

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. VENANCIO MONASTERIAL ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. 5098. October 29, 1909*

Ponente: TORRES, J.

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About 9 p. m. on the 21st of July, 1908, Fruto Payoyo was passing through one of the streets of the town of Ligao, Albay Province, coming from the house of Jose Nieves. On the way Aurelio Monasterial and Venancio Monasterial stopped him, and Aurelio asked him why he had told their father, Lucio Monasterial, that they had been hiring out the carabaos belonging to their said father. Payoyo replied that he had not made any such statement, but in spite of his denial Venancio caught him by the shirt front and punched him on the right side of the head, above the ear, and immediately afterwards Aurelio hit him with a stick; the attacked party stopped the blow with his left arm which was broken in so doing. The fracture prevented him from working, and took more than ninety days to heal, the physician who attended the patient stating that by reason of articular complications which followed the knitting of the fractured bone, which knitting takes place as a rule within forty days when no complications follow, it turned out that the injured man could not use his arm as freely as he did before he was injured, although it was possible that he might be completely cured later on.

In view of the above, a complaint was filed by the provincial fiscal on the 19th of August, 1908, charging the brothers Aurelio and Venancio Monasterial with the crime of lesiones graves, and proceedings having been instituted, the trial court entered judgment therein on the 8th of October, 1908, sentencing each of the" accused to the penalty of one year and one day of prision correccional, jointly and severally to indemnify the injured party in the sum of P80, for medical expenses, to pay him 50 centavos for medicine, and P40 for his work, and in case of insolvency to suffer corresponding subsidiary imprisonment not to exceed one-third of the main penalty, and each to pay one-half of the costs. From said judgment the accused have appealed.

From the above-stated facts which have been fully proven in this case it appears that the crime of lesiones graves, defined and punished by article 416, paragraph 3, of the Penal Code has been committed, inasmuch as the injured party, in consequence of the heavy blow received by him on the left arm, suffered the fracture of the bone of said limb, and was ill and unable to use the same for more than ninety days by reason of the articular complication that followed; and notwithstanding that an examination made by the physician showed that the said bone had knitted, yet the damaged arm could not be used as it had been before it was broken.

The two accused pleaded not guilty and denied the charge, but notwithstanding their exculpatory allegations which fail to prove their case, the record contains conclusive and satisfactory proof that Fruto Payoyo was set upon simultaneously by Venancio, who commenced the attack by striking him a blow with the clenched fist while holding him by the shirt front, and by Aurelio who, while Payoyo was still held, struck him with a stick on the left arm, fracturing the bone. It does not appear that the aggression was provoked by Payoyo, the injured man.

The two accused brothers, angry because of the information that they thought the injured party had given their

father to the effect that they were hiring out his carabaos, attempted to punish the informer. To that end, and by mutual agreement, upon seeing him on the street they stopped and attacked him, if not simultaneously, almost at the same time and within a few seconds of one another, and in this manner accomplished their common purpose of injuring Payoyo, each of them taking a direct and material part in the assault with the sole object of inflicting the punishment that they had resolved upon. Therefore, they are both criminally responsible for the injury suffered by the injured party, and for all the consequences of their unlawful and punishable acts.

Notwithstanding the fact that the broken arm did not heal in less than ninety days, owing to complications that incapacitated the patient from work for a longer period of time, and made it difficult for him to use the arm, it should be noted that if the accused had not attacked or maltreated the injured party the arm would not have been broken, nor would the former have incurred the penalty imposed by the law. All those who are responsible for an act which constitutes a crime are equally liable for all the consequences arising therefrom, and which are inherent therein; for example, such complications as may arise and which are not due to circumstances completely foreign to the act committed, or from the fault or carelessness of the injured party himself, exceptions which do not exist in the present case.

In view of the fact that in the commission of the crime no mitigating nor aggravating circumstance is present, the proper penalty should be imposed in the medium degree, as requested by the Solicitor-General.

For the reasons above set forth it is our opinion that the judgment appealed from should be reversed and that Venancio and Aurelio Monasterial should be sentenced, as we do hereby sentence them, to the penalty of one year eight months and twenty-one days of prision correccional, to the accessory penalties of article 61 of the code, to jointly and severally indemnify the offended party in the sum stated in said judgment, with the corresponding subsidiary imprisonment therein referred to, and to each pay half the costs of both instances. So ordered,

Arellano, C. J., Mapa, Johnson, Carson, and Moreland, JJ., concur.

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