

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. ESTANISLAO PERADILLA, DEFENDANT AND APPELLANT.

G.R. No. 30393. March 14, 1929

Ponente: JOHNSON, J.

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JOHNSON, J.:

On the 26th day of June, 1928, the provincial fiscal of Batangas filed an information against the above-named defendant, charging him with the crime of homicide. The information alleged:

"Que en o hacia la noche del dia 2 de mayo de 1928, en el Municipio de Bolbok, Provincia de Batangas, I. F., el referido acusado, voluntaria, ilegal y criminalmente, acometio, agredio e h\$ri6 con un bolo a Paulino Decillo, infiriendole, al efecto, una herida cortante en el antebrazo derecho que causo la muerte de dicho Paulino Decillo por la hemorragia a consecuencia de la rotura de los vasos de dicho antebrazo derecho.

"Hecho cometido con infraccion de la ley."

Upon said information the defendant was arrested, arraigned, pleaded not guilty, was tried, found guilty of the crime charged, without any mitigating or aggravating circumstances, and sentenced by the Honorable E. V. Filamor, judge, to suffer fourteen years, eight months 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.

Counsel for appellant now makes the following assignments of error:

- (1) The lower court erred in not acquitting the accused on the ground of legitimate self-defense; and
- (2) The lower court erred in not taking into consideration the mitigating circumstances of unlawful aggression, lack of provocation, lack of intent to cause so grave an injury as that produced by the act of the defendant, and lack of education and instruction.

The evidence shows that on the second day of May, 1928, Roman Bautista was giving a fiesta in his Ihouse in the barrio of Bataan, municipality of Bolbok, Province of Batangas, on the occasion of the christening of his child. Among those present were the accused Estanislao Peradilla, Cipriano Capompon, Paulino Decillo and one Emilio Aguinaldo and his daughter, and many others.

Late in the afternoon, while the people were engaged in conversation in the house, Cipriano Capompon asked Emilio Aguinaldo to have his daughter sing. Aguinaldo answered, saying that his daughter would sing even during the whole night if she were properly requested. At thatanswer Capompon, who was then under the influence of liquor, took offense and immediately drew his bolo and challenged Aguinaldo to fight. The threatening and menacing attitude of Capompon greatly excited the people, and they rushed towards him. He immediately, in order to escape the menacing attitude of the crowd, jumped to the ground with his bolo in his hand. Once on the ground he repeatedly invited Aguinaldo to come down and fight.

The accused, Estanislao Peradilla, with his bolo in hand also left the house, following Capompon. At that moment practically all of the men who were there had unsheathed their bolos. From the attitude of the people present it looked as though a tumultuous affray might take place.

After Estanislao Peradilla had left the house with his bolo unsheathed, the deceased Paulino Decillo, a friend and comrade of Emilio Aguinaldo, being armed with a club, approached Peradilla and ordered him to sheathe his bolo. Upon failure of Peradilla to sheathe his bolo Decillo struck at him with his club. In order to parry the stroke of Decillo, Peradilla raised his bolo and in so doing struck Decillo on the right forearm. Sensing the menacing attitude of the crowd and realizing that he had wounded Decillo, Peradilla ran away followed by Decillo and some other members of the people present. A few hours later Decillo died from the loss of blood resulting from the wound.

We are of the opinion that all of the requisites of self-defense are present in the instant case. According to law (art. 8, paragraph 4, Penal Code) the requisites of self-defense as an exempting circumstance, are: (1) Unlawful aggression, (2) reasonable necessity for the means employed to prevent or repel it, and (3) lack of sufficient provocation on the part of the person defending himself.

The facts above stated clearly show that all of the requisites of self-defense are present.

(1) There was unlawful aggression on the part of the deceased Paulino Decillo. He was not justified in using his club upon the accused when the latter refused to put his bolo in the scabbard. The accused did not mean to make trouble nor to injure anybody, much less the deceased. He had his bolo in hand for this personal safety, because most of the men present had their bolos in hand. Capompon was bent on having a fight with Aguinaldo and most of the men present were likely to take sides should a fight actually take place. It was an occasion for everybody to keep alert.

(2) There was reasonable necessity for the means employed by the appellant in repelling the blow directed against him by the deceased. The deceased was armed with a wooden club, approximately the size of a man's wrist. When he attempted to strike the appellant with the club, the latter had no other reasonable means for protecting himself, in view of the suddenness of the attack, except his bolo, which he raised, to parry the blow. The size, form, direction and other conditions of the wound received by the deceased on his right forearm, show that the appellant was on the defensive and the deceased on the offensive. (Exhibit A; testimony of Doctor Cusi.) Furthermore, the circumstance that the appellant ran away after parrying the blows shows conclusively that he simply tried to defend himself,

(3) There was no provocation on the part of the appellant. Paulino Decillo, armed with a club, approached the appellant and ordered the latter to put his bolo in the scabbard. The appellant refused. He was not then causing trouble, neither did he intend to injure anybody. He was keeping his peace, but he kept his bolo in hand because the situation was critical and most of the men present had their bolos in hand. His refusal to sheathe his bolo was not a provocation which would justify Paulino Decillo in assaulting him with a club.

The Attorney-General, in a carefully prepared brief, containing a concise statement of the facts, arrived at the conclusion that the appellant acted in legitimate self-defense, and recommends that the sentence appealed from be reversed.

The facts in the case of *United States vs. Doven* (37 Phil., 57) are very analogous to the facts in the present case: In that case the appellant was acquitted.

For all of the foregoing facts and circumstances, and in harmony with the recommendation of the Attorney-General, the sentence appealed from is hereby reversed, the defendant is acquitted, the complaint dismissed, and he is hereby ordered released from the custody of the law, with costs de oficio. It is so ordered.

Street, Malcolm, Ostrand, Johns, and Villa-Real, JJ., concur.

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