

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. JULIAN FLORES, DEFENDANT AND APPELLANT.

G.R. No. 27093. August 11, 1927

Ponente: JOHNSON, J.

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JOHNSON, J.:

On the 8th day of May, 1926, a complaint was presented in the court of the justice of the peace of the municipality of Balungao, Province of Pangasinan, charging the defendant with the crime of assassination. Upon that complaint he was arrested. A preliminary examination was held, after which the justice of the peace found that there was probable cause for believing that the defendant was guilty of the crime charged in the complaint and held him for trial in the Court of First Instance.

Later, and on the 28th day of June, 1926, the prosecuting attorney of the Province of Pangasinan presented a complaint against the defendant, charging him with the crime of homicide. The complaint alleged:

"Que en o hacia el 7 de mayo de 1926, en el Municipio de Balungao, Provincia de Pangasinan, Islas Filipinas, el referido acusado, voluntaria, ilegal y criminalmente acometio y agredio con un instrumento de madera para pilar arroz llamado vulgarmente alo a Fernando Ballesteros, causandole al efecto la fractura de dos costillas en el lado izquierdo, la cual es grave y mortal de necesidad que motivo la muerte de dicho Fernando Ballesteros momentos despues de la agresion.

"Hecho cometido con infraccion de la ley."

Upon that complaint the defendant was arraigned and pleaded not guilty. The cause was brought on for trial on the 24th day of November, 1926. At the close of the trial and after a consideration of the evidence adduced, the Honorable Buenaventura Reyes, judge, found that the evidence showed beyond a reasonable doubt that the defendant was guilty of the crime of homicide, with the attenuating circumstances of unjust provocation, arrebató and obcecación, and sentenced him to be imprisoned for a period of twelve years and one day of reclusion temporal, with the accessory penalties of the law, to indemnify the heirs of the deceased in the sum of P1,000 and to pay the costs. From that sentence the defendant appealed and now contends that the lower court committed an error (a) in not absolving the defendant upon the ground that what he did was done in legitimate self-defense; (b) in not appreciating in favor of the appellant the attenuating circumstance of drunkenness; and (c) in not appreciating in favor of the appellant his lack of intention to cause so serious an injury to the offended person.

An examination of the record discloses the following facts: That on the 7th day of May, 1926, one Miguel Apigo, residing in the barrio of Alajal of the municipality of Balungao, Province of Pangasinan, gave a luncheon in his house at which were present the defendant, the said Fernando Ballesteros and others; that after the luncheon was over, all of the persons present went down out of the house of Miguel Apigo and seated themselves in the yard; that while they were thus seated a conversation arose among them concerning the difficulties of life; that during the discussion the defendant Julian Flores made the following statement to the said Fernando Ballesteros: "Que fuera a su casa con su familia y el (el acusado) se encargaria de mantenerlos como cerdos." Upon hearing that

statement of the defendant, Fernando Ballesteros replied, saying: "Que no necesitaba que un hijo bastardo mantuviese a el y a su familia;" that following the interchange of said remarks, together with others of a like character, apparently the quarrel became quite heated between them and was only stopped by the kindly intervention of some of the other persons who were present on that occasion; that soon thereafter Fernando Ballesteros left the house of Miguel Apigo in direction of his home, carrying with him his rooster; that a little later the defendant taking up a piece of timber, which was used by the natives for the purpose of hulling rice, called "alo," followed Fernando Ballesteros, soon overtaking him, and with said piece of timber struck him, breaking two ribs of said Fernando Ballesteros on the left side of his body, from the effects of which he died a few moments later.

On the same day the defendant was arrested, and in the presence of the justice of the peace and the presidente of the said municipality practically admitted the foregoing facts, but tried to make it appear that when he approached Fernando Ballesteros, the latter turned around and was in the act of attacking him and that was the reason why he struck him with the club which he was then and there carrying.

The lower court found that the evidence did not support that contention of the appellant. The lower court found that he, suddenly and without notice and without giving Fernando Ballesteros an opportunity to defend himself, attacked and caused the death of said Fernando Ballesteros. Upon that question an examination of the evidence, in our judgment, clearly supports the conclusion of the lower court. There was an effort made in the lower court also to show that the appellant was drunk at the time the acts complained of were committed. The lower court reached the conclusion that that contention of the appellant was not supported by the evidence. An examination of the record clearly supports that conclusion of the lower court.

With reference to the contention of the appellant that he had no intention of causing so serious an injury at the time he struck Fernando Ballesteros, considering the weapon which the appellant used, which was a heavy club, in relation with his attitude of mind at that time, and the fact that he followed the deceased some distance and attacked him without giving him an opportunity to defend himself, in our opinion clearly show that he failed to take into consideration the consequences of his act and that he intended to do exactly what he did and must be held responsible for the result.

While the Attorney-General hesitates to accept the conclusion of the lower court with reference to the attenuating circumstances of unjust provocation, arrebató and obcecación, we are inclined to accept that theory. The record discloses that each used very insulting language concerning the other and that they must have been very greatly excited as a result of the quarrel, or otherwise the other people present would not have intervened. The acts complained of were committed by the defendant soon after the quarrel had taken place.

Considering all of the facts and circumstances from the beginning of the quarrel between the deceased and the appellant up to the commission of the acts complained of, we feel justified in sustaining the conclusion of the lower court upon that question.

We find nothing in the record which justifies a modification of the sentence appealed from. Therefore the same is hereby affirmed, with costs. So ordered.

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

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