

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. VICENTE IRIS ET AL., DEFENDANTS. EMILIO BALANZA (ALIAS AJELIO BALANZA) AND EULOGIO PERALTA, APPELLANTS.

G.R. No. 43431. October 08, 1935

Ponente: HULL, J.

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HULL, J.:

Emilio Balanza (alias Ajelio Balanza) and Eulogio Peralta having been convicted in the Court of First Instance of Cagayan of the crime of homicide, bring this appeal.

On the night of July 8, 1934, there was a party in the house of Benito Balanza situated in the barrio of Pattao, municipality of Buguey, Province of Cagayan, celebrating the christening of a son of Martin Balanza. Late in the evening the deceased arrived in the house to notify one of the guests that the wife of the latter had been taken seriously ill. The deceased entered the sala of the house where the visitors were dancing, with a bolo at his side, and the accused Peralta approached him and reprimanded him for coming to a party with a bolo.

From this point the testimonies of the prosecution and the defense are virtually diametrically opposed. The prosecution held that the deceased said that he was leaving at once and started to leave but was attacked by the defendants.

The defendants held that the deceased at once became enraged and assaulted Peralta but that a friend intervened and Peralta withdrew; and that the deceased proceeded to the balcony of the house where he met Vicente Iris, whom he attacked with a bolo without further ado and wounded Iris, but Iris immediately took his bolo and a fight ensued in which the deceased received three wounds, one of which was fatal.

On the other hand, two witnesses for the prosecution testified that Peralta held the deceased from behind, that the defendant-appellant Emilio Balanza stabbed the deceased in the abdomen with a bolo, that Vicente Iris and Martin Balanza also gave the deceased wounds with bolos, that the deceased and the four others were pushed inside the kitchen, the door of which was closed, and shortly thereafter the deceased escaped from the kitchen and jumped from the house.

It is the theory of the prosecution that if Vicente Iris was wounded by the deceased, it was while they were in the kitchen and the deceased was struggling to escape.

The trial court held that there was no conspiracy, that the accused were all drunk, and that each was acting independently of the others and should be punished only for his individual acts.

Peralta, shortly after the affair, made an affidavit which was considerably different from his testimony on the stand, and he denies having held the deceased.

Two eyewitnesses presented by the prosecution are positive that Emilio Balanza, one of the appellants, suddenly

stabbed the deceased in the abdomen inflicting a mortal wound, but neither of them made out such a case that it must necessarily be inferred that if Peralta was holding the deceased he was holding him with the knowledge that the homicidal attack was about to be made and that he was holding him so that that attack would be successful. It is possible that Peralta in his drunken state may have in good faith taken hold of the deceased with the idea that it was necessary to prevent the deceased from harming some of the guests at the party.

It not having been shown that Peralta can be held with knowledge of the intentions of his codefendant, he should be given the benefit of a reasonable doubt and acquitted.

If the testimony of the witnesses for the prosecution is believed, and it was believed by the trial judge, the guilt of Emilio Balanza {alias Ajelio Balanza), of the crime of homicide is proven beyond a reasonable doubt. After a careful study of the evidence of record we find no solid reason to disturb this finding of the trial judge.

We appreciate the extenuating circumstance of drunkenness not habitual but we cannot appreciate, as did the trial court, the other extenuating circumstance of not intending to commit so grave a wrong. When a person stabs another in the abdomen with a bolo, a fatal result should be expected.

For the reasons above stated, the judgment against Eulogio Peralta is vacated and he is discharged from liability under the complaint. In the case of Emilio Balanza (alias Ajelio Balanza), the period of confinement is fixed at from six years and one day of prison mayor to twelve years and one day of reclusion temporal.

As thus modified, the sentence of Emilio Balanza is affirmed. One-half of the costs de oficio and one-half of the costs against appellant Balanza. So ordered.

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

Judgment reversed as to defendant Peralta and modified as to defendant Balanza.

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