

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. BONIFACIO BUNSALAN, DEFENDANT AND APPELLANT.*G.R. No. 3970. January 14, 1908*

Ponente: TORRES, J.

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At about 7 p. m. on the 1st of February, 1906, Celestino Prado, in charge of a fish pond belonging to Gregorio Sajo, went to the house of the latter to reproach him for having sold the fish for P20, a price altogether too low, and without his consent, Prado having an interest in the proceeds of the same. Sajo took offense and sent for some of his laborers, among whom was Bonifacio Bunsalan, in order to detain Prado when he should leave the house; Prado was actually detained by them and was immediately assaulted by the said Bunsalan, who wounded him with a bolo in the right forearm and left shoulder. At this time the other laborers of the hacienda of Gregorio Sajo joined the aggressor; Celestino Prado defended himself and in turn inflicted several wounds upon Bunsalan. The assaulted man, however, then fled to a distance of over a kilometer, and upon nearing a bamboo field fell face downward. In this position he was afterwards found with several wounds, one in the region of the shoulder blade, to the left; another in the clavicular region; another in the humeral region, higher up; another in the right forearm, and still another upon the wrist. It required forty-five days for the wounded man to recover. The wounds, however, have not resulted in serious injury, incapacity, or deformity, according to his own statement.

Bonifacio Bunsalan was also wounded in the right forearm, on the left ear, between the thumb and the forefinger of the left hand, and on the right side of the breast, which wounds also required forty-five days to heal.

A complaint having been filed by the provincial fiscal on the 30th of March, 1906, with the Court of First Instance accusing Celestino Prado and Bonifacio Bunsalan of the crime of lesiones graves, mutually inflicted, the corresponding proceedings were instituted, and the judge, in view of the result thereof, entered judgment on the 10th of July of the same year, sentencing Bonifacio Bunsalan to the penalty of one year and one day of prison correctional, and to pay one-half of the costs; Celestino Prado was acquitted and discharged, and the other half of the costs was declared de oficio. From this judgment counsel for the accused Bunsalan appealed.

The above facts, which are fully proven, constitute the double crime of lesiones graves, included in article 416, No. 4, of the Penal Code. Celestino Prado, on leaving the house of Gregorio Sajo on the night of February 1 of said year, was attacked with a bolo by Bonifacio Bunsalan, who was assisted by some of the laborers of the hacienda of the said Sajo, and Prado, in defending himself from the aggression of Bunsalan, wounded the latter with the bolo he carried and which he had just recovered from the side of the staircase where he left it on entering the house; it is an unquestionable fact, not denied by either of them, that they inflicted upon each other the respective wounds.

The only question in controversy, and which the court below has already finally decided, was as to which of the two was the aggressor, and who was the one who lawfully defended himself against such aggression.

Considering the merits of the case, the charges mutually preferred by the accused, and their respective answers,

we can not do otherwise than accept the conclusions of the court below stated in the judgment appealed from, which reads as follows:

"In considering the proofs appearing in the record, the court is of opinion that the witnesses of Bonifacio Bunsalan did not state the whole truth, because it is evident that the latter were eager to throw all the blame on the other accused, Celestino Prado, as Domingo Bergantin testified that, with the exception of Sajo, himself, and Bonifacio Bunsalan, no other person was present at the commencement of the trouble which is attributed to Celestino Prado, while Basilio Condrado, one of Sajo's laborers, avers that he heard the whole of the conversation between Prado and Sajo at the dining room and saw when the former went downstairs, and when Bonifacio fell to the ground. This shows the absence of veracity in the testimony of the said Bergantin.

"In view of the circumstances under which the crime was committed one is inclined to believe the statement of the accused Prado, to the effect that Sajo's laborers, induced by the latter, were among those who injured him, Bonifacio Bunsalan having inflicted the wounds, as the latter has confessed, although saying that it was in self-defense.

"From the charges presented against Prado in the court of the justice of the peace, Sajo's intent to injure him is evident, since he was accused of attempted homicide when, as a matter of fact, while Prado conversed with him in the dining room of his house he carried no weapon whatever, and also because of the charge of frustrated homicide filed by Bonifacio Bunsalan against Celestino Prado, when it was the latter who had received the most wounds.

"Therefore, by virtue of the evidence, it is the opinion of the court that Bonifacio is liable for the injuries to Celestino Prado, and that in the commission of the crime no circumstance whatever need be considered.

"With regard to Celestina Prado, I am of opinion that, when wounding Bonifacio Bunsalan, he did so in self-defense, inasmuch as, finding himself alone and attacked by Sajo's armed men, he made a lawful defense in order to avoid further injury to himself; therefore, all the requisites of case 4 of article 8 of the Penal Code, constituting exempting circumstances, and not mitigating as alleged by the fiscal, are present."

No legal reason is offered in the case whereby the opinion of the judge, in view of the result thereof, should not be accepted, all the more as he had occasion to hear the statements of the two accused and of the witnesses who testified, and to observe their conduct and manner, together with the conditions and attitude of each witness.

The main fact, which has not been impugned, is that Prado, prior to going up to the house of his principal, Gregorio Sajo, in order to remonstrate with the latter for having sold the contents of the fish pond at so low a price {Prado being in charge of the same and having an interest therein), left his bolo near the staircase outside of the house, which shows that Prado, notwithstanding his annoyance, had no intention to cause any bodily harm to Sajo, with whom he was displeased, and he could hardly have had any reason for animosity toward Bunsalan.

Undoubtedly Sajo did send for some of his laborers, among whom was Bunsalan, after being reproached by Prado, for the purpose of detaining the latter when leaving his house; this fact confirms the statement by Prado that, when he went out, he was attacked with a bolo by Bonifacio Bunsalan, who acknowledged having been sent for. Prado defended himself against the attack and immediately thereafter fled to the place where he was discovered with several wounds. Such is the story as told by Prado.

In view of the foregoing, the statement of Bunsalan to the effect that, without any reason whatever, he was attacked by Prado, becomes inexplicable, for there is no reason for such a statement when no quarrel or dispute took place between them, not even a short conversation, before the affray; therefore, we agree with the court below that the aggression came from Bunsalan, who, on the other hand, had not been provoked by Prado, and the latter, in defending himself, made use of rational means to repel the attack of which he was a victim; he should therefore be fully exempted on the ground of self-defense.

For the reasons above set forth, and notwithstanding what has been alleged by Bunsalan, the latter should be considered as the only principal in the crime of lesiones graves caused to Oelestino Prado, and as such principal he has incurred the penalty fixed by the law, and the same must be imposed on him in the medium degree, since in the commission thereof neither a mitigating nor an aggravating circumstance is present.

The judgment appealed from should therefore be affirmed, as to Bonifacio Bunsalan, and he should be further sentenced to suffer the accessory penalties prescribed by article 61 of the Penal Code, and to pay the costs of this instance. So ordered.

Arellano, C. J., Mapa, Johnson, Carson, Willard, and Tracey, JJ., concur.

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