

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. SEVERINO CASTANEDA ET AL., DEFENDANTS. SEVEEINO CASTANEDA, APPELLANT.

G. R. No. 41085. September 14, 1934

Ponente: HULL, J.

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HULL, J.:

Defendant-appellant was convicted of the crime of parricide in the Court of First Instance of Zambales. The facts of the case are well set forth in the decision of the trial court.

"* * * In June, 1929, Eladio Castañeda and his wife Maria Fontillas were living together with their son, the accused Severino Castañeda, in their house, situated in the barrio of Siminublan, San Narciso, Zambales. The other accused, also their son, was then living in a separate house nearby. One night in June, 1929, Eladio Castaneda, while drunk, was scolding and threatening his wife who then shouted for help. The wife ran away from the house, evidently to take refuge in the house of accused Felixberto. She was followed and chased by the deceased who, however, had nothing in his hand. The other accused, Severino Castaneda, followed his parents and as he was coming down their house, picked up a piece of chopped wood about two feet long and three inches in diameter. Maria Fontillas went up the house of defendant Felixberto and the deceased followed her. Just as the deceased was entering the kitchen, his son, the defendant Felixberto, met him and gave him a fist blow on the left eye, which made the deceased somewhat groggy and to incline his head towards the right side. Right at that moment, his other son Severino Castaneda, who had already reached that part of the kitchen, struck and hit with the piece of wood he was carrying the deceased on the left side of the head of the tempoparietal region, which had caused a fracture on the skull of said deceased, which fracture resulted in cerebral hemorrhage, causing his death a few hours thereafter, that is, the following morning. Severino Castaneda then said that he would kill anybody who would tell what had happened. For this reason, the neighbors who had gone to the place in response to the screams for help and who had witnessed the incident, immediately left the place. * * * Most of the witnesses to the tragic incident helped not only in making the coffin of the deceased but also in burying him in the cemetery in San Narciso. Because of their fear on account of the threats made by the accused, for the last four years, the persons in the barrio who had known what really happened, had kept quiet about the matter. * * * Thanks to the activity of the Constabulary, especially Lieuts. Canuto and Arambulo, the burial place of the deceased was found and his mortal remains were exhumed. The coffin of the deceased, which was made of hard wood, was still intact. The skull of the deceased was found still intact, but with a big perforation on the tempo-parietal region, which fact, according to the District Health Officer, Dr. Anicio Pascual, proves that the deceased had received a strong, enormous blow on the head which resulted irresistibly in his death. The corresponding information charging the two defendants with the crime of parricide was filed before the justice of the peace of San Narciso, on September 25, 1933.

"The information does not allege, and the prosecution has not established, any conspiracy between the two defendants. Without a previous plan or agreement to assault or kill their father, the two defendants performed two different acts directed against their father, Felixberto Fontillas alias Castaneda giving a fist blow on the left eye, and defendant Severino Castaneda giving a blow on the left temple with a piece of wood which, according to the prosecution evidence, was the direct cause of the death of the deceased. It is clear that the defendants

acted independently of each other. Under these facts, each of the defendants should be held liable only for the acts committed by him. (U. S. vs. Reyes and Javier, 14 Phil., 27; U. S. vs. Macuti, 26 Phil, 170; People vs. Martinez, 42 Phil., 85.) The prosecution evidence has not shown the nature of the injury, if there was any, inflicted upon the left eye of the deceased as a result of the act performed by defendant Felixberto. Neither has the prosecution shown that the fist blow that landed on the left eye of the deceased has contributed in any manner to the death of the deceased. * * *

"When the other accused, Severino Castaneda, was duly arraigned in open court, assisted by his attorneys of record, Messers. Alejo Labrador and Vicente Aquino, and after he had fully understood all the contents of the information which was read to him in his own native dialect, he voluntarily and spontaneously pleaded guilty. The court ordered, nevertheless, the prosecution to present its evidence in order that the proper penalty to be imposed may be determined. Counsel for the defense prayed that in view of the fact that at the previous separate trial against Felixberto Fontillas alias Castaneda, accused Severino Castaneda was present throughout the trial and that the attorneys who assisted Felixberto Fontillas alias Castaneda and cross-examined the witnesses for the prosecution are the same attorneys that now represent said Severino Castaneda, the evidence in said former trial against Felixberto Castaneda be deemed reproduced as evidence in the trial against Severino Castaneda. The prosecution offered no objection to this petition, and rested its case. Whereupon, counsel for the defense put on the witness-stand the accused Severino Castaneda who admitted having killed his father, the deceased Eladio Castaneda, but tried to prove the existence of the following mitigating circumstances: (1) that he had no intention to commit so grave a wrong as that committed; (2) that there was an incomplete defense of a relative; and (3) that he had acted with passion and obfuscation.

"The court finds that Severino's plea of incomplete defense of his mother is without merit. His uncorroborated testimony that his deceased father was carrying a bolo when he was chasing Maria Fontillas with intent of stabbing her, should give way to the clear and positive testimony of the disinterested eye-witnesses for the prosecution who testified that at the time the deceased was chasing his wife, he was not carrying a bolo or anything in his hand. This accused knew that at the time in question his aged father was drunk. The court finds that the deceased was not carrying a bolo on the occasion in question. He was just chasing his wife and quarreling with her just because at the time he was intoxicated. There was, therefore, no unlawful aggression on the part of the deceased. Neither was there evidence proving that the life of Maria Fontillas at the time she was being chased was in imminent danger. There was also no reasonable necessity of the means employed by defendant Severino to prevent his father from chasing his mother. The court, however, finds that in committing the offense, the following mitigating circumstances concurred and should, therefore, be considered in favor of defendant Severino: (1) his plea of guilty; (2) lack of intent to commit so grave a wrong as that committed; and (3) lack of instruction. The court finds no aggravating circumstance against him. The court finds the accused Severino Castaneda guilty beyond reasonable doubt of the crime of parricide charged against him with the attendance of the mitigating circumstances as aforesaid and without the concurrence of any aggravating circumstance. The defense would want the court to believe that the application of the penalty should be in accordance with article 69 of the Revised Penal Code and not in accordance with the rules established by article 63 of the said Code. The court is of the opinion that article 69 is not applicable to the instant case, as the condition prescribed therein does not exist. The penalty prescribed for the crime of parricide under article 246 of the Revised Penal Code is composed of two indivisible penalties, to wit, reclusion perpetua to death. When the commission of the act is attended by some mitigating circumstance or more than one mitigating circumstance and there is no aggravating circumstance, the lesser penalty shall be applied, (Article 63 [3], Revised Penal Code, and U. S. vs. Ortencio, 38 Phil., 341.) In the opinion of the court, the proper rule to be applied in the instant case against Severino Castaneda is that prescribed under article 63 (3).

"Wherefore, the court hereby sentences the accused Severino Castaneda to suffer the penalty of reclusion perpetua, the accessories of the law, and to pay one-half of the costs. * * *"

This appeal raises virtually the same questions as presented to the trial court. The claim of incomplete self-defense

cannot be allowed, as there was no reasonable necessity for the means employed to prevent or repel the unlawful aggression, which is essential under subsection 2 of article 11 of the Revised Penal Code.

The penalty prescribed for the crime of parricide under article 246 of the Revised Penal Code is composed of two indivisible penalties, to wit, reclusion perpetua to death. Notwithstanding the numerous mitigating circumstances found to exist by the trial court, paragraph 3 of article 63 is specific and must be applied.

We are convinced by a careful review of the record that the trial court properly appreciated the facts and the law the judgment appealed from is therefore affirmed.

We are likewise convinced that appellant did not have that malice nor has exhibited such moral turpitude as requires life imprisonment, and therefore under the provisions of article 5 of the Revised Penal Code, we respectfully invite the attention of the Chief Executive to the case with a view to executive clemency after appellant has served an appreciable amount of confinement.

No expression as to costs. So ordered.

Avancena, C. J., Abad Santos, Vickers, and Diaz, JJ., concur.

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