

PEDRO AMANTE, RECURRENTE, CONTRA EL PUEBLO DE FILIPINAS, RECURRIDO.

G.R. No. 47293. August 18, 1941

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PER CURIAM:

En la causa criminal No. 10436 del Juzgado de Primera Instancia de Laguna, el recurrente fue procesado y convicto del delito de homicidio frustrado. Impusosele allí la pena indeterminada de cuatro años y dos meses de prision correccional a diez años de prision mayor, mas la de sufrir las accesorias de la ley y la de pagar las costas del proceso. Apelo de su sentencia ante el Tribunal de Apelaciones; pero la misma fue confirmada, con costas. No estando conforme con este resultado, promovio el presente proceso para pedir la revision de la sentencia del Tribunal de Apelaciones.

Haciendo en su decision un relato de los hechos que dieron margen al procesamiento del recurrente por el referido delito de homicidio frustrado, el Tribunal de Apelaciones dijo lo siguiente:

"The present case is an outcome of the clash between tenants and landlords resulting from the activities of organizations with communistic tendencies. For some time before the commission of the offense under consideration in this appeal, the Hacienda de San Pedro Tunasan in Laguna started the detainer cases against some of the tenants to eject them from the land for failure to pay rents. A day before the occurrence, the sheriff had attempted to carry out the court's order for the demolition of one of the tenants' houses, but was prevented by the hostility of the tenants, who were bent upon using violence to prevent the execution of the order. The following day, March 27th, 1935, the provincial sheriff went to Cuyab in San Pedro Tunasan with a party made up of two laborers to demolish Lucio Lizarda's house, as ordered by the court. He was also accompanied by a number of Constabulary soldiers under the command of Lieut. Bondad and a few employees of the Hacienda, among them the offended party, Anselmo Reyes, who for many years had been in charge of collecting the rents from the tenants. As they arrived at Lizarda's house, the sheriff and his party found about a thousand tenants gathered. Lizarda himself attempted to prove to the sheriff that he was not in arrears in the payment of the rent and, therefore, that his house should not be pulled down. The sheriff called up the assistant administrator of the Estate, one Policarpo Manas, to come to the house and examine the receipts for the payment of the rental. Policarpo Manas came over with Anselmo Reyes, the offended party, taking the stairs leading to the veranda where fifty men, including the appellant, who is a member of the association "Oras Na," were assembled. As Manas scanned the receipts handed over to him, the appellant shoved him, and Manas warned him not to do it again. Then the appellant looked around at his followers and nodded to them, as a sign to start the hostilities. Blows rained upon Manas and Reyes, and the latter was stabbed in the back by the appellant and wounded in the head with a bolo wielded by an unknown assailant. The wound in the back was serious, according to the physician who treated the offended party, and would have caused death if the weapon had not struck a bone in the dorsal vertebrae.

"The appellant attempted to prove that it was Policarpo Manas who, while going over the receipts, shoved him, telling him to get out, and when he questioned Mana's authority to send him away, the latter drew his pistol, and at the same time the offended party attempted to stab him. The appellant added that after he parried the offended party's blow, he ran away because he was not armed and was afraid to take part in the brawl.

"The whole question before us is one of credit. Four witnesses testified that they saw the appellant stab the offended party and their testimony was accepted by the court. We find no reason to set aside this conclusion. Undoubtedly, the appellant and his followers started to fight because they resented their landlord's seeking authority from the court to demolish the houses of tenants who could not pay their rents. It is hardly possible that Manas and the offended party would commit any act that might anger the tenants, of whom about a thousand were gathered there, and the two of them would be plainly unable to cope with the situation. It was shown that the appellant and his followers were in an angry mood, and were more confident and defiant, because the day before, they had been successful in preventing the sheriff from carrying out the order of the court.

"The intent to kill the offended party was evident, not only from the facts already stated, but also from the circumstance that the appellant and his companions made use of deadly weapons and struck him in vital portions of the body—the back and the head. Although the appellant did not deal more than one blow, he is also answerable for the blow on the head, for there was evidently a preconcerted action between him and his followers to attack the offended party. The appellant having performed all the acts of execution which would produce the crime of homicide, but which nevertheless was not consummated for reasons independent of his will, he is guilty of frustrated homicide as charged."

Comprendiendo el recurrente que en esta instancia no pueden revisarse las pruebas, ni alterarse los hechos declarados probados por el Tribunal de Apelaciones, se limita a discutir la conclusion a que dicho Tribunal ha llegado, sosteniendo la proposicion de que el delito realmente cometido por el, segun los referidos hechos, no es el de homicidio frustrado sino solamente el de lesiones menos graves, definido y penado con arresto mayor, por el articulo 265, parrafo primero, delCodigo Penal Reviaado.

Cuando uno obra y se conduce de la manera que se condujo el recurrente segun los hechos declarados probados por el Tribunal de Apelaciones, hiriendo en la espalda, con un bolo que es un arma mortifera, a Anselmo Reyes, luego que contra este y contra su compañero Policarpo Manas se iniciase un ataque por los seguidores de dicho recurrente, incitados por el mismo, causandole asi una herida grave que hubiera causado su muerte si no hubiese caido el golpe sobre su espina dorsal, comete indudablemente el delito de homicidio frustrado. Obro con acierto el Tribunal de Apelaciones al declarar que la intention del recurrente de matar a Anselmo Reyes podia inferirse no solamente de su propio acto, hiriendole como se dijo que le hirio, gravemente, en una parte vital del cuerpo, con un bolo, sino tambien del acto de uno de sus seguidores que asimismo hirio a aquel, con un arma igual, en la cabeza, a incitacion suya, y de los otras circunstancias que rodearon la agresion, la cual no fue mas que el resultado de una accion concertada entre el y sus seguidores. Habiendo el recurrente ejecutado todos los actos que debian producir el delito de homicidio, y no habiendose consumado este por causas independientes de su voluntad, debe responder del delito de homicidio frustrado que es el mismo de que fue convicto y por que fue condenado.

Por tanto, confirmamos la sentencia del Tribunal de Apelaciones, condenando al recurrente a pagar las costas de este proceso. As! se ordena.

Avanceña, Pres., Abad Santos, Diaz, Laurel, y Moran, MM.
Horrilleno y Ozaeta, MM., no tomaron parte.

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