

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. RICARDO PAÑGAN AND DIEGO TIGLAO, DEFENDANTS. RICARDO PANGAN, APPELLANT.

G.R. No. 35988. March 31, 1932

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

This is an appeal by Ricardo Pangan from the judgment of the Court of First Instance of Pampanga convicting him of the murder of Pastor Cabral qualified by treachery, with the generic aggravating circumstance of evident pre-meditation offset by the mitigating circumstance of proximate vindication of a grave offense, and sentencing him to life imprisonment, with the accessories of law, to pay P1,000 indemnity to the heirs of the deceased, and the costs.

In support of his appeal the appellant assigns the following alleged errors as committed by the trial court in its judgment to wit:

- "1. The trial court erred in finding the accused guilty of the crime of murder.
- "2. The trial court erred in not holding that the accused acted in self-defense.
- "3. The trial court erred in sentencing the accused to life imprisonment."

The following facts were proved at the trial beyond a reasonable doubt:

Pastor Cabral, the deceased, was the superintendent of the hacienda of Victoria Hizon Vda. de Rodriguez in the municipality of Arayat, Province of Pampanga. The accused Ricardo Pañgan worked as a co-tenant on shares on the estate, and as such was under the deceased. At various times before the incident in question, the defendant's carabaos had been caught browsing in several parts of the plantation destroying tender sugar-cane shoots. At about 11 in the morning of the day in question, that is, February 24, 1931, the deceased, annoyed at the report that two calves belonging to the accused had been caught again on the sugar plantation, sent for the defendant. When he arrived, the deceased angrily demanded why he let his carabaos run loose. The accused answered meekly, "I do not let them run loose, uncle", and excused himself saying that if his carabaos have run loose that time, it was because he had gone to visit a cousin who was ill in the hospital. The deceased then said: "You certainly are bull-headed, appear to have no shame and pay no attention to what I tell you." And approaching him, he struck him twice with a whip he carried, similar to Exhibit 1 of the government, hitting him in the left temporal region, and in the occipital region, making his ear bleed. The accused offered no resistance, but tried only to evade the blows. Upon seeing this, Cirilo Pafigan, who was passing by at the moment and had stopped to listen, intervened and separated the two. He then went up to the accused and told him to be patient with the deceased, because the latter was the defendant's best man at his wedding. Ricardo Pangan told him he was not offering any resistance, and sat down upon the trunk of an acacia tree. The deceased approached the defendant again, and insultingly asked if he wanted to fight. The accused replied, "So long as I recognize you, I will not fight." Whereupon the

deceased said: "Though all of you help one another, I'll shoot your heads off." After that incident the accused retired to his home to sleep. Between four and five in the afternoon of said day, the defendant went to the deceased's house, in order to ask him to return the two calves that had been caught. As Pastor Cabral was not in, the defendant decided to wait and sat down upon the stairs. Some moments later the deceased and his house companion, Felix Rueda, arrived. The latter, who, went up first followed by Pastor Cabral, told the accused to make way for them, which the accused did. Shortly after Diego Tiglao also went up in order to liquidate his accounts with the superintendent, Pastor- Cabral. The latter came downstairs and went to a place some three meters from the staircase where the defendant was seated, answered a call of nature with his back to the accused, and went upstairs again. After taking his afternoon snack, Felix Rueda went to the fields, as instructed by the deceased, to inspect the sugar-cane wagons, leaving the latter in the house with Diego Tiglao. When he saw that the deceased was preparing to go down, the accused descended the stairs and waited for him in the yard adjoining the house. On coming down, Pastor Cabral saw the defendant and asked what he wanted. The latter answered: "I have come, sir, to get my carabaos, and I beg you to give them to me." The deceased then said to him: "You bull-headed fellow without shame, so you've come back, have you?" and going up to the accused kicked him and struck him with a cane, which raised a welt on his left shoulder. As the defendant stepped back to avoid the second blow aimed at him, the deceased placed his right hand upon the handle of the revolver he carried at the waist. When the accused saw the deceased take this attitude, he took out his knife Exhibit D and opened it with his teeth. Pastor Cabral then drew his revolver but before he could use it, the accused rushed at him and caught him by the hand that held the weapon. During the ensuing struggle both fell to the ground, the deceased upon his back and the accused upon, him, with one hand still gripping his hand holding the revolver, and with the other stabbing him in the abdomen and other parts of the body (Exhibit C), until at last he stabbed him in the right arm, compelling him to drop the revolver. The accused took hold of it and threw it to one side; then, going up to the house, he took the deceased's whip and ran towards the town of Santa Ana, on the way leaving it at his house. Upon reaching at Santa Ana he went to the municipal building and gave himself up to the authorities, delivering the knife Exhibit D to them. Pastor Cabral told Feliciano Balboa, who had gone up to him attracted by the noise of the people, that he felt he was dying from his wounds, and ordered him to tell his wife to collect the insurance policy, and to tell his employer, Victoria Hizon Vda. de Rodriguez not to abandon his family. Attracted by the same noise, Felix Rueda went to the scene, and to him the wounded man said: "Call Aling Toring by telephone, and tell her to take care of me and my children, because I am going to die." A few moments later Cirilo Pangan and the barrio lieutenant Macario Gachalian arrived, and the deceased made the declaration which appears in Exhibit B. The wounded man was then conveyed to the San Fernando Hospital where he died that same night as a result of his wounds.

There is no question, then that the accused Ricardo Pañgan inflicted the wounds that caused Pastor Cabral's death. Nor is there any doubt that the latter was a man of violent temper, who had the habit of beating the tenants on the estate. And the accused-appellant, according to the evidence, having had the deceased as sponsor at his marriage, respected him and regarded him so highly that he suffered his ill treatment on the fatal morning with humility and resignation, going quietly to his home. The record also shows that on the afternoon of the same day, the accused-appellant did not go to the deceased's house for the purpose of revenge for such ill treatment, but in order to beg him in all humility to return his two carabaos that had been caught; for if his intention was to avenge himself, he had ample opportunity to do so while the deceased stood three meters away answering to a call of nature with his back towards him. Considering the deceased's violent temper, and the defendant's immediate surrender to the authorities, there is more reason, for believing his own testimony and that of his witnesses, than the evidence of the prosecution, said testimony being corroborated by the wounds found upon the defendant's body. If when the accused asked for his carabaos, the deceased instead of granting the request kicked him and hit him with a cane on the left shoulder, the deceased was the aggressor. The defendant did not try to defend himself

at once, but only when he saw that the deceased was going to hit him again and had taken hold of the revolver he carried. He then took his own knife out of his pocket and opened it with his teeth, but did not use it until the deceased drew his revolver. In view of the impending danger, the accused rushed at the deceased, caught hold of the hand that held the revolver, and struggled with him so that both of them fell to the ground with the deceased upon his back and the accused on top of him. In this position, with the deceased still clutching his revolver, the defendant, aware of his adversary's violent temper, stabbed him several times with the knife until he let go of the revolver. What the accused did in such a critical moment is what any prudent man would have done under similar circumstances.

In order to sustain its theory that the accused unexpectedly attacked the deceased while the latter passed him on the way down from the house, the prosecution mentions the blood stains found on the staircase and on the ground. But it is an undisputed fact that immediately after stabbing the deceased, the defendant went up the house to get the whip which the latter had left there, and in doing so it is not unlikely that the blood that no doubt stained his hands dripped on the stairs. This fact alone, then cannot serve to destroy the defendant's testimony with regard to the place of the struggle and the manner in which it began.

We have, then, the following circumstances: an unlawful attack by the deceased due solely to the defendant's insistence in begging that his carabaos be returned to him; absence of sufficient provocation from the defendant; and reasonable necessity of the means employed, namely, a penknife to repel an attack with a cane and an impending attack with a revolver. All these circumstances constitute complete self-defense which extinguishes criminal liability as provided in article 8, No. 4, of the Penal Code.

Wherefore we are of opinion and hold that a person who, after being kicked, and struck with a cane, without provocation on his part, takes out a penknife from his pocket to defend himself from a second attack and with it stabs his assailant several times after an unsuccessful struggle to take away from him a revolver he is holding in his hand, acts in complete defense of his person and is exempt from criminal liability.

By virtue whereof, the accused-appellant having acted in self-defense, is exempt from criminal liability for murder charged in the information, and is hereby acquitted therefrom and said information dismissed, with costs de oficio. So ordered.

Avanceña, C. J., Johnson, Street, Malcolm, Romualdez, and Imperial, JJ., concur.

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