

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. CASIMIRO PANGANIBAN, DEFENDANT AND APPELLANT.

G. R. No. 25033. August 05, 1926

Ponente: VILLAMOR, J.

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VILLAMOR, J.:

On the morning of May 12, 1924, in the barrio of Moson of the municipality of San Luis, Province of Batangas, as a result of a quarrel between Casimiro Pañganiban and Marcelo Garcia, the latter was mortally wounded in the abdomen from the effects of which he died at 10 o'clock in the night of the same day.

The record shows that the deceased Marcelo Garcia sent his sister Rosario early in the morning to the accused's house to collect a certain sum of money which the latter owed him, and that the young girl returned with the reply that Casimiro wished to see him (Marcelo) personally, in order to discuss said debt; wherefore he went to the accused's house. It is to be noted that a few days before the affair, Marcelo had an altercation with the accused's son for reasons not shown in the record.

The deceased declared to the local chief of police that it was the accused who struck him on the hand with a bamboo stick, commonly called "pinga," and that he wounded him in the abdomen with a penknife on the occasion when he tried to collect a certain debt, although he (the deceased) did not attack him. The accused, in turn, admits having wounded his opponent, but for the purpose of defending himself from the aggression. The accused says:

"Upon being struck with a knife which he drew from behind his back, I caught hold of his right wrist with my right hand and with my left I took hold of his forearm near the elbow on the same side, and as I was stronger than he I tried to point the penknife towards him and not toward me, and while we were struggling, and because he insisted upon attacking me, the point of the penknife touched his body near the abdomen." (Page 32, st. n.)

The judge who tried the case in the Court of First Instance, says the following in his decision:

"No eyewitness of the beginning of the quarrel having testified, the court gives the accused the benefit of the doubt and finds as a fact that the deceased Marcelo Garcia had a penknife in his right hand, against which the accused tried to defend himself with a bamboo stick (pinga). According to said accused, he did not receive any wounds from the penknife carried by the deceased, but on being accused by the latter and seeing that he was in danger, and believing that the bamboo stick was insufficient for his defense, he caught hold of the wrist of the deceased, which held the weapon, with his right hand and the forearm with his left hand. Thus far the defense is justified. The deceased's hand had already been rendered useless for the aggression. But the accused further states that having thus caught the wrist of the hand in which the deceased held the penknife, said accused tried to direct the blade of the penknife towards the body of the deceased; and, as the accused was stronger than the deceased, he accomplished his purpose until, under the impulse of his own strength and with his own hand, notwithstanding the vain efforts of the deceased to prevent the blade of the pen-knife from touching his body,

he inflicted wounds upon the deceased from which, according to the medical certificate, he died in the afternoon of the same day.

"At the moment when the deceased could no longer continue his struggle, the defense of the accused terminated, and from the instant that the accused tried to direct the blade of the penknife towards the body of the deceased and thrust it towards him, criminal intent upon his part began, thereby committing and consummating the criminal offense when, due to his superior strength he succeeded in wounding the deceased with the latter's own weapon, but by the act of the accused. This is no longer a defense."

Accepting the fact found by the trial court that the deceased Marcelo Garcia had a penknife in his right hand against which the accused was defending himself with a bamboo stick (pinga), and inasmuch as no sufficient provocation came from the accused, the legal question to be decided is the reasonableness of the means employed by said accused to repel the aggression.

In view of the circumstances surrounding the combatants, as related in the decision appealed from, we do not believe that the defense should have been limited to holding with one hand the wrist which held the weapon and controlling the forearm with the other hand, for while the aggressor was still in possession of the weapon and continued struggling for the purpose of attacking, the danger to the accused had not disappeared. At the critical moment of the fight the accused could have snatched the weapon from the deceased, thereby terminating the aggression and there would have been no necessity for defending himself by repelling it. The deceased, however, was not disarmed, but continued struggling to attack, although his wrist and forearm which held the penknife were caught by his opponent, and at that critical moment, in view of the danger of being wounded, the accused did what he could to avoid it by directing the penknife against his aggressor.

In an old case decided by this court on December 14,² 1901, *United States vs. Patala* (2 Phil., 752), the following doctrine was enunciated:

"One who is unlawfully attacked has a perfect right to repel the attack in the most adequate form in his power under the critical circumstances of such attack. He who defends his person or rights against an illegal aggression, without provocation on his part, is exempt from criminal liability under the Spanish Penal Code."

In the case of *United States vs. Singson* (41 Phil., 53), speaking of the reasonableness of the means employed in repelling an unlawful aggression, it is said:

"The law does not require, and it would be too much to ask of the ordinary man, that when he is defending himself from a deadly assault, in the heat of an encounter at close quarters, he should so mete out his blows that upon a calm and deliberate review of the incident, it will not appear that he exceeded the precise limits of what was absolutely necessary to put his antagonist hors de combat; or that he struck one blow more than was absolutely necessary to save his own life; or that he failed to hold his hand so as to avoid inflicting a fatal wound where a less severe stroke might have served his purpose. Of course the victim of an unlawful aggression may not lawfully exceed the bounds of rational necessity in repelling the assault. But the measure of rational necessity in cases of this kind is to be found in the situation as it appears to the victim of the assault at the time when the blow is struck; and the courts should not and will not, in the light of after events or fuller knowledge, hold the victims of such deadly assaults at close quarters, to so strict a degree of accountability that they will hesitate to put forth their utmost effort in their own defense when that seems to them to be reasonably necessary."

The Supreme Court of Spain, in a decision of the date of April 16, 1872, among others, laid down the same doctrine:

"The means employed in repelling the aggression is justified in reason when it is the opportune and convenient one to protect the person from the danger he may be in on account of the threat or execution of the material

offense against him, the same to be judged by the courts by comparing and reconciling the situation of the offended party, the place and occasion where the offense is committed and the means more or less powerful to accomplish his evil intent."

Under the circumstances of the present case, we are of the opinion and so hold that the accused acted in self-defense, within the requirements of article 8, No. 4, of the Penal Code for the complete exemption from criminal liability.

By virtue of all of the foregoing, the judgment appealed from is reversed and the defendant-appellant Casimiro Pañganiban must be, as he hereby is, acquitted, with the costs de oficio. So ordered.

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

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