide and sentencing each of them to imprisonment for a period of twelve years and one day of reclusion temporal, with the accessory penalties provided by law, and finding Luciano Tolentino, Policarpio Domingo, Donato Pascua, Rosendo Quelnat, Servando Viernes, Anacleto Pascua, Cesareo Domingo, Geronimo Viernes, Eugenio Julian, Marciano Mateo, Bruno Mateo, and Fortunato Mateo guilty as accomplices of the crime of homicide, and sentencing each of them to imprisonment for a period of six years and one day of prision mayor, with the accessory penalties provided by law. The five principals were further condemned jointly to indemnify the heirs of the deceased Pio Victoriano in the amount of P1,000. Finally, each of the defendants was sentenced to pay one seventeenth part of the costs. During the pendency of the appeal, Teodorico Domingo died, and the appeal as to him has been dismissed with one seventeenth part of the costs de officio.

We find the facts to be as follows: A certain piece of land in the municipality of Piddig, Ilocos Norte, had been sought as a homestead by two factions. In November, 1916, the property apparently was held in the name of Caridad Bolibol, widow of Lorenzo Andres. Rice had been planted on the property by the servants of the widow. Members of the opposing party, including Pio Victoriano, coming upon the land on November 11, 1916, proceeded to harvest the rice. The retainers of Caridad Bolibol offered objection but no serious trouble ensued. That same night it is probable that the adherents of Caridad Bolibol gathered at the house of Tomas Domingo the First, the lieutenant of the barrio, and received instructions from him to meet early on the following morning so as to kill their enemies from Laoag. At any rate, on the following day, November 12, 1916, the seventeen defendants proceeded to the field in question. Meeting Pio Victoriano and his companions, Tomas Domingo the First exclaimed in a loud voice, "Here are the people of Laoag; take your clubs and we will kill them all." Thereupon, Tomas Domingo the First and those with him attacked Pio Victoriano and his companions and so seriously assaulted Victoriano as to cause his death soon after. Tomas Domingo the First, Tomas Domingo the Second, Catalino Domingo, Isidro Domingo, and Teodorico Domingo were those who struck Victoriano on the head and hit him after he was down. The other twelve stood around, brandishing their clubs to keep their victim from escaping.

The defendants tried to convince the lower court that four of their number were attacked by four of the men of Laoag, that those four defendants in self-defense each struck one of their adversaries, and that immediately each of those four defendants was seized and held by two other defendants to prevent further fighting. This story, however, is unreasonable, and is inconsistent with the facts substantiated by numerous witnesses for the

prosecution, and corroborated by the statements of the defendants directly after the affray and the presence of fourteen clubs picked up by the police in this field after the fight. While there may be some question as to the exact cause and details of the homicide, there is certainly none as to the criminal responsibility of the defendants.

The lower court convicted the defendants of homicide qualified by no aggravating circumstance and mitigated by the circumstance of lack of education. It would be possible, in accordance with the proof, to find the defendants guilty of murder because of the presence of premeditation. It might be possible also to make use of the aggravating circumstance of advantage being taken of superior strength. But there existing in the minds of a majority of the court some doubt as to the concurrence of premeditation and of any aggravating circumstance, such doubt must be resolved in favor of the accused: It results, therefore, that the penalty imposed by the lower court on the four principals and the twelve accomplices is in accordance with law. One exception to this statement is regarding the order of the court that the principals pay jointly an indemnity of P1,000 to the heirs of the deceased Pio Victoriano. Article 125 of the Penal Code makes no such distinction between the civil liability of principals and accomplices. Accordingly, this order of the lower court must be modified so as to make the defendants and appellants liable in solidum in the order established in said article 125 to pay an indemnity of P1,000 to the heirs of the deceased Pio Victoriano. Each defendant and appellant shall pay one-seventeenth part of the costs of this instance with one-seventeenth part of the costs declared de officio. So ordered.

Arellano, C. J., Torres, Johnson, Araullo, Street, and Avanceña, JJ., concur.

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