

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. FLORENCIO MANGANTILAO, DEFENDANT AND APPELLANT.

G.R. No. 30764. July 16, 1929

Ponente: JOHNS, J.

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JOHNS, J.:

In his brief the Attorney-General says:

"The facts of the present case as we see them may be stated as follows: the defendant on coming home late one night heard his wife scream for help. He rushed upstairs, found the room in darkness and his wife and children frightened and huddled together to escape the bob thrusts made by an unknown assailant through the wall of coconut palm leaves of his home. He also heard the assailant challenging him to come down and threatening to come up instead if the defendant failed to do so. Believing, as he had reason to believe, that his assailant was armed, the defendant stabbed him on the forearm as it was thrust through the partition wall for the third time. On the following day, the defendant voluntarily went to the office of the police to give an account of the incidents of the night before. We believe that the ends of justice would be sadly defeated if the courts of our country were to send this defendant to prison for acting the way he did under the circumstances in which he found himself and his family. The reasons for the favorable disposal of the appeal in the cases of *United States vs. Paras* (9 Phil., 367) and *United States vs. Ah Chong* (15 Phil., 488) are, we think, appropriate here also, and we recommend the application of the rule there laid down to the instant case."

With that, we agree. Apparently, the defendant has been convicted of the crime of homicide in the defense not only of his own home, but of his little children and the person of his wife. The defendant had the legal right to act on appearances. The deceased while drunk had no license to enter the home of the defendant in his absence and terrorize his wife and little children. Neither had he any legal right upon the return of the defendant to thrice thrust his hand through the wall of the little home, armed with a bolo in a violent and threatening manner, or to challenge the defendant to come out and fight. Any man who loves his home, his wife and his little children would naturally resent such an attack made by a drunk man on his own home in the dead hour of night. The record shows that the defendant is a poor man; that he was defended in this court by an attorney de oficio; and that he has been confined in jail or prison since his trial and conviction. . The judgment of the lower court is reversed and the defendant is acquitted with the costs de oficio, and ordered to be forthwith released. So ordered.

Avancena, C. J., Johnson, Street, Villamor, Romualdez, and Villa-Real, JJ., concur.

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