

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. CECILIO TAÑEDO, DEFENDANT AND APPELLANT.

G.R. No. 5418. February 12, 1910

Ponente: MORELAND, J.

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MORELAND, J.:

The defendant in this case was accused of the crime of murder committed, as alleged in the information, as follows:

"That on or about the 26th day of January of this year, the said accused, with the intention of killing Feliciano Sanchez, invited him to hunt wild chickens, and, upon reaching the forest, with premeditation shot him in the breast with a shotgun which destroyed the heart and killed the said Sanchez, and afterwards, in order to hide the crime, buried the body of the deceased in a well. The motive is unknown. The premeditation consists in that the accused had prepared his plans to take the deceased to the forest, there to kill him, so that no one could see it, and to bury him afterwards secretly in order that the crime should remain unpunished."

The defendant was found guilty of homicide by the Court of First Instance of the Province of Tarlac and sentenced to fourteen years eight months and one day of reclusion temporal, accessories, indemnification and costs. The defendant appealed.

There is very little dispute about the facts in this case, in fact no dispute at all as to the important facts. The accused was a landowner. On the morning of the 26th of January, 1909, he, with Bernardino Tagampa, Casimiro Pascual, Valeriano Paulillo, and Juan Arellano, went to work on a malecon or dam on his land. The defendant took with him a shotgun and a few shells, with the intention to hunt wild chickens after he had set his laborers at work. He remained with his laborers an hour or so and then went a short distance away across a stream to see how the alteration which he had made in the malecon affected the flow of water from the rice field on the other side of the stream. He carried his shotgun with him across the stream. On the other side of the stream he met the deceased, who, with his mother and uncle, had been living in a small shack for a month or so during the rice-harvesting reason. The accused asked the uncle of the deceased where htf could find a good place in which to hunt wild chickens. The uncle was lying on the floor in the interior of the shack sick of fever. The deceased, a young man about 20 years of age, was working at something under a manga tree a short distance from the shack. Although the accused directed his question to the uncle inside of the shack, the deceased answered the question and pointed out in a general way a portion of the forest near the edge of which stood the shack. There is some contradiction between the testimony of the accused and the Government witnesses just at this point. The uncle of the deceased testified that the boy and the accused invited each other mutually to hunt wild chickens and that the accused accepted the invitation. The accused, however, testified that he did not invite the deceased to go hunting with him, neither did the deceased go with him, but that he remained under the manga tree "tying something." At any rate the accused went into the forest with his gun. What took place there is unknown to anybody except the accused. Upon that subject he testified as follows:

"And after Feliciano Sanchez pointed out that place to me, that place where the wild chickens were to be

found, I proceeded to hunt, because, in the first place, if I could kill some wild chickens we would have something to eat on that day. So when I arrived at that place I saw a wild chicken and I shot him. And after I shot that chicken I heard a human cry. I picked up the chicken and went near the place where I heard the noise, and after I saw that I had wounded a man I went back toward the malecon, where my companions were working, running back, and when I arrived there I left my shotgun behind or by a tree not far from where my companions were working; and I called Bernardino Tagampa to tell him about the occurrence, and to him I told of that occurrence because he is my friend and besides that he was a relative of the deceased, and when Tagampa heard of this he and myself went together to see the dead body."

Only one shot was heard that morning and a chicken was killed by a gunshot wound. Chicken feathers were found in considerable quantities at the point where the chicken was shot and where the accident occurred. The defendant within a few minutes after the accident went out of the woods to the malecon where he had left his laborers at work, carrying the dead chicken with him. The accused called Bernardino Tagampa, one of the laborers, to go with him and they disappeared for some time. Tagampa says that they went a little way toward the woods and came back. The accused says that they went to the place where the body of the deceased lay and removed it to a place in the cogon grass where it would not be easily observed. It is certain, however, that the body was concealed in the cogon grass. During the afternoon Tagampa left the malecon, where his fellow laborers were working, probably to hunt for a place in which to hide the body. The rest of the laborers saw the witness Yumul take the chicken which had been killed by the accused. He delivered it to the wife of the accused, who testified that she received the chicken from Yumul and that it had been killed by a gunshot wound. That evening the accused and Tagampa went together to dispose of the body finally. They took it from the cogon grass where it lay concealed and carried it about seventeen or eighteen hundred meters from the place where it had originally fallen, and buried it in an old well, covering it with straw and earth and burning straw on top of the well for the purpose of concealing it. Tagampa said that he helped the accused dispose of the body because he was afraid of him, although he admits that the accused in no way threatened or sought to compel him to do so. The defendant prior to the trial denied all knowledge of the death of the deceased or the whereabouts of the body. On the trial, however, he confessed his participation in the death of the deceased and told the story substantially as above.

So far as can be ascertained from the evidence the prior relations between the accused and the deceased had been normal. The deceased was a tenant on land belonging to a relative of the accused. There was no enmity and no unpleasant relations between them. No attempt was made to show any. There appears to have been no motive whatever for the commission of the crime. The Government has not attempted to show any. The only possible reason that the accused could have for killing the deceased would be found in the fact of a sudden quarrel between them during the hunt. That idea is wholly negatived by the fact that the chicken and the man were shot at the same time, there having been only one shot fired.

Article 1 of the Penal Code says:

"Crimes or misdemeanors are voluntary acts and omissions punished by law.

"Acts and omissions punished by law are always presumed to be voluntary unless the contrary shall appear."

Article 8, subdivision 8, reads as follows:

"He who, while performing a legal act with due care, causes some injury by mere accident without liability or intention of causing it."

Section 57 of the Code of Criminal Procedure is as follows :

"A defendant in a criminal action shall be presumed to be innocent until the contrary is proved, and in case of a reasonable doubt that his guilt is satisfactorily shown he shall be entitled to an acquittal."

The American doctrine is substantially the same. It is uniformly held that if life is taken by misfortune or accident while in the performance of a lawful act executed with due care and without intention of doing harm, there is no criminal liability. (Tidwell vs. State, 70 Ala., 33; State vs. Benham, 23 Ia., 154, 92 Am. Dec, 417; Bertrng vs. State, 2 Tex. Ap., 160; Williamson vs. State, 2 Ohio C. C, 292; U. S. vs. Heather, 37 Fed. Rep., 875; U. S. vs. Castro, Fed. Cas., 14752; State vs. Legg, 3 L. R. A., N. S., 1152.)

In this case there is absolutely no evidence of negligence upon the part of the accused. Neither is there any question that he was engaged in the commission of a lawful act when the accident occurred. Neither is there any evidence of the intention of the accused to cause the death of the deceased. The only thing in the case at all suspicious upon the part of the defendant are his concealment and denial.

In the case of the State vs. Legg, above referred to, it is said (p. 1165):

"Where accidental killing is relied upon as a defense, the accused is not required to prove such a defense by a preponderance of the evidence, because there is a denial of intentional killing, and the burden is upon the State to show that it was intentional, and if, from a consideration of all the evidence, both that for the State and the prisoner, there is a reasonable doubt as to whether or not the killing was accidental or intentional, the jury should acquit. * * * But where accidental killing is relied upon, the prisoner admits the killing but denies that it was intentional. Therefore, the State must show that it was intentional, and it is clearly error to instruct the jury that the defendant must show that it was an accident by a preponderance of the testimony, and instruction B in the Cross case was properly held to be erroneous."

In 3 L. R. A., N. S., page 1163, it is said:

"Evidence of misadventure gives rise to an important issue in a prosecution for homicide, which must be submitted to the jury. And since a plea of misadventure is a denial of criminal intent (or its equivalent) which constitutes an essential element in criminal homicide, to warrant a conviction it must be negated by the prosecution beyond a reasonable doubt."

In support of such contention the author cites a number of cases.

We are of the opinion that the evidence is insufficient to support the judgment of conviction.

The judgment of conviction is, therefore, reversed, the defendant acquitted, and his discharge from custody ordered, costs de oficio. So ordered.

Arellano, C. J., Torres, Mapa, and Johnson, JJ., concur.

CONCURRING

CARSON, J.,

I concur.

I am in entire agreement with the conclusions of the majority in this case.

I think it proper to state, nevertheless, that the doctrine laid down in the somewhat loosely worded West Virginia case of State vs. Legg, cited in the majority opinion, and in the citation from 3 L. R. A., N. S., can not be said to be in conformity with the general doctrine in this jurisdiction, as laid down in the decisions of this court, without considerable modification and restriction limiting its scope to cases wherein it is properly applicable.

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