

THE PEOPLE OP THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. PURIFICACION ALMONTE, DEFENDANT AND APPELLANT.

G. R. No. 35066. September 07, 1931

Ponente: IMPERIAL, J.

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IMPERIAL, J.:

Purificacion Almonte is charged with the crime of homicide, the information reading as follows:

"The undersigned provincial fiscal charges Purificacion Almonte with the crime of homicide, committed as follows:

"That on or about October 1, 1930, in the municipality of Sorsogon, Province of Sorsogon, Philippine Islands, and within the jurisdiction of this court, the aforementioned accused did willfully, unlawfully, and feloniously beat, attack, and assault one Felix Te Sue with a knife, which she carried, producing a wound in the abdomen which was the immediate cause of the death of the said Felix Te Sue.

"Contrary to law.

"Sorsogon, Sorsogon, November 7, 1930.

(Sgd.) "JACINTO YAMZON

"Provincial Fiscal"

The accused pleaded not guilty, and after the trial, at which she was represented by counsel, she was convicted of the said crime of homicide, and sentenced to fourteen years, eight months, and one day of reclusion temporal, to indemnify the heirs of the deceased in the sum of P1,000, and to pay the costs. The defendant appealed.

The facts which have been proved beyond question are as follows:

Until a week before the crime, the accused lived maritally with the Chinaman Felix Te Sue who was a married man. Because one Miguela Dawal, with whom he had also lived maritally, threatened to bring suit against him unless he rejoined her, the Chinaman and the accused voluntarily agreed to separate. From that time on Te Sue lived in the barrio of Guinlajon, municipality of Sorsogon, Province of Sorsogon, together with the said Miguela Dawal. On the morning of October 1, 1930, the accused visited her former paramour and on entering the house, found him with Miguela. When Te Sue saw her, he approached and told her to go away at once because her new paramour might get jealous and do her harm. The accused insisted upon remaining, and on being pushed by Te Sue and Miguela, feeling that she was being unjustly treated, took hold of a small penknife she carried and stabbed the man in the abdomen. Horrified, perhaps, at her deed, she fled to the street, leaving the blade sticking in her victim's abdomen, and, taking the first bus that chanced to pass, finally went home. The injured man was at once taken to the provincial hospital where he was given first aid treatment, and Doctor Ortega performed a slight operation upon him, cleaning and sewing up his wound. It was not serious, according to the doctor, and might be healed in a week; but on the sixth day the patient succumbed to complications which we shall treat of later on. The relatives of the deceased paid a little over P200 for the

hospital treatment and the expenses of his last illness.

In this instance the defense assigns the following alleged errors as committed by the trial court in its judgment:

"I. The trial judge erred in holding that the unnecessary movements of the deceased while in the provincial hospital of Sorsogon for medical treatment were caused by the pain of the wound inflicted by the accused.

"II. The trial judge erred in holding the accused criminally responsible for the secondary hemorrhage which caused the death of the deceased.

"III. The trial judge erred in holding the accused responsible for the death of the offended party as the direct and immediate consequence of the wound inflicted by the accused.

"IV. The trial judge erred in convicting the accused of the crime of homicide as charged in the information instead of lesiones leves as supported by the evidence in this case."

The first three assignments of error raise questions of fact and what really caused the death of the deceased. It is strongly argued that the judgment appealed from is erroneous in finding that the deceased's movements, which Doctor Ortega declares were the cause of the secondary hemorrhage that produced his death, were due to the pain felt after the operation and during his illness. It is contended that according to the record, the real cause of the movements was, so the deceased himself declared, the excessive warmth of the bed and the fact that he was unaccustomed to such a bed. To ascertain this important point requires a careful examination of the evidence upon this particular.

Doctor Eduardo Ortega, in charge of the Sorsogon Provincial Hospital, a physician of admitted ability and skill, speaking of the patient's physical condition when he entered the hospital, testified as follows:

"Q.

What was the result of your examination?—A. I found a wound in the abdomen, on the left side near the umbilical region; it was not deep and did not penetrate very far, but it passed through the muscle tissue.

"Q.

What caused the death of Felix Te Sue?—A. He died of a secondary internal hemorrhage.

"Q.

How?—A. The wound was caused by a certain blow, because the penknife was not very sharp; the force of the blow which introduced the knife into the flesh produced a secondary congestion of the internal organ so that any unnecessary movement on the patient's part would cause congestion of the veins, or would make them more congested and cause them to bleed.

"Q.

And in the case of Felix Te Sue, did they bleed?—A. He began to bleed after he had been twenty-four hours in the hospital.

"Q.

Why do you call it a secondary hemorrhage?—A. There are many kinds of hemorrhages: Primary, in this particular case, if the wound had reached the internal organs and severed the veins of those organs it would be called a primary hemorrhage because it was directly caused by the wound; but there was no immediate hemorrhage after the wound was inflicted, but twenty-four hours later; in other words, there was what is called a secondary hemorrhage.

"Q.

You also said that Felix Te Sue had made an unnecessary movement?—A. Yes, sir.

"Q.

Can you tell the court what were those unnecessary movements?—A. Those movements were the following: The patient began by moving from side to side; then he would sit up at night, and perhaps jump out of bed, and begin walking about; when asked why he did that, contrary to medical instructions, he explained that he could not lie down because the bed was too warm, and that he was not used to lying in bed.

"Q.

Do you mean to say that the patient's movements brought on the secondary internal hemorrhage?—A. Yes, sir, they produced the secondary internal hemorrhage.

"Q.

And he died because of that secondary internal hemorrhage?—A. Yes, sir.

"Q.

Was the wound alone, as treated by you, sufficient to cause the death of Felix Te Sue?—A. If the patient had lain in bed quietly, in order to avoid increasing the congestion of the internal veins, there would have been no secondary hemorrhage.

"Q.

But the wound you treated could have been healed?— A. Yes, sir; it could have been.

"Q.

In how many days could it have been healed?—A. That wound, if there had been no secondary infection, would have healed up in a week.

"Q.

You said that Felix Te Sue had been asked why he moved about contrary to the physician's instructions; what instructions did you give him?—A. As soon as he had been admitted into the hospital, he was examined, and then made to lie in bed. Medical treatment was then administered, and he was given to understand that he should remain in bed, for any unnecessary movement might aggravate his condition, and that what he needed was complete rest.

"Q.

If he had not made those movements, do you think death would have ensued?—A. I am very sure he would not have had that secondary hemorrhage, because as a matter of fact, during the first twenty-four hours he had no symptoms of having an internal hemorrhage.

"Q.

And that internal congestion of the veins, although those veins contained more blood than usual, would not have caused the hemorrhage? That is to say, the veins would not have burst, if the patient Felix Te Sue had not moved about, as you have said ?—A. Yes, sir; that internal congestion would not have burst if the patient had not moved about.

"Q.

Can you tell us, doctor, why strangers who know nothing about the care of the sick are placed in charge of a patient so delicate that his moving may cause his death, as indeed it did, in this case?—A. The patient was not placed in the care of strangers; we have nurses to attend and see to the patient as often as it is needed, besides the physician's visits to him; but even in the presence of the doctor and the hospital attendants, and after we had put the patient to bed, he continued to struggle with us.

"Q.

Do you mean to say, then, that Felix Te Sue was fastened in his bed, and in spite of that he was able to leave it and walk about?—A. He left his bed the first day after the operation, and immediately after it, when he was not fastened in because he did not seem to be violent." (Pages 16-22, transcript of the stenographic notes.)

From the foregoing testimony it may be inferred: That the deceased was stabbed on the left side of the abdominal region, near the navel; that the wound did not involve any internal organ; that upon arriving at the hospital, he was submitted to a minor operation which consisted in cleaning, medicating, and suturing the wound; that upon his arrival, the patient was in a nervous state; that during the operation they tied down the patient; that immediately after the operation Doctor Ortega admonished him to keep quiet because any movement he might make would change his pathological state for the worse and bring about dangerous complication; that in spite of this admonition the deceased moved about, sitting up in bed, getting up and pacing about the room; that because of this, the internal vessels, already congested because of the wound, bled, and the hemorrhage thus produced caused his death.

The defense contends, with which the Attorney-General agrees, that according to Doctor Ortega's testimony the determining cause of Te Sue's death was not the wound inflicted by the accused, but his own carelessness in moving about against the doctor's orders, which produced the internal hemorrhage. We agree with both parties that according to Doctor Ortega, the immediate and determining cause of the death was none other than the internal hemorrhage produced by the rupture of the abdominal blood vessels ; but we cannot agree, in view of the evidence, that the real cause of said death was not the wound inflicted upon the victim. Carefully analyzing Doctor Ortega's testimony, we reach the inevitable conclusion that the internal veins were congested from the beginning because of the force of the blow which produced the wound, for that is what the doctor means when he says that "the wound was caused by a certain blow, because the penknife was not very sharp, the force of the blow which introduced the knife into the flesh produced a secondary congestion of the internal organ so that an unnecessary movement on the patient's part would cause congestion of the veins, or would make them more congested, causing them to bleed"; and that what really impelled the patient to violate the doctor's orders, by sitting up in bed and pacing about the room, was not, as the defense insinuates, a desire to aggravate the criminal liability of the accused, but simply his nervous condition, which was noted from the moment he entered the provincial hospital. It was not the warmth of the bed or his not being used to it that made the patient act as he did, but the pathological state created by the illness brought on by the wound from which he was suffering. We are convinced that under normal conditions, if the patient had not been ill, he would not have violated the doctor's orders, knowing, as he did, that the slightest movement might occasion a complication or internal hemorrhage capable of causing death.

The point raised by Viada in volume 3 of his work, pages 41 and 42, involves facts similar to those established in this case, and we believe the decision of the Supreme Court of Spain is perfectly applicable to this case:

"Even when the doctors say that the death was due not so much to the wound, which in a better constituted person would have healed in thirty or forty days, as to the patient* s purely nervous temperament, his irritability and other causes, all of which depend upon his physical constitution:—should such a death be qualified as HOMICIDE? The Supreme Court has ruled affirmatively: 'Inasmuch as a man is responsible for

the consequences of his act—and in this case the physical condition and temperament of the offended party nowise lessen the evil, the seriousness whereof is to be judged, not by the violence of the means employed, but by the result actually produced and as the wound which the appellant inflicted upon the deceased was the cause which determined his death, without his being able to counteract its effects, it is evident that the act in question should be qualified as homicide, etc. (Decision of April 3, 1879, published in the Gazette on the 16th of June.)"

In the case cited the doctors were of the opinion that death was not an immediate consequence of the wound received, but was rather due to the victim's purely nervous temperament, his irritability and other causes, peculiar to his physical constitution. In the case in question, it is sought to attribute the internal hemorrhage that directly caused death, not to the wound or injury, but to the patient's movements, overlooking the fact that they were due to his nervous condition, and that this state of nervousness could only be the result of the wound inflicted by the appellant. We hold, therefore, that the real cause of death in this case was not the bodily movements referred to, but the congestion of the internal veins produced beforehand by the force of the blow which caused the wound and the nervous condition of the deceased.

In *United States vs. Sornito* (4 Phil., 357), we held that "In crimes against the life of a human being the results and effects of the criminal acts must necessarily be taken into consideration in order to establish the seriousness and extent of the evil or injury produced and to define the crime in accordance with the law. It must also be taken into consideration that the guilty parties are responsible under the law for all the unlawful acts executed by them in violation of its principles and for all the consequences of those acts."

In *United States vs. Montes* (6 Phil., 443), we also held that "Where a person voluntarily and with intent of injuring another commits an act which is notoriously unlawful, he shall be held responsible for the consequences of his criminal action, even though when such wrongful act constitutes the crime of homicide it appears that he had no intention of killing the deceased."

In *United States vs. Navarro* (7 Phil., 713), we re-affirmed the same principle holding that " 'the firm and unalterable jurisprudence of the Supreme Court (interpreting the Penal Code now in force and effect) is that the crime of homicide is committed when death ensues or follows, as the result of a wound inflicted by another, whether the death be the precise and necessary consequence of the injuries or wounds, or whether death resulted from accidents caused or brought on by reason of such wounds or injuries received by the patient.' (Judgment of the Supreme Court of Spain, May 8, 1890.) 'It is the firm and unalterable doctrine, and so held by the Court of Cassation, that the aggressor is responsible for all the natural consequences of the aggression when these consequences do not owe their origin to acts or malicious omissions imputable to the assaulted party.' (Judgment of the Supreme Court of Spain, May 30, 1892.)"

The same doctrine was laid down in *United States vs. Monasterial* (14 Phil., 391). Here it was held, among other things, "persons who are responsible for an act constituting a crime are also liable for all the consequences arising therefrom and inherent therein, other than those due to incidents entirely foreign to the act executed, or which originate through the fault or carelessness of the injured person, which are exceptions to the rule not arising in the present case."

At this juncture it is well to remember that, as we stated in the beginning, the patient's nervous condition when the complication or internal hemorrhage which caused death set in, was an inherent physiological condition produced by the wound in the abdomen. It goes without saying that if he had not been wounded he would not have undergone that extraordinary state and condition, nor have had to leave his bed during the critical stage of his illness.

Lastly, in *United States vs. Zamora* (32 Phil., 218), we held that "One who performs a criminal act should be held

to liability for the act and for all of its consequences, although both were inflicted upon a person other than the one whom the felon intended to injure."

The cases which the Attorney-General cites in his brief are not applicable, for the reason that in them all the deaths were due to alien acts, malicious and imprudent, performed by the injured persons themselves. We have shown that in the case at bar the real and actual cause of death of the deceased was the hemorrhage of the internal veins, which had already been congested by the wound produced and the patient's nervous condition, rather than the so-called bodily movements, and that these, if they were the immediate cause of his death, were the direct consequence of the patient's pathological condition or nervousness. At any rate, they are both traceable to the wound inflicted by the accused.

The last assignment of error is but a corollary to the first three, which have just been refuted, and it is contended that the accused can only be convicted of slight physical injuries, instead of the serious crime of homicide. If the appellant must answer for all the consequences of her acts voluntarily performed, as we have shown, it necessarily and logically follows that she must be convicted of the graver offense.

The appellant is entitled to the mitigating circumstances of not having intended to commit so serious a crime as that committed, and of having acted with passion and obfuscation. The first is shown by the fact that she made use of a small penknife, and the second, by the fact that before the attack she had been pushed out of the room where the victim was, and that she considered such treatment as an offense or abuse. The penalty must therefore be reduced one degree or to prision mayor.

Wherefore, the judgment appealed from is modified and the appellant is sentenced to eight years and one day of prision mayor, to indemnify the heirs of the deceased in the amount of P500, to suffer the accessory penalties of article 61 of the Penal Code, and to pay the costs of both instances. So ordered.

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

DISSENTING

VILLA-REAL, J., with whom concur MALCOLM and ROMUALDEZ, JJ., :

It appears from the testimony of Dr. Eduardo Ortega that immediately after being wounded by the accused, Felix Te Sue went to the hospital of Sorsogon where he was examined by said doctor, who found that he had a wound on the left side of the abdomen near the umbilical region, which while it penetrated the muscle tissue, was not deep and did not produce a primary hemorrhage, for it did not reach the internal organs, and might be healed in seven days. A minor operation was performed upon him, but in order to do so, he had to be tied down, because he was afraid. After the operation he was put to bed, given medical treatment, and told to keep quiet because he needed complete rest and any unnecessary movement might aggravate his condition. Besides the hospital nurses and attendants, two relatives of the injured person watched him night and day.

As the penknife was not sharp, the force of the blow by which it was introduced into the flesh produced a secondary congestion in the internal organ, which, through any unnecessary movement on the patient's part might cause congestion of the veins. After twenty-four hours had passed without any indication of an internal hemorrhage, it set in with the bursting of the congested veins, because the patient, disobeying the doctor's orders, moved from side to side, sat up in bed at night, got up, and paced about the room, notwithstanding the warnings of the nurses and relatives who attended him, saying that he could not remain lying down because the bed was too warm for him, and that he was not used to that kind of furniture. In the opinion of the physician, the patient would not have suffered a secondary hemorrhage and death would not have occurred, if he had not moved about.

In finding the defendant-appellant guilty of the crime of homicide and not merely of slight physical injuries, the majority rely upon the holding that the movements made by the patient against the doctor's orders, which caused the rupture of the veins already congested by the impact of the blow, were due to his nervous condition and not to the excessive warmth he felt or to his not being used to sleeping in a bed.

The doctor who examined the deceased, and upon whose testimony the majority base their conclusion, said nothing about the victim's nervous temperament, nor has the latter said he was so. The doctor said quite plainly—and we have no reason to doubt him—that the patient's restlessness was due to the fact that the bed was too warm for him, and that he was not used to it. One need not have a nervous temperament in order to look for coolness and comfort in sleeping. If the injured man, for the sake of a cooler and more comfortable bed, wished to risk his life—by a purely conscious and voluntary act—violating the doctor's instructions and refusing to listen to his warnings and those of the persons attending him, he alone must be held responsible for his own death, which resulted from his carelessness ; and such death cannot be attributed to the person who wounded him slightly, and who is, indeed, responsible for the natural and logical consequences of such a voluntary act, but not for the death, which as we have seen, was not a natural and logical consequence of the wound.

Very similar to this are the cases cited by Viada in volume V of the fifth edition of his commentaries, where the Supreme Court of Spain laid down the following doctrines :

"QUESTION 22. If the immediate cause of death was traumatic erysipelas complicated with meningoenophalitis arising from the erysipelas itself, and the remote and original cause of the latter was the wound inflicted by the defendant on the upper part of the offended party's left parietal bone, although if the victim were not predisposed to erysipelas, had not gone out in the open, and had been given proper medicine, it is probable the accident would have been avoided and the wound healed in thirty days. Is the person who inflicted the wound guilty of homicide or of physical injuries? The Supreme Court has held in favor of the latter and lighter offense, arguing that to make the special circumstances stated above qualify the act prosecuted as homicide would be to hold the accused responsible for the consequences of grossly imprudent acts and omissions of the injured person, which unfortunately brought on "his death, and which in all justice and reason can only be imputed to the latter, and not to the defendant, who had no share in them and could not have prevented them. (Decision of June 15, 1874, Gazette for August 26th.)" 5 Viada, 5th edition, page 80.

"QUESTION 23. When a wound in the head, which is essentially a less serious physical injury, gives rise to traumatic erysipelas, which in turn produces cerebral meningitis from which the person injured dies in eleven days, and the doctors declare that the erysipelas may have been due to the patient's carelessness in constantly exposing himself to a draft: Is the act homicide or merely less serious physical injuries? The Audiencia of Granada held in favor of the former, but upon appeal on the ground that articles 419 and 433 of the Code had been violated, because the crime of less serious physical injuries was penalized as if it were homicide, the Supreme Court held that the appeal had been well taken, because, according to the opinion of the doctors, the erysipelas which preceded the meningitis that produced death may have been due to the patient's carelessness in constantly exposing himself to a draft, contrary to said doctors' orders; and as it is not alleged that the other causes which might have contributed to it actually occasioned the death, there is some doubt, for a crime is determined by the act wherein it consists, apart from the event, the cause of which is unknown, and if this be so, the crime in question is none other than less serious physical injuries. (Decision of December 17, 1878, Gazette of February 7, 1879.)" 5 Viada, 5th edition, page 81.

"QUESTION 24. If in the verdict it is stated that the wounds inflicted upon the deceased by the defendant would have healed, with the loss of the arm, had it not been for complications due to mistakes committed by the doctor in the surgical operation and treatment: Is the crime homicide? It was so held by the Audiencia of Jaen; but upon appeal taken by the accused, the Supreme Court only found him guilty of the crime of serious physical injuries: 'Whereas, although as this court has repeatedly held, a person is liable for all justifiable acts

contrary to law and for all the consequences thereof, having inflicted physical injuries, from which or from whose direct or immediate consequences death results, either incidentally or accidentally, the offender must answer for the ultimate result of his act, i. e., for the death resulting from the injury he inflicted,—yet this principle is not applicable where it clearly appears that the injury would not have caused death, in the ordinary course of events, but would have healed in so many days, and where it is shown beyond all doubt that the death is due to the malicious or careless acts of the injured person or a third person, because it is a more and equitable principle universally recognized and constantly applied, that one is only accountable for his own acts and their natural or logical consequences, and not for those which bear no relation to the initial cause and are due to the carelessness, fault, or lack of skill of another, whether it be the injured man himself or a third person: Whereas, the proper jury having found, upon the strength of the evidence before it, that the wounds inflicted by the appellant Jeronimo Navarro upon Bartolome Martinez would have healed, with the loss of an arm, had it not been for certain complications due to the mistakes committed by the doctor in the surgical operations and treatment thereof, it is obvious that following the doctrine set forth in the foregoing reasonings, the appellant should not have been convicted of the crime of homicide, but merely of serious physical injuries with the loss of a principal member, this being the only consequence imputable to him in view of his act, inasmuch as the death was due wholly to another person's carelessness or lack of skill, etc.' (Decision of April 2, 1903, Gazette of May 23d.)" 5 Viada, 5th edition, page 81.)

In the first two cases cited, it will be observed that the deceased received less serious physical injuries and that death was due to their own carelessness or abuses committed by them. In the third case, the deceased had been seriously injured, but died as a result of the mistakes of the doctor in the surgical operation and treatment of the injuries. The Supreme Court of Spain held them criminally liable for the crime of less serious physical injuries in the first two, and; of serious physical injuries in the third, because these, and not homicide were the natural consequences of their unlawful acts, inasmuch as death Was the result of carelessness and abuses committed by the injured persons themselves, and of the mistakes of the doctor in the surgical operation and treatment of the wounds.

In *United States vs. Embate* (3 Phil., 640), where the real cause of death could not be determined, this court, through Chief Justice Arellano, held:

"All the witnesses attribute the death of the child to the illness it was suffering; but the doctor, who did nothing more than to examine the body and give his certificate as to certain bruises on the thighs, in his testimony states that the body showed unequivocal signs of a serious disease of the heart, and that the bruises could not have caused the death of the child, but might have contributed to accelerate the fatal result of that illness, which was a serious affection of the heart. Being asked by the judge whether the gravity of the child's illness, owing to the affection of the heart, was such that it might have died without the blows which were inflicted upon him, the witness replied that 'if in the first place the age of the child is taken into consideration, and in the second its surrounding circumstances, its condition was such as to lead one to expect a fatal result, no physician being in attendance.'

"Upon being further questioned as to whether he believed that the blows inflicted upon the child and which produced the bruises were the cause of its death, he replied that 'as no other approximate cause is known than the great excitement produced by those blows, it may be inferred that they were the sole cause which precipitated the fatal result of the illness of the child.'

"We do not find in this testimony, given solely upon the result of the examination of the body, sufficient evidence as to the true cause of the death of the child. But it is true that the accused did strike him for the purpose of inflicting punishment, and as by this he committed a misdemeanor which should not go unpunished, and which can be punished in this same cause under the provisions of section 29 of General Orders, No. 58, * *

* "

For all the foregoing, I am of the opinion that the defendant-appellant can only be made to answer for the misdemeanor of slight physical injuries as defined and penalized in article 587 of the Penal Code, inasmuch as the wound inflicted by her might have been healed in seven days, the penalty fixed being *arresto rrienor*.

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