

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. GREGORIA BINGAAN, DEFENDANT AND APPELLANT.

G. R. No. 24937. March 20, 1926

Ponente: JOHNS, J.

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JOHNS, J.:

STATEMENT

The appellant was charged in the Court of First Instance of Oriental Negros with the crime of parricide in the following information:

"That on or about June 7, 1925, in the municipality of La Libertad, Oriental Negros, Philippine Islands, and within the jurisdiction of this court, the aforesaid accused willfully, unlawfully and feloniously, with premeditation, treachery, nocturnity and trespass to dwelling (sic) did attack and wound her husband, Gaspar Balbuena, with a knife, inflicting upon him several wounds, as a consequence of which said Gaspar Balbuena died a few hours thereafter; contrary to law."

She was found guilty and sentenced to cadena perpetua, with the accessory penalties, to pay an indemnity of P1,000 to the heirs of the deceased, and the costs, from which she appeals, contending that "the lower court erred in not acquitting the defendant of the crime charged."

JOHNS, J.:

In analyzing the evidence, the Attorney-General says:

"It is an undisputed fact that the accused killed her husband Gaspar Balbuena. It has been established also, in our opinion, that there was an unlawful aggression on the part of the deceased. The only witness of the occurrence was the accused, and her uncontradicted testimony on this point is so cogent and reasonable that it has to be accepted. No sufficient motive for the accused to kill her husband has been proved. The more or less strained relations existing between them, due to the jealousy of the husband, could not, we believe, have induced her to kill him in the manner she did. If her husband was sleeping or lying down, according to his dying declaration, when he was stabbed, one thrust of the knife, at some vital part of his body would have been sufficient to end his life. But the fact is that the deceased received six wounds, only three of which could be considered deadly. The position of these wounds, all on the left side of the deceased's body, one on the left shoulder and two in the left arm; their depth, the maximum being 1 1/3 inches; and their length, from 1½ to 2 inches, all corroborate the testimony of the accused that there was a struggle between her and the deceased. If her intention was to kill her husband, while the latter was sleeping or lying down unaware of the intended attack, she could have inflicted one deep wound at some vital part of his body, which would have prevented him from struggling and would have been made the other wounds unnecessary. It cannot be presumed that she would entertain herself by making several cuts in his arms and shoulders. The fact that the wounds were from 1½ to 2 inches long would also indicate that there must have been a struggle, for otherwise it would have been much easier to inflict a deep short wound on a man who is lying down unaware. All these circumstances substantiate the testimony of the accused to the effect that she was defending herself, and disprove the

statement in the so-called dying declaration to the effect that the deceased was treacherously stabbed while he was lying down.

"It seems, clear also that there was no provocation on the part of the accused. The deceased suspected his wife of infidelity; but that mere suspicion—which may have been groundless and which the deceased could have investigated otherwise than by trying to force a confession from her— cannot be considered a sufficient provocation on her part.

"But it is submitted that the means she used to defend herself from her husband was not reasonably necessary. According to her statement, after her husband had scratched her arm with a knife, threatening to kill her if she would not confess, she struck his hand that was holding the knife with a stick causing said weapon to fall to the floor, from which she picked it up and hid it in the loom. After this she could have defended herself with the stick or with her hands from the attacks of her unarmed husband. It should be considered that she was 28 years old (Exhibit I, folio 8) and her husband 53 (Exhibit B, folio 4), which circumstance may give some idea as to their relative strength. Furthermore, when the knife fell from her husband's hand, and he was paralyzed for a few seconds by the pain caused by the blow on his hand, she could have prepared to defend herself from any further aggression of the deceased, without using a deadly weapon, or called for help from the neighbors.

"It is, therefore, submitted that the accused is guilty of parricide with the mitigating circumstance of incomplete self-defense." And in conclusion recommends that, under articles 86 and 95 of the Penal Code, the penalty of cadena perpetua, should be modified by applying the penalty two degrees lower, which is prison, mayor, and that the latter penalty be imposed in its minimum degree, which is from six years and one day to eight years.

In a vigorous brief, the attorney de oficio strongly urges an acquittal.

It appears from the prison record that the appellant is 28 years old; that her weight is 37 kilos; and that her height is 4 feet and 6 inches.

The alleged crime was committed in the home of the deceased and the appellant some time during the night in question, and when there was no light in the dwelling, and at a time when they were alone.

As the Attorney-General points out, about 3 p. m. on the next day, and in a very weakened condition, the husband made a statement in his native language, which was reduced to writing by the justice of the peace of the municipality of La Libertad, and later translated into Spanish. In this statement, the deceased says:

"Upon arriving at my house I took a rest near the door of the street afterwards went into the house to sleep; but as I was moving around my wife got up saying why do you undress on the bed? She hit me and struck me, and on account of the darkness, I thought that she had only struck me with the fist until I felt the blood flowing from the wound in the abdomen, whereupon I realized that she had used a cutting instrument."

In his statement to the chief of police, the deceased is refuted to have said:

"In going up the house of Teofilo, I found the deceased, and the municipal president asked him what happened to you? The wounded man answered that about 2 o'clock in the morning his wife wounded him with a knife while he was lying on a bench, that his wife went to him."

There is a direct conflict in the two statements. In the one, the deceased claims that he was stabbed while in bed, and in the other while he was lying on a bench.

As the Attorney-General points out, all of the six wounds were inflicted on the left side of the deceased, three of which were on the left side of his abdomen, one on his front left lower shoulder, one on his left arm, and one on the left joint between the forearm and the arm, and the maximum depth of the wounds was 1½ inches, and their length 1 1/3 to 2 inches. This would clearly indicate that there was a struggle, and that the deceased was not

stabbed while he was lying down on either the bed or the bench, as he claimed. If he was stabbed, as he claimed, the wounds would not have been inflicted at the different places shown on his body, and they would have been much deeper.

The two statements of the deceased are in direct conflict with the actual physical facts. It is very apparent, as the Attorney-General says, that the wounds were inflicted by the defendant during a struggle between her and her husband. It will be noted that the weight of the defendant is 37 kilos, and her height is 4 feet and 6 inches. The defendant claims that she inflicted the wounds at a time when her husband had her by the throat and was choking and kicking her, and when she thought that her life was in danger. She also testified that the knife which she used was first in the possession of the deceased, and that she hit his wrist with a piece of bamboo which made him drop it on the floor, and that she then, and for the first time, obtained possession of the knife.

It should be remembered that this is a criminal case, and the defendant is entitled to the benefit of a reasonable doubt. Considering her weight and height, and giving her the benefit of this doubt, the evidence is not sufficient to sustain a conviction. If the parties were of the same size, height, and weight, it might be a case of an incomplete self-defense, but the height and size of the defendant made it an unequal contest. The fact that it was dark, and the place of the struggle, the actions, manner and conduct of the deceased, would give the defendant reasonable grounds for believing that her life was in danger.

The defendant is entitled to a reasonable doubt, and as we analyze the evidence, she had reasonable grounds to believe that her life was in danger, and for such reasons her plea of self-defense must be sustained.

The judgment of the lower court is reversed, and the defendant is acquitted, with costs de oficio. So ordered.

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

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