

PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. GONA (MANSACA), DEFENDANT AND APPELLANT.

G. R. No. 32066. March 15, 1930

Ponente: OSTRAND, J.

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OSTRAND, J.:

body { font-family: Verdana, Geneva, Arial, helvetica, sans-serif; font-size:80%; background-color:#FFFFFF; margin:0 2% 0 2%; text-align: justify; } h1 { font-family:times; } h2 { background-color:#cccccc; padding:10px 0 10px 0; font-weight: bold; text-align: center; } h3 { font-weight: bold; text-transform: uppercase; text-align: center; } div#footer { font-size:9px; }

The defendant was charged before the Court of First Instance of the Province of Davao with the crime of homicide, the information reading as follows:

"That on or about October 26, 1928, in the municipal district of Pantukan, Province of Davao, Philippine Islands, and within the jurisdiction of the court, the said accused voluntarily, illegally, and criminally and with a bolo which he then carried, assaulted the Mansaca Mapudul, causing him a mortal wound on the left side of the neck and that, as a consequence of said wound, the said Mapudul died."

Upon trial the court below found the defendant guilty as charged in the information and taking into consideration the extenuating circumstance of non-habitual intoxication, sentenced him to suffer twelve years and one day of reclusion temporal with the accessory penalties prescribed by law, to indemnify the heirs of the deceased in the sum of P1,000, and to pay the costs. From this sentence the defendant appealed.

It appears from the evidence that on the evening of October 26, 1928, a number of Mamacas celebrated a reunion in the house of the Mansaca Gabriel. There seems to have been a liberal supply of alcoholic drinks and some of the men present became intoxicated, with the result that a quarrel took place between the Mamaca, Dunca and the defendant Dunca and his son Aguipo eventually left the house and were followed by Mapudul and one Awad. The defendant left the house about the same time with intention of assaulting Dunca, but in the darkness of the evening and in the intoxicated condition of the defendant, he mistook Mapudul for Dunca and inflicted on him a mortal wound with a bolo.

There can be no doubt that the defendant killed Mapudul and that he is guilty of the crime charged, but his attorney argues that in view of the fact that said defendant had no intention to kill the deceased and committed the crime by mistake, he should have been found guilty of homicide through negligence under paragraph 1 of article 568 of the Penal Code and not of the graver crime of intentional homicide.

This contention is contrary to earlier decisions of this court. In the case of United States vs, Mendieta (84 Phil., 242), the court said:

"Even admitting that the defendant intended to injure Hilario Lauigan instead of Pedro Acierto, even that, in view of the mortal wound which he inflicted upon the latter, in no way could be considered as a relief from his

criminal act. That he made a mistake in killing one man instead of another, when it is proved that he acted maliciously and willfully, cannot relieve him from criminal responsibility. Neither do we believe that the fact that he made a mistake in killing the wrong man should be considered as a mitigating circumstance."

The appealed sentence is affirmed with the costs against the defendant. So ordered.

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

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