

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. NATALIO ILUSTRE, DEFENDANT AND APPELLANT.

G. R. No. 32076. March 14, 1930

Ponente: VILLAMOR, J.

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VILLAMOR, J.:

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The appellant was tried in the Court of First Instance of Batangas for homicide upon the following information:

"That on or about June 24, 1929, in the municipality of Balayan, Province of Batangas, Philippine Islands, the, above-named defendant willfully, unlawfully, and feloniously dealt Juan Magsino a blow with his closed fist in the right hypochondriac region, bruising his liver and producing an internal hemorrhage resulting in the death of said Juan Magsino.

"Contrary to law."

The case Was duly tried, and the trial court found the defendant guilty of the crime charged, but considering that the accused had no intention to commit so grave an evil as that committed, sentenced him to twelve years and one day, reclusion temporal, P1,000 indemnity to the family of the deceased, and the costs.

Defendant appealed from this sentence, and his counsel now alleges that:

"1. The lower court erred in finding that the appellant herein hit Juan Magsino in the right hypochondriac region with his fist, and that said blow bruised the victim's liver.

"2. Even admitting hypothetically for the sake of argument, that the defendant hit the deceased causing a contusion or congestion of the liver, the lower court still erred in finding that said contusion or congestion was the direct cause of Magsino's death, and in condemning the herein appellant.

"3. There being some doubt as to the real cause of Juan Magsino's death, the lower court erred likewise in convicting the. defendant of homicide, instead of sentencing him for misdemeanors against persons.

"4. Even supposing that the act prosecuted was really committed by the defendant, as it was done without criminal intent, the trial court also erred in not acquitting him.

"5. Finally, the lower court erred in not giving the defendant the benefit of the reasonable doubt, and therefore in not acquitting him."

It is not disputed that on the morning of June 24, 1929, on St. John's day, a procession was held in the barrio of Canlurangbayan, Balayan, The trial court describes the feast and the occurrence, as follows:

"It is characteristic of this feast to make the rounds of the town in procession, with a roasted pig on a piece of cane followed by music and the populace. The bearer goes about dancing to the tune of the music, and as is customary, designed to enliven the celebration, the people try to take a piece of barbecued pig. To direct the procession and prevent the people from consuming the whole animal before reaching the end, a man is placed in charge, who on the day of record, June 24, 1929, happened to be the defendant Natalio Ilustre.

"A young man, Juan Magsino by name, delicate and suffering from incipient tuberculosis, made one of the gay multitude, and tried to secure a piece of the crackling. To punish his boldness, the defendant ran after him, boxed him, and left him sprawling on the ground. Upon being struck Juan Magsino suddenly became very ill and his companions had to take him home in a carromata. This was in the morning, and about three o'clock in the afternoon he expired."

The real question raised in this appeal is, What was the cause of Juan Magsino's death?

The autopsy was performed by Doctor Jose Ilagan, municipal physician for Balayan, assisted by Doctors Antonio Agoncillo, municipal physician for Taal, and Hermenegildo del Castillo, municipal physician for Lemery, all of the Province of Batangas. Doctor Ilagan, testifying on the autopsy as evidenced by Exhibit A, bases his diagnosis Upon the following: The symptoms of the deceased before death; the interstitial hemorrhage of the liver produced by the lesion thereof; the ecchymotic spots on the skin of the right epigastric region, an indication of internal hemorrhage; the hemorrhagic condition of the peritoneum, and the sanguineous liquid found in the abdominal cavity; adding, that he also found the lungs covered with miliary granules and the heart was somewhat dilated, but that its valves were normal. In the opinion of this physician, Juan Magsino's death was caused by the contusion of the liver and the internal hemorrhage; that, although the autopsy showed that the deceased had incipient tuberculosis, he could not have died of it; that neither could he have died of heart disease, because the slight dilation noticed was due to the increased efforts of this organ owing to the incipient tuberculosis of the lungs. "Tubercular lesions," he declares, "are cavities in the lungs that contain blood causing congestion, and the heart being called upon to make a greater exertion becomes dilated."

Doctor Agoncillo corroborates Doctor Ilagan's opinion; but Doctor Castillo, with the self-same data gathered at the autopsy, has not arrived at a definite conclusion as to the real cause of Juan Magsino's death.

Doctor Sixto Roxas, director of the provincial hospital of Batangas, was called upon to express his opinion as to the cause of Magsino's death, in view of the information obtained at the autopsy, to wit: According to Doctors Ilagan and Agoncillo, the anterior right lobe of the liver was bruised, while the left side was normal. They also found sanguineous fluid in the abdominal cavity. They examined the heart and lungs, and found upon the latter miliary granules, indicating, according to them, the presence of tuberculosis in its first and second stages. The dilated heart they found to Weigh 400 grams. The heart valves were normal. They went over the body and found no ecchymosis or lesion, save one ecchymotic spot in the lower part of the abdomen beneath the navel. The peritoneum was hemorrhagic. To the autopsy data, must be added the theory that the death of Juan Magsino occurred a few hours after receiving a blow in the right hypochondrium. The other theory sustained is that the deceased had taken wine and then bathed in the river, and that he had afterwards received a push and had fallen on his back.

After giving some explanation of the data presented to him by the court, Doctor Roxas was thus interrogated:

"Q. Well, at any rate, a blow on the right hypochondrium of this individual could have caused his death?—A. Yes, sir; the shock of it.

"Q. Supposing five hours passed, as His Honor remarked, considering that the person was delicate, with symptoms of tuberculosis in both lungs, and a consequent dilation of the heart: do you believe, doctor, that a blow could have killed him in five hours?—A. He might die, but it would be an extremely rare case.

"Q. Do you not think, doctor, that a sufferer from tuberculosis in the first or second stage, no longer has the amount of blood he had before?—A. Naturally not.

"Q. And with a hemorrhage, an internal hemorrhage caused by a blow on the right hypochondrium, don't you think such hemorrhage contributed considerably to bring about this man's death?—A. Naturally.

"Q. And if that man was killed by a shock, that shock was caused by the blow, wasn't it, doctor?—A.

Of course."

The testimony just quoted inclines us to believe that in the long run Doctor Roxas agrees with the diagnosis of Doctors Ilagan and Agoncillo, to the effect that Juan Magsino's death was due to a contusion on the liver accompanied by an internal hemorrhage.

It is thus seen that, passing over Doctor Castillo's opinion, which of course, cannot serve as a basis for a definite conclusion, the three medical men, Doctors Ilagan, Agoncillo, and Roxas agree, with this exception, that while the first two who performed the autopsy on the body, with their own eyes saw the result thereof, the latter, that is, Doctor Roxas, simply considered the data hypothetically. We are therefore convinced there is no fundamental disagreement among the medical witnesses as to the cause of the victim's death; and that it was caused by the defendant's blow on the deceased's right hypochondrium, which bruised the liver and produced an internal hemorrhage.

The appellant denies having hit Magsino, protesting that he had no motive for doing so; but the evidence shows that he punched Magsino in the abdomen a little to the right, felling him to the ground.

The fact that the deceased had a delicate constitution and suffered from incipient pulmonary tuberculosis does not affect the defendant's criminal liability, for even if it rendered the blow more fatal", the efficient cause of the death remains the same. (U. S. vs. Fenix, 11 Phil., 95.) And the circumstance that the defendant did not intend so grave an evil as the death of the victim does not exempt him from criminal liability, since he deliberately committed an act prohibited by law, but simply mitigates his guilt in accordance with article 9, No. 3, of the Penal Code. (U. S. vs. Samea, 15 Phil., 227.)

The instant case comes under the provision of article 404 of the Penal Code providing the penalty of reclusion temporal, which must be imposed in its minimum degree in view of the mitigating circumstance just mentioned, or twelve years and one day, reclusion temporal. Therefore, the judgment appealed from must be, as it is, hereby affirmed, with costs against the appellant.¹ So ordered.

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

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