

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. JUAN DIMAYUGA, DEFENDANT AND APPELLANT.*G.R. No. 38486. October 21, 1933*

Ponente: STREET, J.

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This appeal has been brought to reverse a judgment of the Court of First Instance of the City of Manila, finding the appellant, Juan Dimayuga, guilty of the offense of homicide and sentencing him to undergo imprisonment for fourteen years, eight months and one day, reclusion temporal, with the accessories prescribed by law, requiring him to indemnify the heirs of the deceased, Enrique K. Laygo, in the amount of P2,000, and requiring him to pay the costs.

The appellant, Juan Dimayuga, is a native of the Province of Batangas, and at the time with which we are here concerned, he held the position of secretary to his brother, Jose Dimayuga, representative in the Philippine Legislature for Batangas. Enrique K. Laygo, the victim of the homicide, was also originally from the Province of Batangas, but lived in Manila at the time of his death, being an employee in the Philippine National Library. The appellant, at this time, lodged with Valeriano Luz and wife, Rosario Dimayuga, at 232 Lardizabal Street, Manila, Rosario being a sister of the appellant. Enrique K. Laygo was married and had his home on Calixto Dy-Yco Street. Both the appellant and Laygo came from Lipa and belonged to families that are well known. In addition to this, Laygo had married a niece of the wife of Valeriano Luz, and the two families were in very friendly relations. Laygo worked in the National Library, on the ground floor of the Legislative Building, while the appellant had a desk in the office of his brother on the next floor above. In addition to his employment in the National Library, Laygo was a regular contributor to *El Debate*, a Spanish daily published in the City of Manila.

On the afternoon of July 27, 1932, *La Vanguardia*, another Spanish daily published in Manila, contained an article having a mild slur on the appellant's brother, Representative Jose Dimayuga. The next morning *El Debate* also had an article, written by Enrique K. Laygo, in which reference was made to certain representatives who were referred to as the committee on silence (*comite del silencio*), for the reason that they were seldom heard. The articles above mentioned appear to have stirred the feelings of the appellant, who at first assumed that Laygo was responsible for both, but upon inquiry he found that the article in *La Vanguardia* had been written by another. On the forenoon of the same day, July 28, the appellant, with feelings aroused against Laygo, went to the latter's office in the National Library, but finding Laygo out, he left word with an employee of the Library to inform Laygo upon arrival that the appellant wanted to see him. But Laygo did not come in that morning, and the appellant returned in the afternoon, finding that Laygo was still out. Shortly before 4 o'clock in the afternoon Laygo arrived and, after spending some time in the Filipiniana Division of the Library, he returned to his desk where he remained until after 4, when he left.

With respect to the activities of Laygo during the greater part of the day, it appears that he had been called that morning to the convent *Comunidad de San Francisco* to confer about an article that had appeared in *El Debate* on July 26, 1932. A sister of Laygo, named Asuncion Maria, belonged to this convent, and it was she and another

sister of the order, Maria Lina, who had telephoned to Laygo that morning to come to the convent. The article to which reference is made contained some misstatements of fact relative to the duties imposed upon the Philippine novitiates in the convent, and the sisters desired that these errors should be corrected.

Laygo spent an hour from 11 to 12 in conference with the sisters, and went away, promising to send a reporter to get the data which he needed to rectify the published article. Laygo, however, was unable to send a reporter that afternoon, and he accordingly himself returned to the convent at about 3 o'clock, leaving at about 3.30 p. m.

Arriving at his office he stayed around for a while and left after 4 p. m., in company with a friend named Aligada. They proceeded in an automobile to the residence of Valeriano Luz, on Lardizabal Street, where Laygo alighted. In all probability, as the trial judge suggests, Laygo went to this place because he had been informed that Juan Dimayuga, wished to see him, and of course the home of Valeriano Luz, kinsman of his wife, was a place well known to him. Certainly there is nothing in the record which would lead one to think that Laygo entertained any ill-will against the appellant.

The inmates of the Luz home appear to have been out that afternoon. The appellant apparently arrived first in a carromata, and the deceased came up about the same time in an automobile. A few minutes later Dr. Ramon Macasaet arrived in his car with Mrs. Luz (Rosario Dimayuga).

The house at 232 Lardizabal Street is entered from the side and the main door is reached through an alley. Immediately upon entering the house, one finds himself in the dining room, with a bedroom to the right and the sala on the left. Directly across the dining room from the main entrance are two rooms, occupied at the time of which we are speaking by the appellant and his brother.

The evidence relating to the tragedy which soon followed is not very clear. But it appears that when Dr. Macasaet brought Mrs. Luz home, Laygo was standing at the gate leading into the alley. At this time he was leaning against one side of the gate and quietly talking to the appellant with a smile on his face. When Mrs. Luz alighted she passed into the house and entered her room on the right. Her husband, Valeriano Luz, who had also arrived about the same time, passed through the dining room on his way to the bathroom, which is adjacent to the kitchen on the right. Laygo meanwhile entered and, placing his raincoat on the back of a chair in front of the dining table, he seated himself momentarily in a chair near the entrance. The appellant, however, passed across the dining room and, entering his bedroom, took a revolver from the drawer of a table and dropped it into his pocket.

In a few minutes shots rang out and the lifeless body of Laygo was stretched upon the floor of the sala immediately in front of a sofa. Two bullets from the revolver had entered his body, inflicting two fatal wounds which produced immediate death. The bullet which first struck entered the right side of the chest in the first intercostal space. It perforated the mediastinum, aorta, and left lung, and made its way through the body, finding its lodgment in the posterior left sixth intercostal space. Here the bullet stopped without making exit from the body. The course of the bullet was obliquely across the body with a downward range, showing to a certainty that the hand of the person holding the revolver was perceptibly elevated above the level of the victim. This shot was followed by another which entered the left side of the top of the head, and after passing through the cranium, emerged from the left side of the back of the head. The course pursued by this bullet indicates in all probability that the victim had fallen forward towards his assailant from the effects of the first shot, thus making it possible for the second bullet to enter the top of the head. As the body of the victim came to rest on the floor, he evidently turned on his back, as the body was found with the face up. The fingers of the hand, it may be noted, were relaxed, though not completely open, showing no signs, of such contraction as would doubtless have resulted from any notable muscular tension.

When two secret service men arrived, they found Valeriano Luz standing outside near the main door. Proceeding

into the house they found the dead body of Laygo where it had fallen, lying in the sala, which is immediately adjacent to the dining room and on its left. Returning to the dining room, the officers found that Rosario Dimayuga had now appeared, and upon inquiry for the person who had fired the shots, Valeriano Luz called to the appellant and the latter came out from his room. In response to inquiries, the appellant said that he had fired the shots, and the detective took into his hands the revolver which the appellant drew from the right-hand pocket of his trousers. From said revolver the detective removed four empty shells and one cartridge of the caliber 32 which had not been discharged. One of the bullets which had not hit the deceased was found embedded in the floor.

By way of defense an attempt has been made to prove that the appellant shot the deceased as an act of necessary self-defense; but the proof in support of this contention consists mostly of uncorroborated statements of the appellant, which are so evidently artificial that little weight can be attributed to them. At about 6 o'clock on the afternoon of the day when the homicide was committed, the appellant stated to detective Jambalos that while he was paying the driver of the carromata that brought him home, Laygo arrived in a garage car and, after getting off the car, pursued him with an open knife into the house, and that the appellant's sister caught Laygo and held him, while the appellant went to his room to get a revolver. At 8 o'clock on the same night, in the police station, he told detective Quintos the same story of Laygo alighting from a garage car and pursuing him into the house, brandishing a knife. But this crude fabrication was not repeated in the testimony of the appellant given in court. He here presented an entirely different story to the effect that Laygo, upon arriving at the door of 232 Lardizabal Street, invited the appellant to go with him in his car, upbraiding him for not having kept an appointment to fight on that afternoon. The appellant declined, saying that he wanted to rest, and the two went up into the dining room where Valeriano Luz, Mrs. Luz, and a visitor were present. After a few moments the visitor left. Laygo meanwhile was talking to the individuals present. Laygo explained to Mr. Luz that he wanted to see the appellant. After those present had dispersed, leaving Laygo and the appellant alone in the dining room or sala, Laygo began activities. First, he caught the appellant by the right arm, and as the appellant succeeded in freeing himself, he saw that Laygo held in his hand a big fan-knife. At the same time the latter said to the appellant "Your time has come" (Ya es tu hora). Laygo then began to chase the appellant around in the room and the appellant ran into his bedroom. Here he collided with a small table containing a drawer in which he had only that morning placed his brother's pistol. Seizing this weapon, he passed into the sala where he was confronted with the spectre of Laygo, with a big knife in his hand. After a few words of caution from the appellant, which were disregarded by Laygo, the appellant fired a shot at the floor to scare him. Laygo nevertheless continued to advance, and the appellant fired the fatal shots.

The artificial character of this narrative is too evident to require comment. No witness has been introduced to corroborate the appellant with respect to the commotion in the house which must have been caused by movements such as those described by the appellant; and we believe that his story as to what occurred in the house just before he fired those shots is as fictitious as his account of being chased into the house by Laygo with an open knife.

This brings us to the point where it is necessary to describe another incident. After the officers, Jambalos and Mutoc, had arrived at the scene of the tragedy, the former instructed Mutoc to look around in the sala for the knife which the deceased was supposed to have used. At first no knife was discovered and Jambalos told Mutoc to continue his search. In a moment a large fan-knife was found about seven inches from the right hand of the dead body in the place where it had previously escaped observation from being under the sofa. The finding of this knife near the right hand of the person slain appears to have made but slight impression on the trial judge. The reason probably is that the appellant was in the house for some time before the arrival of the officers, and it would have been easy for the knife to have been placed in that position by the appellant's intervention. It is true that the presence of the knife is consistent with the appellant's first tale about his having been run into the house by the deceased, with knife in hand, and also with his later story that he was chased around in the room in the same way.

But the carrying of such a weapon was not habitual with the deceased, and if he had used a knife with aggressive gestures towards the appellant in the room, it would have been unnatural for him to have persisted in the attack when he saw the appellant armed with a revolver.

The testimony of the appellant is stuffed with statements as to what the appellant had done and had said to him under circumstances that have not permitted of corroboration. He claims, for instance, that Laygo came up to his brother's office in the Legislative Building at about 3 p. m. An interview resulted in which Laygo showed an aggressive attitude and challenged the appellant to a fight. The appellant replied that he did not want to fight, and Laygo retorted, "Your day will come." This portentous interview was broken off upon the arrival of some one who knocked at the door. Later in the afternoon Laygo telephoned him to come down to his office at 4 p. m. where they might finish their conversation. The appellant agreed, and 4 o'clock was appointed as the time of meeting, but upon cooling off, the appellant decided that he would not go there, and he took a carromata to his home instead. The improbability of this interview and of any such telephone message as suggested by the appellant is obvious, when we remember that at the time when the appellant supposes Laygo to have been in his brother's office in the Legislative Building, Laygo was on his friendly mission to the sisters of the Comunidad de San Francisco, as already stated.

It is impossible to point to any motive that could have prompted the appellant to this deed if he had been a person of ordinary temperament, but the reason that prompted him to this deed is not difficult to find. In the first place, he had understood from Laygo's own lips that the latter was being urged by friends in the Province of Batangas to become a candidate for the House of Representatives in the next Legislature. The appellant saw in him, therefore, a possible competitor of his brother for political honors. This, coupled with the anger which had been aroused in the appellant by an article which the deceased had published in a paper that morning, supplied all the motive necessary to move the appellant. Such appears to have been the view of the trial judge, and we are of the opinion that he was not in error.

What has been said is enough to reveal the vital and determinative facts relative to this homicide, and it is unnecessary to expand this opinion by dealing with collateral and undeterminative matters.

But under Act No. 4103, the judgment will be modified by sentencing the appellant to imprisonment for a period running from eight years and one day, prision mayor, to fourteen years, eight months and one day, reclusion temporal. So ordered, with costs against the appellant.[1]

Avanceña, C. J., Abad Santos, Hull, and Vickers, JJ., concur.

[1] Modified by resolution of December 15, 1933.

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