

CIPRIANO OFIASA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT

G.R. No. 47221. August 11, 1941

Ponente: LAUREL, J.

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LAUREL, J.:

Cipriano Ofiasa, Luis Estacio, Eugenio Carpio, Alejandro Carpio and Lazaro Carpio were charged with murder in the Court of First Instance of La Union. They were found guilty and sentenced to an indeterminate penalty of not less than fourteen years, eight months, and one day nor more than seventeen years, four months and one day of reclusion temporal to indemnify the heirs of the deceased, Gregorio Ramirez, jointly and severally, in the amount of P2,000, with the accessories of the law, and to pay the costs. On appeal, the Court of Appeals acquitted Luis Estacio and Eugenio Carpio, and affirmed the judgment of the trial court as to Cipriano Ofiasa, Alejandro Carpio and Lazaro Carpio. Only Cipriano Ofiasa is here on certiorari to review the decision of the Court of Appeals.

There is hardly any dispute as to the following factual findings of the Court of Appeals which are conclusive upon us:

"The evidence of record shows that on May 11, 1938, all the accused were fishing in the sea near a place called Punta, in the municipality of Sto. Tomas, La Union. At about midnight appellant Cipriano Ofiasa, who was in a banca lighted by a lamp, approached one Fernando Ramirez, a member of another group of fishermen. Fernando Ramirez told appellant Ofiasa to go away, because the school of fish which the former had been trying to attract by his light would be attracted by the light coming from Ofiasa's banca. Appellant Ofiasa resented Fernando Ramirez' attitude and left the place, after threatening the latter with bodily harm. What took place after this incident is stated by the lower court as follows:

"Fernando Ramirez and his father, with their companions, continued fishing until daybreak. After hauling their catch, they went toward Punta to clean and dry their net. While still at sea and somewhat far from the seashore, Fernando saw that Ofiasa, Luis Estacio, Lazaro Carpio, Alejandro Carpio, and Eugenio Carpio were talking and gathered ashore. When Fernando had beached his boat, he got off and went ashore. Ofiasa then met him and the former, without much ado, slapped the latter on the face. Fernando, who is much smaller than Ofiasa, did not offer any fight and ran away. Gregorio Ramirez, who was following Fernando in another boat, saw what happened. He immediately jumped from his boat and went ashore. He asked Ofiasa why he slapped Fernando. As if moved by one impulse, all the accused met Gregorio Ramirez, who was immediately held by the arms by Luis Estacio and Eugenio Carpio. While Luis Estacio and Eugenio Carpio were each thus holding an arm of Gregorio, the three accused Cipriano Ofiasa, Lazaro Carpio, and Alejandro Carpio beat him with their oars until he fell to the ground, after which the defendants left him and sailed away with their boats. When he was beaten, Gregorio was not in a position to defend himself because he was held by his two arms. Gregorio was picked by his son, Fernando Ramirez, and his nephew, Casimiro Ramirez. Gregorio was placed in a boat and taken to his home in barrio Narvacan * * * Being in serious condition, it was deemed advisable to take Gregorio Ramirez to a hospital. Gregorio Ramirez was taken to Dagupan Hospital where he died on May 13, 1939."

"It has been fully established that the deceased died of the injuries inflicted by appellant Cipriano Ofiasa, Lazaro Carpio, and Alejandro Carpio. According to Dr. Montano, who not only treated the deceased but also conducted the autopsy, the cause of death was cerebral hemorrhage caused by the blows on the head."

The two questions concern the nature of the crime committed and the extent of petitioner's liability therefor. The petitioner takes exception to the Government's stand that the crime is raised to the category of murder by the qualifying circumstance that the accused took advantage of their superior strength to kill the deceased and to afford impunity for themselves. The Court of Appeals so ruled, and we find no fault with the ruling.

The parties are next in disagreement as to the extent of petitioner's criminal liability, in view of the Government's theory of a conspiracy among the accused and of petitioner's vigorous denial thereof. The Court of Appeals found no direct evidence on the alleged conspiracy. This also is our own deduction from the established facts. A conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. (Article VIII, Revised Penal Code.) Prior plot to take Gregorio's life was unlikely, for Gregorio had had no hand whatever in the root of the tragedy, the untoward incident between the petitioner and Fernando. Indeed, the evidence is not even inductive of the belief that there was an agreement to kill Fernando, for all that the petitioner did was to slap him in fulfillment of the alleged common purpose. If there is no evidence of conspiracy to kill Fernando against whom the petitioner bore a grudge, it would be the barest conjecture to say that there was one to do away with Gregorio. Conspiracy not having been established, the petitioner is liable alone for the injuries inflicted by him upon the deceased. (*People vs. Caballero*, 53 Phil., 585.) The finding of the Court of Appeals—"It has been fully established that the deceased died of the injuries inflicted by appellants Cipriano Ofiasa, Lazaro Carpio, and Alejandro Carpio"—is hardly a precise statement of the extent and result of the injuries individually inflicted by the herein petitioner.

The case is remanded to the Court of Appeals for a determination of the petitioner's liability, in the light of his participation in the crime, and for the imposition of the corresponding penalty. So ordered.

Avanceña, C. J., Abad Santos, Diaz, Moran, and Horrilen, JJ., concur.

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