

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ANTONIO AGALUDUD, DEFENDANT AND APPELLANT.

G.R. No. 2926. August 15, 1906

Ponente: ARELLANO, C. J.

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ARELLANO, C. J.:

The following conclusions in the decision of the court below are in accord with the records in the case:

"The defendant, Antonio Agaludud, together with other parties, was engaged on the afternoon of December 13, 1904, in cutting palay in a field in the barrio of Lasien of the pueblo of Badoc.

"The deceased (Tomas Ladera), a lieutenant in the police force of the pueblo of Badoc, armed with a revolver and accompanied by some men, went to the said field, having perhaps an interest in both the field and the palay, and there stopped the said cutting of palay, then disarmed the defendant and his companions of their bolos, insulted and maltreated them, 'seized all of the palay cut and collected by the men that day and on the day before, stored the palay in a house, and assisted by his friend, Hilarion Bañaga, took by force the defendant, Antonio Agaludud, the chief of the gang, to the pueblo that same evening. Lieutenant Ladera, the deceased, explained that it was His purpose to call on the *teniente del barrio* and the councilman to have them certify as to the storing of the palay.

"The defendant, perhaps fearing death at the hands of his captors, or moved by a spirit of revenge toward Lieutenant Ladera for the ill treatment received, drew a knife and stabbed Ladera in the breast and then took to flight, while he was being escorted by Ladera and his friend, Hilarion Bañaga, on the road to the pueblo through the forest on a dark night. Two reports from a pistol were heard and Ladera died shortly after as a result of the stabbing."

From the testimony of the two witnesses, one for the prosecution and the other for the defense, there arises an evident fact The witness for the prosecution is Hilarion Bañaga, the only eyewitness to the struggle between the defendant and Lieutenant Ladera, and who is, moreover friendly to the latter, according to his own testimony, and Laureano Calacay, a sergeant of police, witness for the defense, who in the afternoon in question had gone to the aforementioned field in obedience to an order from Lieutenant Ladera, of whom he is a relative. According to Calacay, the defendant had repeatedly asked Ladera not to take him to the pueblo as it was nighttime, and had also begged his pardon. That Ladera, however, continued to force the defendant to follow him, stating that he, Ladera, was not a bad man, and that finally the lieutenant threatened to bind his hands. The defendant then decided to proceed (f. 35). According to Bañaga, the party having already started on the march, the lieutenant ordered one of the men to return to the field for his horse and inform the sergeant that he too should go to the pueblo, "and after this we continued on the march to the pueblo, when the defendant again turned and faced Lieutenant Ladera, saying: 'Do have mercy on me, sir, for I believe you are taking me into the forest. The lieutenant pushed the defendant and told him to continue on as we had to reach the pueblo. After the push, the defendant again begged for compassion, stating at the same time his fears of being killed on the way. The lieutenant answered that he was not in the habit of killing persons, and with this continued pushing the prisoner

onward. Again the defendant turned to the lieutenant and begged for mercy, but he also struck at the lieutenant at the same time; as soon as I saw this, for I was back of the lieutenant, I rushed forward against the defendant, but he ran away. Lieutenant Ladera called out to me to follow and capture the defendant, for he was badly hurt."

All these arbitrary acts executed by Lieutenant Ladera before starting on the trip to the pueblo, those executed during the said trip, and the personal violence committed against the defendant, with manifest viciousness and recurrence, in the face of the defendant's supplications and protestations of fear for his life once arriving at the forest, constitute in the highest degree an illegal aggression, which was by no means provoked by the defendant in the case at bar, who did finally repel the aggression, but in doing so he employed unjustifiable means, as it is not shown that the means adopted were reasonably warranted.

We are therefore of the opinion that the defendant's conduct is palliated by the circumstance of his having acted in self-defense, but all of the requisites necessary to exemption from criminal liability are not attendant.

We therefore sentence Antonio Agaludud to prison correctional for two years four months and one day, in accordance with the first paragraph of article 9 of the Penal Code, and to further indemnify the heirs of the deceased in the sum of P1,000, or to suffer subsidiary imprisonment in case of insolvency, and to pay the costs of both instances. So ordered.

Torres, Mapa, Carson, Willard, and Tracey, JJ., concur.

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