

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. PEDRO RAMIREZ, DEFENDANT AND APPELLANT.

G.R. No. 24084. November 03, 1925

Ponente: VILLAMOR, J.

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VILLAMOR, J.:

The appellant was sentenced by the Court of First Instance of Ilocos Norte, for the crime of homicide, to the penalty of fourteen years, eight months and one day of reclusion temporal, to indemnify the mother of the deceased in the sum of P500 and to pay the costs.

On the night of February 18, 1923, one Bartolome Quiaoit invited Pedro Ramirez, the accused herein, Victoriano Ranga, the deceased, and Agustin Menor to hunt in the mount Balitok of the municipality of Nueva Era, Province of Ilocos Norte. The three last named proceeded to hunt, leaving Bartolome Quiaoit in a hut approximately 1 kilometer from the place where the act complained of took place. Upon the hunters having arrived at a place in mount Balitok, Pedro Ramirez, who was carrying the shotgun of Bartolome Quiaoit with a lantern, happened to hunt a deer, and then he told his companions to stay there and watch over the prey while he entered the forest to get it. Thus Victoriano Ranga and Agustin Menor were waiting when suddenly the report of the shotgun was heard hitting Victoriano Ranga in the eye and the right temple, who thereafter died on that night as a result of the wounds.

It does not appear that the matter was judicially investigated until the month of October, 1924, when the complaint was filed which initiated this proceeding.

The only witness who could testify upon the act complained of is naturally Agustin Menor who was near the deceased when the latter was shot. According to Agustin Menor, the defendant, after having gotten the first prey, told his companions to stay there, while he (Pedro Ramirez) was leaving them to go on hunting, and "when he was far away, he fired the shotgun," hitting the deceased Victoriano Ranga. It must be noted that the witness Agustin Menor changed his first testimony that "when he was far away, he fired the shotgun," by saying afterwards, "When Pedro Ramirez was a little away, he turned toward us and fired." And to make it more specific, the defense moved that the translation of the testimony of the witness be corrected and "the interpreter of the court caused it to be stated in the record that the true testimony of the witness was as follows: "Pedro Ramirez caused me and Victoriano Ranga to stay in the mount, telling us: 'Brothers, you stay here and I am going up to hunt with the lamp' and then after he has gone away, he (Pedro Ramirez) turned toward us and fired."

On the other hand the defendant, testifying as witness in his behalf, admits being the author of the shot which caused the death of Victoriano Ranga; that on that night after getting the first prey, he told his companions to stay there, watching over the prey, while he was going away looking for another; and so he did, because otherwise it would have been hard for them to find the prey, if no one would have been left there; that being far away from his companions, he seemed to have seen with his lantern something like the eyes of a deer about fifty meters from him and then he shot it; but much to his surprise, on approaching what he thought was a deer, it proved to be his

companion Victoriano Ranga. The same witness says that he did not expect to find his companions in that spot, for he had warned them not to leave, but they left, the place.

The testimony of the two witnesses as to the distance of the accused from them when he fired the gun for the second time is contradictory. On the other hand, there is not in the record any circumstance as to whether or not the deceased and the witness Agustin Menor were in the same place where they were left by the defendant, when the latter fired. The night being dark like that when the event took place, the hunter in the midst of a forest without paths is likely to get confused as to his relative situation; and after walking around, he may think having gone very far, when in fact he has not, from the point of departure. And so, judging the case from what the two witnesses Agustin Menor and Pedro Ramirez have testified to, and taking into account that there existed no motive whatever for resentment on the part of the defendant against the offended party, we are compelled to conclude that the act complained of constitutes homicide through reckless imprudence. The defendant, who was carrying a firearm to hunt at nighttime with the aid of a lantern, knowing that he had two companions, should have exercised all the necessary diligence to avoid every undesirable accident, such as the one that unfortunately occurred on the person of Victoriano Ranga.

While the fact that the defendant, a few days after the event, has offered to the mother of the deceased a carabao and a horse by way of indemnity, indicates on the one hand that the defendant admitted the commission of the crime, on the other it shows that he performed the act without criminal intent and only through a real imprudence.

The defense alleges that the trial court must have solved the reasonable doubt in favor of the defendant. After considering carefully the evidence and all the circumstances of the case, we are of the opinion and so hold that the defendant is guilty of the crime of homicide through reckless imprudence, and must be punished under paragraph 1 of article, 568 of the Penal Code.

Wherefore the penalty of one year and one day of prision correccional, with the accessories prescribed by the law, must be imposed upon him, and with this modification, the judgment appealed from is affirmed in all other respects, with the costs against the appellant. So ordered.

Avanceña, C. J., Street, Malcolm, Ostrand, Johns, and Villa-Real, JJ., concur.

Romualdez, J., dissenting in part: I believe that the guilt of the defendant is only under paragraph 2 of article 568 of the Penal Code.

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