

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. FRANCISCO SAMEA, DEFENDANT AND APPELLANT.*G.R. No. 5516. February 16, 1910*

Ponente: TORRES, J.

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Between 4 and 5 p. m. on the 23d of April, 1-908, Juana Sangalang, by direction of Francisco Samea, a resident of the barrio of Sapangbalen, in the pueblo of Mabalacat, Pampanga, hailed Braulio Magbag, the tenant of the former, because he had taken some straw to Samea's house, instead of banana leaves as the latter had ordered. When Magbag appeared at the gate of Samea's yard the latter insulted him, telling him that he had not done as ordered and was doing only what he pleased, and immediately hit him with a bubuyan stick 1 1/2 inches in diameter, striking him on the left side of the neck, left side of the body, and right thigh, and then kicked him in the abdomen and testicles, with his shoes on. In consequence of this maltreatment the assaulted man fell to the ground, urinating. At this moment his wife came up; she embraced him and conducted him a distance of about 30 yards where, after about an hour, he died. His body was later removed to a near by house belonging to Bonifacio David.

At the request of the provincial fiscal, Dr. Nicolas Angeles, president of the municipal board of health of San Fernando, exhumed the body of Braulio Magbag, and made a post-mortem examination on the 25th of the said month. He certified as a result of his examination that, owing to the state of putrefaction, it was impossible to make a complete autopsy, and the data obtained both from the exterior of the body and the viscera did not permit him to state positively the cause of death, but, considering that he had not discovered any traumatic injury of the viscera; that the process of putrefaction had altered the outer color, consistency, and form of the soft tissues, it was not possible to detect slight injuries, and there being no serious ones, and in view of the fact that the heart was abnormal and greatly hypertrophied, especially in its entire left auricle and right ventricle and auricle, it is probable that the said individual died of heart disease due to mitral insufficiency.

In view of the foregoing, the provincial fiscal filed a complaint with the Court of First Instance of Pampanga, on the 15th of June, 1908, charging Francisco Samea with the crime of homicide. The trial judge entered judgment on the 23d of September of the same year, sentencing Francisco Samea to the penalty of six years of prison correccional, with the accessory penalties, to indemnify the widow and heirs of the deceased in the sum of P1,000 and, in case of insolvency, to suffer the corresponding subsidiary imprisonment, and to pay the costs, but to be credited with one-half of the period of detention.

From the above-stated facts it is clearly shown that Braulio Magbag died in consequence of the blows inflicted with a stick upon several parts of his body, and from kicks in the stomach and testicles, in consequence of which ill treatment he fell to the ground, and after dragging himself, with the assistance of his wife, to a distance of about 30 yards, there died. The act constitutes the crime of homicide, defined and punished by article 404 of the Penal Code, because the deceased lost his life as a result of the violent aggression of which he was the victim, none of the circumstances which characterize it as murder being present therein.

It is to be regretted that the post-mortem examination was made on the third day, and after the body had been buried, for which reason the surgeon who made the autopsy stated that, owing to the putrified state of the body it was impossible to make a thorough examination, and the data obtained both from the outside of the body and from the viscera did not permit him to positively determine how Braulio Magbag met his death; but he stated in his certificate, and in his testimony at the trial of the case, that he found a hypertrophy of the heart, for which reason he believed that the man died of heart disease due to mitral insufficiency.

Three witnesses, Juliana David, Juana Sangalang, and Marcelina Tulabut, saw the ill treatment received by the deceased from the accused Samea on the street near the gate of his yard and in view of the entire neighborhood, and they so testified in the case; the first of the above-named witnesses, who was the wife of the deceased, together with several residents, among whom was Damian Garcia, who responded to her cries, was foremost in rendering assistance to the ill-treated man who was found in a dying state, so seriously injured that he died shortly afterwards and his body was removed to the house of Bonifacio David who lived near by. It should further be noted that it was young Juana Sangalang who hailed the unfortunate Braulio, by direction of the accused, and when the latter appeared the accused abused and ill treated him as already stated.

The testimony of the witnesses introduced by the defense did not succeed in overcoming that of the witnesses for the prosecution, as may be seen from the mere reading of the testimony of all of them, it appearing from the subsequent statements of the widow of the deceased and of the said eyewitness, Juana Sangalang, that friends of the defendant offered them money to conceal the real cause of the death of Braulio Magbag.

It being proven that Braulio Magbag was maltreated by said blows and kicks, even though the heart trouble from which he suffered may have contributed in a great measure to his death, it can not be denied that he would probably not have died if he had not been maltreated, as the ill treatment must have produced such a great physical shock and other effects that, owing to complications that ensued, perhaps partly due to the heart trouble with which he was afflicted, his death ensued. It is probable the same results would not have occurred in the case of a strong, healthy man.

The liability of the defendant as the sole author of the ill treatment inflicted upon the deceased Magbag is manifest and incontrovertible, because if the deceased fell to the ground and died shortly after having been cruelly maltreated by Samea, it can not be denied that the latter is the only one responsible for the crime of homicide arising from the violent death of the late Magbag.

It may be true that the latter was suffering from heart trouble, judging from the statements of the physician who made the autopsy, but it is none the less true that the ill treatment inflicted by the defendant was the cause of such fatal result and hastened the death of a man who, a moment previously, was apparently in good health, moved about freely, properly performed his duties in the fields and otherwise executed the orders of the accused, as stated by his widow.

Any person who commits an unlawful act is responsible for all the consequences arising therefrom; the fact that he does not intend to cause the death of the party abused does not exempt him from liability. Francisco Samea, willfully and without authority therefor, ill treated Braulio Magbag, beating him with a stick and kicking him, as aforesaid, thereby committing illegal acts contrary to the criminal law. Being the aggressor, he is necessarily responsible for all the consequences; the attempt to prove that the deceased used to suffer from fever and was in delicate health can not mitigate the fatal result, because one who maltreats a sick person who dies from the result of such violence is responsible for his death, that is to say, for the crime of homicide.

In the commission of the crime herein prosecuted the presence of mitigating circumstance No. 3 of article 9 of the Penal Code must be considered, because we must assume that, notwithstanding the cruelty with which the

deceased was maltreated for such trifling motive, the accused did not, as a matter of fact, intend to kill him; hence the penalty should be imposed in the minimum degree Circumstance 7 of the same article can not be allowed in his favor, for the reason that the conduct of the defendant in severely and unreasonably maltreating the deceased was unjustifiable. On the other hand, there is no aggravating circumstance present in the case.

For the reason above set forth, by which the alleged errors assigned in the judgment appealed from have been refuted, it is our opinion that the same should be reversed, and that Francisco Samea should be and is hereby sentenced to the penalty of twelve years and one day of reclusion temporal, to suffer the accessory penalties of article 59 of the code, to indemnify the widow and heirs in the sum of P1,000, and to pay the costs of both instances. So ordered.

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

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