

PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. PANFILO PADERNAL, DEFENDANT AND APPELLEE.

G. R. No. 26734. September 05, 1967

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

The present case is an appeal by the prosecution from a decision acquitting the accused. At issue is the purely legal question of whether the principle of double jeopardy bars this appeal.

The facts are fully and well recounted in the resolution of the Court of Appeals of September 13, 1966, certifying the appeal to us, as follows:

"On January 4, 1961, Panfilo Padernal was charged by Asst. Provincial Fiscal Eleodoro G. Alvero in the CFI of Ormoc City with the crime of homicide in connection with the death of Brigido Rodila thru stabbing which took place in the Municipality of Kananga, Province of Leyte, on December 3, 1960. The witnesses listed in the information are: (Y) Felicidad Rodila, sister of the deceased; (2) Nemesio Ouano, Municipal Policeman of Kananga; (3) Sanitary Inspector Joaquin Demillo; and (4) Municipal Judge Demetrio D. Sarit of Kananga. On January 12, 1961, the CFI presided over by Hon. Numeriano G. Estenzo reduced the bail bond of accused Panfilo Padernal to "P8,000.00 and set the arraignment and trial for January 26, 1961 at 7:30 a.m. with notice to Fiscal Eleodoro G. Alvero and to defense counsel Atty. Benjamin T. Pongos (See Minutes, Roll 6).

"When the case was called for arraignment and trial on January 26, 1961, the transcript shows the following incidents:

" 'Atty. Pongos (defense counsel):

" The accused in this case, Your Honor, is willing to enter the plea of guilty to the crime charged in the Information.

" 'Court:

" 'Arraign the accused.

(The Court Interpreter, Mr. Edilberto Maglasang, read the information to the accused),

" 'Court Interpreter:

(To the accused)

" 'Q. Are you guilty or not guilty?

" 'Accused:

" 'I plead guilty, Your Honor.

" 'Atty. Pongos (defense counsel):

" 'Your Honor, please before the imposition of the penalty I invoke the presence of the following mitigating circumstances in favor of the accused for the imposition of the penalty, to wit: (1) incomplete self-defense; (2) lack of education and instruction; (3) voluntary surrender; and (4) spontaneous plea of guilty,

" 'The accused, Your Honor, was wounded in the right arm and in the head by the bolo belonging to the deceased and this occurred during the scuffle in order to wrest the bolo that was in the possession of the deceased who was responsible for the unlawful aggression. When the accused wrested the bolo from the deceased, Your Honor, and in order to defend himself, he struck the deceased who was then advancing notwithstanding the fact that the bolo was already in the possession of the accused. So, we pray that the mitigating circumstance of incomplete self-defense be considered in favor of the accused for the imposition of the penalty.

" 'Court:

" 'What do you say Fiscal?

" 'Fiscal:

" 'As regards the voluntary surrender, Your Honor, there is a warrant of arrest issued without any showing that the accused surrendered voluntarily. The records does not indubitably show there was unlawful aggression on the part of the deceased.

" 'Court:

(To Atty. Pongos)

"You present your evidence to prove the mitigating circumstances of incomplete self-defense and voluntary surrender, (tsn 1-3)."

"Thereupon in compliance with the trial court's directive, defense counsel put on the witness stand on January 26, 1961, Municipal Policeman Nemesio Ouano, whose name is listed in the Information as a prosecution witness and whose brief testimony was to the effect 'that this accused killed Brigido Rodila' and 'he surrendered to the Police Department of Kananga, Leyte, on the very night of the incident' (tsn 3-4). Evidently, the purpose of defense counsel was to prove voluntary surrender. After the defense was through with the testimony of Policeman Nemesio Ouano, the prosecution placed on the witness-box Felicidad Rodila, sister of the deceased Brigido, who testified that her brother was stabbed three times by accused Panfilo Padernal with a bolo at about 7:30 in the evening (tsn 4-6). Asked whether the deceased was armed, Felicidad replied she could not tell, her exact testimony being 'I do not know whether he had a weapon, but at the time of his death I was present' (tsn 7). She further testified she did not know the cause of the fight and who provoked it (tsn 8). After Felicidad Rodila as prosecution witness had testified, the trial Court (addressing the defense counsel) said 'You present the accused' (tsn 9). As a result, accused Panfilo Padernal took the stand and testified as follows to quote:

"(1) 'I betted with Brigido Rodila in the amount of P.50 in the hantak game. When I won I asked from him the money, but he immediately hacked me' (tsn 10).

"(2) 'At first I was hit on the head; he stabbed me again and I was hit on my right forearm' (tsn 10),

"(3) 'I took hold of his bolo and I was able to wrest it from him' (tsn 10),

"(4) 'I did not run, because I was close to the fence of the house' (tsn 10),

"(5) 'I have no more chance of running away because I was already close to the fence' (tsn 12).

"(6) 'That is the bolo I wrested and I used in killing the deceased' (tsn 13)

"(7) 'I was squatting when the victim slashed me' (tsn 13)

"(8) 'Because I exerted efforts to wrest the bolo from his possession because I was already hit' (tsn 15). "From the above quotations taken from the transcript, it will be noted that on January 26, 1961, the trial (which was for the purpose of proving incomplete self-defense) started with the testimony of Policeman Nemesio Ouano, as a defense witness, followed by Felicidad Rodila, as a prosecution witness, and ended with the testimony of accused Panfilo Padernal, For lack of time, however, the trial was reset for the following days, January 27, 1961, at 7:30 with notice to Atty. B. Pongos and Fiscal Alvero in open court (See Minutes, Roll 4). When the case was called for continuation on January 27, 1961, upon realizing from accused's testimony given on the day before, January 26, 1961, that he (accused) was invoking complete self-defense, what the trial Judge did was to make the following order:

" 'Let a plea of not guilty be entered by the accused and let it be tried on the merit on January 31, 1961 at 8:30 a.m. with notice to Atty. B. Pongos and Fiscal Alvero and also Sgt. Nemesio Ouano, in open court' (See Minutes of January 27, 1961, Roll 5).

"As directed by the trial court, the case was called for trial on the merits on January 31, 1961, with the same appearance (tsn 16). The transcript disclose the following:

" 'Court:

" 'Do you submit the case?

" 'Fiscal Alvero:

" 'We will submit the case, Your Honor, without presenting any further evidence.

" 'Atty. Pongos (defense counsel):

" 'We submit, Your Honor, the case.

" 'Court:

" 'The evidence presented by the prosecution and the defense during the time the case was heard for the purpose of determining presence of incomplete self-defense shall be considered as evidence for the purpose of determining the guilt of the accused, by virtue of which this case shall be deemed submitted for decision,' (tsn 16-17).

" 'Atty. Pongos (defense):

" " 'We submit, Your Honor, We adopt the testimony of the accused,

" 'Fiscal Alvero:

" 'We submit, Your Honor, (tsn 17).'

"Right after the above statements had been given by the prosecution and the defense, the trial Judge dictated in open court on January 31, 1961 a decision acquitting accused Panfilo Padernal of the crime of homicide with which he was charged 'on the ground of reasonable doubt' (tsn 17-19). Thereafter, Fiscal Alvero verbally moved for a reconsideration alleging that the accused has entered a plea of guilty, which is 'sufficient to sustain conviction of the offense charged in the Information without the introduction of further evidence, the accused himself has supplied the necessary proof of his guilt and which closes the right of the accused to defend himself and leaves the Court with no alternative but to impose the penalty prescribed by law' (tsn 19-20). The defense counsel on the other hand, argued 'there was a trial' on the merits in this case, Your Honor, the evidence presented in the previous hearing to prove the privileged mitigating circumstance of incomplete self-defense was the same evidence that we presented during the trial on the merits' (tsn 20). In denying the prosecution's oral motion for reconsideration, the trial Judge draws attention to the fact that 'a plea of not guilty has been ordered entered for the accused and that this case be tried on the merits. Assistant Provincial Fiscal Alvero petitioned this Court for the postponement of the trial of this case until today (Jan. 31, 1961), Said motion for postponement was granted by the Court. When this case was called for hearing today (Jan. 31, 1961), both parties submitted that whatever evidence had been presented by both the prosecution and the defense during the hearing on January 27, 1961 (sic Jan. 26) would be considered in the decision of this case, to avoid any repetition' (see Denial Order, tsn 21). The trial Judge also invoked double jeopardy, 'if the decision will be modified or amended' (tsn 22)."

Appellant's contention is that defendant, having pleaded guilty, cannot be acquitted and that there was no trial on the merits but only a hearing to establish mitigating circumstances. In *People vs. Balisacan*, 64 Off. Gaz. (10) 2204, this Court ruled that where the accused pleads guilty and proceeds, in a hearing to prove mitigating circumstance of incomplete self-defense, to state facts constituting full and complete self-defense, the trial judge should declare his plea of guilty thereby withdrawn, order that a plea of not guilty be entered and proceed to trial on the merits. For failure, in the *Balisacan* case, to follow this procedure, We ruled therein that there was deprivation of day in court against the prosecution. An acquittal on the merits thus made without the requisite trial providing sufficient opportunity to the prosecution to present evidence to prove the guilt of the accused, was held improper. And in said *Balisacan* case, We held that the right to appeal existed in favor of the prosecution because there was in effect no plea, since the testimony of the defendant operated to withdraw his plea of guilty and the trial court failed to order that a plea of not guilty be entered in its place; and because there was no due process in proceeding to dispose of the case on the merits without trial on the merits. And thus, without a standing plea, and without due process, double jeopardy was not attendant to bar the appeal therein.

Not so are the facts in this case. As stated, the court a quo caused a plea of not guilty to be entered in place of the plea of guilty considered withdrawn by the exculpatory testimony of the accused. And the trial judge reset the case for hearing on the merits four days thereafter, giving the prosecution and the defense sufficient opportunity to prepare for such trial on the merits. The fact that on the date of the trial itself, the prosecution and the defense chose to adopt the testimonies adduced during the previous hearing as their evidence on the merits, to save the trouble of re-taking them, does not mean there was no trial on the merits. The prosecution and the defense simply adopted the testimonies already taken as the testimonies for the trial on the merits. Due process of law was observed and both parties were given full and adequate opportunity to prove their respective case. Accordingly, the case was duly submitted for decision upon evidence on the merits after the requisite trial providing fair opportunity to the prosecution and the defense to adduce evidence in chief and rebuttal evidence. The decision of acquittal, therefore can no longer be reviewed herein, since the appeal is barred by the principle of double jeopardy, the requisites, among others, of a plea and due process, not to mention trial on the merits, being attendant herein.

Wherefore, the present appeal is hereby dismissed for being barred by the principle of double jeopardy. No costs.

So ordered.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Angeles and Fernando, JJ.,
concur.

Appeal dismissed.

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