

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. BRUNO SOMONTE AND ALFREDO SOMONTE, DEFENDANTS AND APPELLANTS.

G. R. No 24400, March 16, 1926

Ponente: OSTRAND, J.

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OSTRAND, J.:

The defendants are accused of the crime of murder, the information alleging "that on or about June 17, 1924, in the municipality of Lumbang, Province of Laguna, Philippine Islands, the accused, being father and son, voluntarily, illegally and criminally, with premeditation and treachery, conspiring together and aiding each other and with deliberate intention to kill, attacked and assaulted Perfecto Abiog with bolos which they were carrying and with the aid and cooperation of four dogs belonging to them, inflicting on said Perfecto Abiog various wounds, necessarily mortal, in the head and on different parts of the body, which wounds were the direct and only cause of the immediate death of said Perfecto Abiog." The court below found them guilty of homicide and sentenced each of them to suffer fourteen years, eight months and one day of reclusion temporal, with the accessory penalties prescribed by law, to indemnify jointly and severally the heirs of the deceased Perfecto Abiog in the sum of P1,000, and to pay the costs. From this sentence both of the defendants appealed to this court.

Though the defendants assert that the fatal wounds were inflicted by Alfredo Somonte only, there can be no doubt whatever that both of them participated in the commission of the crime and the only question for determination is whether the killing of the deceased was justified on the ground of self defense.

The crime was committed in the evening of June 17, 1924. Earlier in the day the deceased and the defendants were aiding some of their neighbors in planting rice in adjoining fields. While they were resting after the noon meal, the defendant Bruno Somonte accused Perfecto Abiog, the deceased, of having allowed his carabaos to destroy his, Bruno's, cornfield. Abiog answered that that could hardly be possible because Bruno's dogs had driven the carabaos away before any damage had been done to the cornfield. After some further rather acrimonious remarks Bruno drew his bolo and attacked Abiog with it, but only succeeded in striking Abiog's hat (salacot) which fell to the ground. Through the intervention of the other persons present, Bruno and Abiog were separated from each other. There is some testimony to the effect that upon being so separated, Bruno said to Abiog: "You will have supper in heaven tonight" and that he said to his son, the other defendant Alfredo Somonte, who was then present: "If you cannot fight Perfecto Abiog, I will kill you."

About 6 o'clock in the afternoon of the same day Abiog, after caring for his carabaos and picketing them on his land a short distance from the house of the accused, went over to the house of one Teodora Mercado in the same vicinity. Upon arriving there he seated himself on a bamboo bench or lancape under the house and asked Teodora for some buyo which he proceeded to chew. According to the testimony of the witnesses for the prosecution, while Abiog was sitting on the bench, the two accused armed with bolos came to the house. Bruno approached Abiog and began to renew the quarrel had earlier in the day. During the ensuing discussion, he saw his chance to

grasp the handle of Abiog's bolo, a fighting bolo about 15 inches long, and drawing it from its scabbard dealt Abiog a blow with it on the left cheek. Abiog succeeded in picking up a dull working bolo belonging to Teodora Mercado with which he defended himself, but being attacked from behind by Alfredo Somonte and molested by the defendants' dogs, he finally fell to the ground. While he was lying on the ground, Alfredo continued to inflict wounds upon him and he died almost instantly. The body of the deceased exhibited fourteen wounds and ten dog bites. Seven of the bolo wounds were in the back of the head, each of them necessarily fatal.

The defendants' story is to the effect that Abiog harbored resentment against them because they had set their dogs on his carabaos as a result of which the carabaos were badly wounded, and that Abiog was the aggressor on both of the occasions referred to in the evidence for the prosecution. As to what happened at the house of Teodora Mercado, they testify that while looking for two of his dogs, Bruno came to Teodora's house and found Abiog there; that not finding the dogs Bruno was about to leave the house when Abiog arose and placing his hands on the handle of his bolo, said: "It is a happy coincidence that I have seen you again;" that Abiog thereupon drew the bolo and attacked Bruno who defended himself with his own bolo; that by reason of the lack of headroom under the house and the consequent difficulty of swinging their bolos, neither of the two were wounded during the struggle which took place there; that Bruno stumbling over a pile of wood, fell outside of the house where the fight continued and that Abiog there succeeded in inflicting two wounds on him, one on the right shoulder and the other on the left side of the face; that from the effect of these wounds Bruno began to stagger and dropped his bolo without having been able to wound Abiog; that at that moment Alfredo arrived and seeing his father in danger of being killed drew his bolo and attacked Abiog; and that during the ensuing struggle between them Alfredo succeeded in disarming Abiog by applying a jiu jitsu trick which Abiog himself had taught him; that Abiog then reached for Bruno's bolo and knowing that Abiog was an expert fencer and that he might be victorious if the struggle continued, Alfredo gave him a bolo cut in the back of the head and Abiog fell to the ground where Alfredo inflicted several more wounds upon him so as to be sure of incapacitating him for further aggression. Alfredo also states that in disarming Abiog it was necessary for him to grasp the blade of the latter's bolo and that in doing so, three of the fingers of his left hand were wounded. The wounds were not serious and, according to the certificate of the physician who examined them, would require only twelve days for their healing.

For various reasons we cannot accept the defendants' version of the occurrence. It is in conflict with their statements made to the justice of the peace and the chief of police immediately after the commission of the crime and is otherwise somewhat improbable. It is shown by the defendants' own uncontradicted testimony that the deceased was an expert bolo fencer and had been giving lessons in the art to a class of which Alfredo Somonte was a member for several months. It is also shown and not contradicted that his bolo was very sharp and being a fighting bolo, it must have had a sharp point. If so, it seems incredible that Abiog should have been unable to wound Bruno during the struggle downstairs in the house if he had been armed with his own bolo and had the intention of injuring the latter. The vertical distance from the ground to the floor of the upper story was sufficient to enable a man of ordinary height to stand upright. Under these circumstances an expert fencer could, and undoubtedly would, have used the point of the bolo. The testimony for the prosecution that during the struggle Abiog was armed only with Teodora Mercado's working bolo, seems much more probable.

It is also to be noted that the defendants claim that Abiog was using his own bolo, which had a very sharp edge, and that he was unwounded at the time Alfredo entered into the struggle. If so, it seems rather improbable that Alfredo could have grasped the blade of that bolo and wrested it from his adversary without receiving more serious cuts on the inside of his hand than those exhibited by him; it is more likely that the bolo he grasped was a dull working bolo and that Abiog was in a wounded condition when the bolo was taken away from him.

The dog bites found on the body of the deceased also show that the defendants did not tell the truth on the witness

stand. Their counsel suggest that the bites might have been inflicted by hungry dogs after the death of Abiog and while his body was lying on the ground in front of Teodora Mercado's house, but if that had been the case the wounds would have had a different appearance and would not have been found only on the legs of the body.

Counsel for the defendants call attention to various discrepancies and minor contradictions in the testimony of the witnesses for the prosecution and insist that for this reason their testimony should be disregarded. We do not think so. It is possible that some of the witnesses allowed their imagination too wide a range and made positive statements as to facts of which they were not certain from their own observation, but after a careful examination of the record we are convinced that they in the main told the truth. Absolute accuracy in statement of details can hardly be expected from comparatively ignorant witnesses.

That Teodora Mercado at first failed to disclose all the facts to which she afterwards testified does not necessarily render her testimony unworthy of belief. The crime was committed at her house; her bolo was used by one of the contending parties and probably had blood on it; and upon the arrival of the chief of police at her house for the purpose of investigating the crime, she was threatened with being handcuffed. In these circumstances, it is no wonder if she, as she states, failed to make a complete statement of the facts for fear of becoming involved in the case.

Citing section 343 of the Code of Civil Procedure, it is also argued by counsel for defense that no sufficient foundation was laid for the admission in evidence of Exhibits J and K and that therefore these documents should not have been taken into consideration by the court below. This contention is not tenable. The exhibits in question are signed statements made by the defendants to the justice of the peace shortly after the commission of the crime.

The documents were shown to the defendants and their authenticity admitted before any questions were asked concerning their contents, and full opportunity was given the defendants to explain. That, in our opinion, is a sufficient compliance with the section cited where the statements sought to be introduced for the purpose of impeaching the witness are in writing.

The defendants having failed to establish their plea of self-defense, the judgment appealed from is hereby affirmed with one-half of the costs of this instance against each of the appellants. So ordered.

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

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