

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. TRANQUILINO CABALLERO ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 31254. September 25, 1929

Ponente: ROMUALDEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-31254/>

ROMUALDEZ, J.:

The appellants appeal from the sentence of seventeen years, four months, and one day of recluswn temporal for the crime of homicide, imposed upon them by the Court of First Instance of Cebu, with the accessories of law, and to indemnify the heirs of the deceased in the amount of P1,000 and costs, the aggravating circumstance of abuse of superior strength having been considered, in view of the number of the defendants.

It is contended that the trial court erred in believing Pedro Purgatorio, Matilde Purgatorio, and Isidro Apostol, and in disbelieving the witnesses for the defense, and in not finding that the deceased was killed by his own father, Pedro Purgatorio, and hence, in not acquitting the accused.

It is a proven and undisputed fact that Carlos Purgatorio died a violent death as a result of:

"A lacerated irregular wound in the suboccipital region, penetrating the cranium, one inch in diameter and about half an inch deep; when the examination was made there was a steady flow of blood from this wound. Contusion on the right eye, another on the right wrist, and a third on the left forearm. The chief cause of death was: cerebral hemorrhage or concussion of the brain." (Testimony of Antonio J. Sol, Official Nurse, acting as chief of the Sanitary Division of the town of Badian, who examined the body. Vide pages 28 and 29, t. s. n.)

It is also a fact proved without objection that on the day of the crime there was a feast to celebrate the wedding of Eugenia Purgatorio and Apolonio Antecristo. According to the prosecution, Carlos Purgatorio was insistently invited by Tranquilino Caballero to said feast at about three o'clock in the afternoon, but resenting the fact that he had been made to wait for hours for the members of the bridegroom's family who had promised to take the bride's family to the feast, he flatly refused the invitation and accused the inviters to their face of having broken their word, not only to call for them early, but also to give his father on the eve of the feast a whole cavan of rice, a pig worth five pesos, and some salt and condiments. Carlos Purgatorio left the house and the defendants followed him. Tranquilino Caballero then asked: "Carlos, don't you want to go with your father?" Carlos replied: "I don't want to go with you because the time agreed upon has already passed; you seem to have a knack for persuading my father" Then began the assault described by Pedro Purgatorio as follows:

"* * * After Carlos spoke those words, Tranquilino, who carried a cane under his arm, beat my son Carlos with it, hitting him on the forehead above the right eye. Domingo Antepuesto, who also carried a club or cane, also beat Carlos with his club.

"Q. Where did it strike?

A. On the right arm. After Domingo had hit him, Juan who was there, also struck Carlos with a piece of firewood,

followed by Lope Jerello who also hit Carlos. * * * Miguel Antecristo did not carry a club or a cane, but he picked up a stone, and going behind Carlos, struck him with it in the occipital region. On receiving that blow with the stone, he fell on his face, unconscious, dead." (Page 5, t. s. n.)

* * * * *

"Q. With what did Lope Jerello strike your son?

A. He used a coconut palm taken from my garden.

"Q. And where did Lope Jerello hit your son?

A. The first time he hit him on the right arm.

"Q. How many times did the defendant Jerello strike your son?

A. It was impossible to count the number of blows Lope Jerello dealt, because he and his codefendants beat the deceased without stopping and at the same time,

"Q. And with what did Juan Antecristo strike your son?

A. He also picked up a stick near the stairway of my house.

"Q. How big was that stick?

A. As big as the leg of the chair the Fiscal is sitting on. (A chair with legs about one and one-fourth inches in diameter.

"Q. And how many times did the defendant Juan Antecristo strike your son?

A. It was also impossible to count the blows Juan Antecristo dealt my son.

"Q. With what did Domingo Antepuesto strike your son?

A. With a cane he had brought from his house." (Pages 13 and 14, t. s. n.)

Matilde Purgatorio relates the incident as follows:

"* * * As Lieutenant Tranquilino had a cane under his arm, and was shamed, he hit my brother with it near the right side of the forehead. When my brother received the blow, he felt the pain and had to put his hands up to his face; while my brother was in that position with his hands over his face, the other defendants together rained blows on my brother; all of them beat him; and the defendant Miguel picked up a stone and with it struck my brother in the occipital region; and upon receiving the blow, my brother immediately fell to the ground on his face. Upon seeing this my father exclaimed: 'Lieutenant Quilino, why have you all maltreated my son, who did not want to go to the feast?' As the defendants did not mind my father, he went upstairs looking for a bolo, to take revenge. When my father again left the house, the defendants were no longer there; they had fled. As the defendants ran, I also ran to a place about four brazas away." (Page 33, t. s. n.)

Isidoro Apostol testifies that:

"Carlos Purgatorio died from the blows or beating given him by the defendants. The defendant Tranquilino Caballero hit the deceased on the forehead. When the deceased received that blow, he was beaten by the defendant Domingo, and later the defendant Juan Antecristo attacked him, after which the defendant Lope Jorello and also the defendant Miguel Antecristo attacked the deceased. Miguel Antecristo threw a stone at the deceased, and that was the time when the latter fell to the ground. When the deceased Carlos Purgatorio fell to the ground, his father went upstairs to get a weapon, and upon seeing this, the defendants fled, and I, in turn, also fled to my house. That is all I saw." (Page 54, t. s. n.)

The veracity of these three witnesses for the prosecution is strenuously assailed by the defense.

Pedro Purgatorio is accused of not having told the truth before the municipal president, and policeman Juan Sesaldo. Pedro Purgatorio explained it saying that after the attack, while he was on his way to the town to denounce the fact, he met defendants Lope Jorello and Juan Antecristo who held him and searched him for a weapon; that the defendant Tranquilino Caballero arrived then with some others; that Tranquilino Caballero ordered them to take off Pedro Purgatorio's hat, to see whether he carried a penknife ; that as he protested that he carried no weapon for he was going to the justice of the peace, Tranquilino Caballero asked him why he was going to the justice of the peace; that because Tranquilino asked him how he was going to relate the incident to the justice of the peace, and Pedro Purgatorio answered that he would tell the justice that the defendants had beaten the deceased causing his death, whereupon Tranquilino Caballero became angry and threatened to kill him if he said such a thing to the justice of the peace; that Rafael Caldosa then spoke up suggesting that he tell the justice of the peace that the deceased became intoxicated at the feast, returned home and went back to the feast armed with a bolo, and that he" chased the people, and that as he was drunk, he bumped against the trunk of a coconut tree, and fell, striking against a beam of the house, fracturing his skull, and falling to the ground, and everybody fled; that the proposal met with the approval of Tranquilino Caballero, and Pedro Purgatorio pretended to agree and offering to inform the authorities of the incident as related by Rafael Caldosa, left them immediately; that Tranquilino Caballero would not permit him to go alone, and said all of them would accompany Pedro Purgatorio in order to hear what he had to say to the justice of the peace; that Tranquilino Caballero and his companions did as he had said, repeating to Pedro Purgatorio the account suggested by Rafael Caldosa; that before reaching the house of the justice of the peace, and while in front of the municipal president's house, they proposed that he go in to see said president, which surprised Pedro Purgatorio, because it was the justice of the peace he was going to inform regarding the incident; that after they had awakened the municipal president, they went up to see him, and Pedro Purgatorio also went with them; that it was Tranquilino Caballero who explained the case to the president as proposed by Rafael Caldosa, and the said president confined himself to asking Purgatorio whether it was true, and he answered "yes", as instructed. (Pages 7 and 8, t. s. n.)

This account is untrue, according to the defense, and it was denied on the witness stand by defendants Tranquilino Caballero and Domingo Antepuesto, as well as by witness Rafael Caldosa for the defense. Alejandro Agravante, the municipal president, then affirms that Pedro Purgatorio went to his house alone on the night of the incident, and informed him that as his son Carlos was drunk, he ran after him, wounding himself in the head on account of having run up against a beam of the house and the trunk of a coconut tree.

A similar thing happened to Matilde Purgatorio, the fact that she made a false statement to the justice of the peace being brought up against her. She explains the case saying that the defendant Tranquilino Caballero instructed her to make that false statement under threat of imprisonment.

But it is a fact deducible from the record, and expressly recognized by the trial judge who saw and heard Pedro Purgatorio and Matilde Purgatorio testify at the hearing, that these witnesses are ignorant people, and this court is persuaded of the following considerations set forth by the Attorney-General in his brief:

"It is true that when Pedro Purgatorio and Matilde Purgatorio first attempted to file their complaint, they testified before the president and the justice of the peace, respectively, that Carlos died because, while intoxicated, he chased the people about, and bumped his head against a beam and a coconut tree (pp. 64-65, 35-36, s. n.) ; but this was due, they say, to the fact that Tranquilino Caballero and his codefendants had threatened them with death. And there is nothing strange about this considering Caballero's official position on the one hand, and the ignorance and lack of education of Pedro and Matilde, on the other. To this must be added the fact that when they made the said statements, the defendants were present and watched them. (Pages 18-19, 36-37, s. n.)

"The fact that these witnesses were really and truly under the influence of Tranquilino Caballero, is confirmed, moreover, by their conduct during the preliminary investigation of this case. For, when the complaint had already been presented in this case, the said justice of the peace Clavel conducted the preliminary investigation, and on that occasion these witnesses, already free from duress, being then under the protection of the Constabulary, witnessed the truth, relating what had really occurred. Their testimony was recorded in Exhibits 1 and 4 of the defense. It will be noted that these statements are substantially the same as those they made at the trial.

"Taking into account this influence of Tranquilino's who by the way, was twice elected municipal vice-president, it is not strange that the President, Alejandro Agravante, should be partial to him, and should do what he could to favor Tranquilino, his fellow partisan. Neither is it strange that policeman Juan Sesaldo, assigned by the president to investigate the case, should evince the same partiality. He could not have acted in any other way, considering that he was a subordinate. The same may be said of the chief of police Antonio Sandalo. As the trial court observed, the partiality of the latter brought him to the extreme of erasing the words 'No entry' in the police blotter, in order to substitute notes evidently favorable to the defendants. (Pp. 98-99, s. n.) This explains why the complaint in this case was signed by a Constabulary sergeant." (Pages 8 and 9, Attorney-General's brief.)

The meager education of these witnesses for the prosecution, who live in an out-of-the-way barrio, and the fear implanted in them by the influence and social power of the defendants in general in that municipality, explain the apparent incongruities in their repeated declarations, noticeable in some points of minor importance, such as whether Pedro Purgatorio, as he stated in the preliminary investigation, personally repeated to president Agravante the account suggested by Caldosa, or, as he stated at the trial, he only said that Tranquilino's account, who was the person who related it, was true. Matilde Purgatorio's statements in Exhibit 2, which are different from what she had been instructed to say by the defendants, are of a similar nature, as is also her testimony at the preliminary investigation, which differs from her statements in Exhibit 2, and the portion relating to the part taken by defendants Lope Jorello and Juan Antecristo whom she saw attacking her brother, according to her testimony at the hearing, but whom, judging by some of her statements at the preliminary investigation, she did not see attacking him. But it must be noted that in her aforesaid testimony at the preliminary investigation under direct examination she said that her brother, the deceased, "was struck by him" (referring to Tranquilino Caballero) "with his cane (olisi), and was immediately and simultaneously attacked by the five of them" (alluding to the defendants), and under cross-examination said in part: "The first blow was delivered by Lieutenant Kilino, followed by Domingo Antepuesto, then Juan Antecristo, then Lope Jorello, and lastly Miguel Antecristo. * * * Lieutenant Kilino and Domingo Antepuesto each had a cane (olisi) ; Juan carried a stick bigger than the big toe and one vara long; Lope Jorello carried a coconut palm; Miguel picked up a big stone."

In the main points of how the attack began and continued, these eye-witnesses for the prosecution, are in substantial agreement and corroboration.

The defense questions the credibility of the witness for the prosecution, Isidoro Apostol, because he is Pedro Purgatorio's brother-in-law; was angry with Tranquilino Caballero ; and on being investigated by policeman Sesaldo said he did not know anything about the incident; and because he went to the constabulary saying that he had not told the truth to the local authorities.

Isidoro Apostol admits that he is Pedro Purgatorio's brother-in-law, but affirms that he is not angry with Tranquilino Caballero, and that he has not been investigated by policeman Sesaldo.

The defense also attempted to prove that this prosecution of the defendants was instigated by one Feliciano Saldua, who at the prayer and request of Pedro Purgatorio and Melitona Peregrino, the deceased's widow, accompanied the latter to the Constabulary headquarters at Dumamhug to report the homicide of the deceased.

Being cited to testify, Feliciano Saldua said that he had no quarrel with defendant Tranquilino, to whom he is related; he also affirmed that he had no interest in this case, and that, if he accompanied the father and the daughter of the deceased in the City of Cebu, it was to guide them around the city where they were strangers.

Defendant Tranquilino Caballero, testifying for the defense, states that at about midday on the day of the crime, when Pedro Purgatorio was preparing to go to the feast given at the house of his son's father-in-law, on the occasion of the wedding of the latter's daughter, he told his son Carlos, the deceased, to change his clothes, saying: "Go! hurry up! you, if you are told to hurry up, you don't do it; you're like a half-wit, a crank" (page 157, t. s. n.) ; that Carlos Purgatorio felt ashamed in the presence of the others, and said so to his father reproachfully; that he left the house, and returning, attacked his father with a bolo which missed him, because the latter jumped backward; that said father picked up a stone and threw it at his son hitting him on the right arm, and continued stoning him, until, Carlos made a half-turn in order to run away, when his father threw another stone at his head, whereupon Carlos fell on his face, and the defendants left the place.

Defendant Domingo Antepuesto testified substantially the same as Tranquilino Caballero.

Rafael Caldosa, another witness for the defense relates substantially the same facts stated by Tranquilino Caballero, except that he does not merely say that when the deceased fell to the ground, he and the defendants went away, but he assures the court that when he saw that Carlos Purgatorio no longer moved, he fled and the defendants also ran away, (Page 76, t. s. n.)

It is strange that although Tranquilino Caballero, at the time of the incident, was the vice-president of the town (page 66, t. s. n.), and had several companions, he did not exercise his authority, or attempt to prevent the act, if it happened as he says it did, limiting himself to saying to Carlos, on seeing him assault his father: "For heaven's sake, Carlos, stop that!" (Page 158, t. s. n.) Neither can it be satisfactorily explained, if his testimony be true, how said municipal vice-president, having witnessed Pedro Purgatorio killing his own son, did not arrest him, or, at least, immediately inform the authorities. It is true that he said he sent his son-in-law to inform the barrio lieutenant of the incident (page 165, t. s. n.); but he himself states that his son-in-law returned with the information that the barrio lieutenant was in town. And the duties of the office of vice-president were not so new to him, that his inaction might be attributed to lack of experience, since he had been holding that office for over five years. (Page 66, t. s. n.) Neither did Rafael Caldosa inform the authorities of the incident, even if he says he tried to do so; and he discussed it with anyone who mentioned it (page 82, t. s. n.) ; however, in spite of this intention, and although he saw a constabularyman with Purgatorio on October 2, he said nothing about the act to said agent of authority. (Page 87, t. s. n.)

We have carefully and repeatedly gone over the evidence taken in this case, ascertaining from the record the real weight and legal merit of the evidence adduced by both parties, and we confirm the findings of fact made by the trial judge, who saw and heard the witnesses testify, and therefore had sufficient opportunities to test the credibility of the witnesses in this respect.

We find it proved beyond a reasonable doubt that the defendants attacked Carlos Purgatorio on the occasion in question, and that the latter died as a result of the lacerated wound in the suboccipital region caused by a stone thrown at him by the defendant Miguel Antecristo.

With regard to the defendants' liability, we believe it to be individual, that is, that each of them answers for the act or acts he committed. We have arrived at this conclusion in view of the fact that no previous conspiracy between them to take the life of the deceased has been proved, nor a spontaneous agreement for such purpose at the moment of the attack, nor of any intentional or material cooperation. For one of these circumstances must be present and proven in order that two or more assailants may be held as principals, or any or several of them as

accomplices, in the crime resulting from the attack. Because it is not sufficient that the attack be joint and simultaneous; it is necessary that the assailants be animated by one and the same purpose. So holds the weight of authority. See decisions of the Supreme Court of Spain of December 29, 1884; April 2, 1886; November 12, 1887; May 23, 1888; October 26, 1889; December 4, 1889; November 4, 1892; November 14, 1892; November 20, 1895; January 27, 1896; April 26, 1904; and January 11, 1905, and others, especially that of October 11, 1911, dealing with a case similar to the one at bar, in so far as death was caused by the last assailant, and it was not shown that the first assailants harbored a homicidal intent or that they could foresee that the last assailant would kill the deceased. This is the same doctrine promulgated by this court in the case of *People vs. Tamayo* (44 Phil., 38). It cannot be otherwise, since intention is an essential element of voluntary felonies. In the case at bar, it may be said that the attack was simultaneous, but there is neither evidence nor indication of unity of purpose.

In determining the specific individual liability of each of these defendants, it should be noted that the nature of the bruises on the deceased's right eye, right wrist, and left forearm, caused by Miguel Antecristo's co-defendants, does not appear of record; but it appearing that all of them attacked the deceased, said co-defendants of Miguel Antecristo are liable to punishment, corresponding to misdemeanor, as provided in article 589 of the Penal Code.

We declare Miguel Antecristo guilty as principal of the homicide prosecuted herein, with the extenuating circumstance of not having intended to cause so serious an evil. There was another extenuating circumstance, namely, provocation on the part of the deceased, but it is offset by the aggravating circumstance of abuse of superior strength.

Wherefore, the judgment appealed from is modified, and Miguel Antecristo is sentenced to twelve years and one day of reclusion temporal, with the accessories of article 59 of the Penal Code, and to indemnify the heirs of the deceased Carlos Purgatorio in the amount of one thousand pesos; and defendants Tranquilino Caballero, Domingo Antepuesto, Juan Antecristo, and Lope Jorello are sentenced to two days of arresto menor, with the reduction of the preventive imprisonment suffered by all or some of them. Each of the defendants and appellants shall pay one-fifth of the costs of both instances. So ordered.

Avanceña, C. J., Johnson, Street, and Villamor, JJ., concur.

DISSENTING

VILLA-REAL, J., with whom concurs JOHNS, J.:

I regret to be compelled to dissent from the majority opinion in so far as it relates to the criminal liability of defendants Tranquilino Caballero, Domingo Antepuesto, Juan Antecristo and Lope Jorello, whom I consider to be criminally liable as accomplices, for the following reasons:

According to the record, at about three o'clock in the afternoon of September 30, 1928, defendants Tranquilino Caballero, Domingo Antepuesto, Juan Antecristo, Lope Jorello, and Miguel Antecristo, headed by the first, went to Pedro Purgatorio's house. Tranquilino Caballero said to Pedro: "We come on behalf of Matias Antecristo to take you to the feast." Pedro replied that he did not want to go because those whom he had invited had already left. As Pedro persisted in his refusal, notwithstanding Tranquilino's repeated invitations, the latter turned to Carlos, Pedro's son, and invited him as they had his father, but Carlos answered that he could not go, first, because those whom they had invited had already left, and secondly, because they had broken their word with respect to the gift they had promised to give his parents, and he left the house, followed by the defendants. Downstairs Tranquilino Caballero reiterated his invitation, and as Carlos again refused it and made some sarcastic remarks, Tranquilino laid hold of the cane he carried under his arm, and struck Carlos with it on the forehead. Almost

simultaneously, Domingo Antopuesto hit him with a stick on the right arm, Juan Antecristo with a piece of firewood, and Miguel Antecristo, picking up a stone, threw it at him, hitting him in the occipital region, as a result of which the victim fell to the ground unconscious, dying a few moments after. When the defendants saw him fall, they fled.

We agree with the majority that there is no evidence of any previous plot or conspiracy to take the life of Carlos Purgatorio, for if there were, all of them would be guilty as principals of the crime of homicide by direct participation.

All the defendants went to Pedro Purgatorio's house together to invite the latter and his son Carlos to the feast. Naturally, the insistent refusal both of Pedro Purgatorio and of his son Carlos displeased them, and such displeasure increased when Carlos, in order to emphasize his refusal, made some sarcastic remarks. At this affront, all of them attacked said Carlos practically at the same time, Tranquilino Caballero, Domingo Antepuesto, Juan Antecristo, and Lope Jorello with sticks each on a certain part of the body, and Miguel Antecristo with a stone thrown at the head, which caused his death. Inasmuch as the defendants went together to invite Pedro Purgatorio and his son Carlos, were disappointed and sarcastically addressed together, when they attacked Carlos almost simultaneously, it cannot be said that each of them acted for himself and independently of the others; for, united in the disappointment, united in the insult, and united in the act to avenge said insult, they must of necessity have been also united in the purpose to punish the one who had disappointed and insulted them. At that psychological moment, then, there was the intention to punish, and the material cooperation to carry it out.

In volume I, pages 303 and 304, of Hidalgo's work on the Penal Code, the following cases are cited in support of our theory:

"Two individuals assaulted a third inflicting on him two wounds, one mortal, and the other curable in twenty days. The Supreme Court holds that the one who inflicted the second wound answers as accomplice for the crime of homicide, and not for that of physical injuries, on the ground that while it was the wound inflicted by the other defendant that caused the death of the deceased, there can be no doubt that by the second wound, inflicted at the same time as the other, the one who dealt it cooperated in that fatal result, and that, he was in consequence, according to article 15 of the Code, an accomplice in the crime of homicide, since, without taking part in its execution in any of the three ways set forth in article 13, he cooperated therein by a simultaneous act." (Decision of December 1, 1873.)

"At the door of the inn, after some words between the defendants and the deceased, the former punched him in the face, and one of them, drawing a razor, mortally wounded him. The Supreme Court holds that those who only hit the deceased are guilty as accomplices, because their acts were simultaneous with the homicide, and contributed to take from the strength and means of defense of the victim, making it possible and even easy for the principal assailant to do what, perhaps, he could not have done otherwise." (Decision of May 24, 1879.)

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.