

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. ELIAS CABONIALDA, DEFENDANT AND APPELLANT.*G.R. No. 29151. November 19, 1928*

Ponente: AVANCEÑA, C.J.

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Elias Cabonialda appeals from the judgment of the Court of First Instance of Samar which found him guilty of the homicide of Arcadio Tabunda, and sentenced him to fourteen years, eight months and one day reclusion temporal with the accessories of the law, to indemnify the heirs of the deceased in the sum of P1,000, and to pay the costs.

About October 24, 1927, in the barrio of San Antonio, Municipality of Basey, Province of Samar, Arcadio Tabunda, the deceased, went to a well about a hundred meters away from his house with a bamboo receptacle for the purpose of drawing water. But before he had filled it, the appellant, who suspected him of having taken some palawan leaves from his orchard, attacked him with a stick about 1 inch thick, leaving him unconscious on the ground. Feliciano Baya, with whom the deceased lived maritally, having heard his cries for help, hurried to the scene and saw him lying on the ground unconscious with the appellant at his side beating him with the stick. Feliciano helped him to get up and led him to the house. Since then, the herein deceased was ill, suffering pains in the abdomen, the shoulder and the left forearm, which were black and blue and swollen, and twenty-one days later he died.

Appellant admits having had an encounter with the deceased on that day in the course of which he dealt him a blow on the left temple, but he sets up two defenses.

First, that he acted in self-defense. To this effect, he declared that, having seen the deceased taking palawan leaves from his orchard, he wrenched them from the former's hand. And as the latter hit him, he retaliated, and the blow caught his adversary on the left temple. The deceased attempted to attack him with a bolo and he ran away. Then the former took the path to his home carrying the bamboo vessel filled with water, and as he walked, he slipped and fell to the ground.

We cannot accept this defense. It is incredible that while the appellant was the offended party, and the deceased the offender, it should be the latter who began the attack, especially so if it is taken into consideration that the deceased was a cripple, besides being smaller and thinner than the defendant. Doubtless the allegation of the deceased's fall was introduced with a view to attributing his death thereto, which fact is, in our opinion, highly improbable and has not been proven at the trial.

The appellant's other defense is that about three years ago the deceased was run over by a hand car while working on the public highways, and suffered some dislocations. It is true the deceased had that accident and thereby became incapacitated for doing heavy work; yet in spite of such condition he enjoyed relatively good health and could engage in field labor, especially coconut-planting. The deceased was in this state of health before the assault so that he had even gone to the well to carry a bamboo vessel full of water. But even supposing that the blows he received caused his death because he was not in good health, such circumstance does not exempt the appellant

from liability. (U. S. vs. Samea, 15 Phil., 227; U. S. vs. Fenix, 11 Phil., 95.)

Wherefore, as the judgment appealed from is in accordance with the law and the evidence, it is hereby affirmed, with costs against the appellant. So ordered.

Johnson, Street, Malcolm, Villamor, Ostrand, Romualdez, and Villa-Real, JJ., concur.

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