

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. GENARO PASCA, DEFENDANT AND APPELLANT.

G.R. No. 9247. October 15, 1914

Ponente: CARSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-9247/>

CARSON, J.:

The appellant in this case was convicted of homicide and sentenced to twelve years and one day of reclusion temporal, the minimum penalty prescribed for that crime. The appellant admitted the killing, but pleaded self-defense.

The judgment of conviction was rendered on February 19, 1912, but on the 12th of March, 1912, the trial court set aside its former decision and entered a new judgment acquitting the defendant on the ground of self-defense.

Thereafter, upon the prayer of the Government, a writ of certiorari was issued by this court, and the record having been brought here, we held that the trial court had exceeded its jurisdiction in attempting to set aside the judgment of conviction rendered on February 19, 1912, more than fifteen days after it had been lawfully entered. The result of our disposition of those proceedings was to leave the judgment of conviction rendered on February 19, 1912, in full force and effect, and this appeal brings that judgment before us for review.

The defendant and the deceased owned adjoining rice lands. At or about 6 o'clock on the evening of the day mentioned in the information, both were working on the their respective parcels of land, and a quarrel having arisen between them the defendant struck the deceased a blow on the right temple with a piece of bamboo about 7 feet long and as thick as a man's arm, inflicting a wound as a result of which the deceased died a few hours later without regaining consciousness.

The defendant admitted that he struck the fatal blow, but claimed that he did so in self-defense. He testified that the deceased was constructing a fence upon his, the defendant's, land; that he asked the deceased why he built the fence upon his land; that the deceased came over into defendant's land, struck him and knocked him down in a pool of water which was about knee-deep; and that as he fell he seized a piece of bamboo which happened to be floating on the water, and, raising himself to a half-sitting posture, struck the fatal blow. In answer to the question: "What did you think that the deceased wished to do to you?" he replied: "He wished to kill me because he pushed me down into the water."

The son of the deceased, 18 years of age, testified that he was working at a point some 10 brazas distant, facing away from the defendant and his father. That although he saw the fatal blow delivered he heard no altercation and observed no indication of a quarrel between his father and the defendant. At first he swore that this was all he saw, but later he added that he saw the defendant approach his father and strike the blow without saying a word. That thereupon he went to the assistance of his father and asked the defendant why he had struck him, to which defendant replied: "I did not know what I was doing."

Robert Panet, who was also working -some little distance away, rushed to the scene of the occurrence upon

hearing the cries of the son and when he came up to the place where they were standing he said to them: "What have you done, sons of man?" to which the defendant replied that he did not know what he had done. From the undisputed testimony of this witness and of the son, it would appear that the deceased had his bolo in its sheath strapped upon his person underneath his shirt at the time when he came to his death.

The president of the municipal board of health arrived on the scene a short time thereafter and made an examination of the body of the deceased. His testimony corroborates the testimony of the accused as to the fact that he struck but one blow, upon the head of the deceased.

This is all the material evidence in the record, and upon this evidence the trial judge convicted the defendant of the crime of homicide. In attempting to set this judgment aside, he says that upon mature consideration he had concluded that the testimony of the son of the deceased was not worthy of credence, and that he had evidently testified falsely when he denied all knowledge of the altercation which resulted in the striking of the fatal blow. We agree with the trial judge in this regard. The boy was standing at a distance of only 10 brazas from the defendant and his father, and yet he says he saw the fatal blow struck without hearing any words pass between them and without observing any indication of a quarrel. He would have us believe that without provocation and without any motive whatever the accused deliberately walked toward his father and struck him a deadly blow upon the head. We think the testimony of the accused as to the existence of a quarrel is much more reasonable than that of this witness, and we are convinced that this witness deliberately refused to tell the whole truth as to what really occurred. On the other hand, the defendant's testimony in support of his plea of self-defense is not wholly satisfactory. He claims that he struck the fatal blow because the deceased was pushing him in the water and he feared that he was going to drown him. In view of the fact that at the moment when he struck the fatal blow he must have been some little distance from his opponent, it seems hardly possible that he could have believed that he was in any real danger of his life from drowning in the shallow pool of water into which, as he claims, the deceased attempted to thrust him.

According to the story told by the accused, he was half sitting and half rising out of the water when he struck the fatal blow. The trial judge in his decision points out that from the very nature of the wound the blow must have been delivered "with terrible force," and the description of the wound upon the head of the deceased by the president of the municipal board of health amply confirms this understanding. The accused is a man 5 feet 2 inches high and weighs only 110 pounds, and it is, to say the least, difficult to understand how he could have picked up a bamboo pole 7 feet long and as thick as man's arm, and then strike the fatal blow from the half-sitting, half-rising position which he described in the court below.

We think that giving the accused the benefit of all reasonable doubts as to the circumstances under which the blow was struck, we must find that the accused, having discovered that the deceased had built a part of his fence on the land of the accused, asked the deceased why he had done so; that the question angered the deceased so that he rushed at the accused and pushed him into a shallow pool of water, and then made some attempt to push him still further into the pool; that the deceased made no attempt to draw a bolo which he had at his side; that the accused had no reason to believe that the deceased intended to take his life or do him any grave bodily harm; that the fatal blow was struck by the accused in the heat of anger, in an attempt to defend himself from the unprovoked assault of the deceased, and that the fatal blow was struck "with terrible force" on the head of the deceased, and with a heavy bamboo pole 7 feet long and as thick as a man's arm.

Upon this finding of facts we are of opinion that while the defendant's plea of self-defense is not established, so as wholly to exempt him from criminal liability, it should be taken into consideration in accordance with the provisions of article 86 of the Penal Code to reduce the degree of the penalty prescribed for the commission of the crime of homicide.

Article 86 is as follows:

"A penalty lower by one or two degrees than that prescribed by law shall be imposed if the deed were not wholly excusable by reason of the lack of some of the conditions required for exemption from criminal liability in the several cases mentioned in article eight, provided that the majority thereof be present. The courts shall impose the penalty in the degree which may be deemed proper, in view of the number and weight of the conditions of exemption present or lacking.

"This provision is understood to be without prejudice to that contained in article eighty-four."

Subsection 4 of article 8 is as follows:

"The following are exempt from criminal liability:

* * * * *

"4. Anyone who acts in defense of his person or rights, provided that the following circumstances concur:

"(1) Unlawful aggression;

"(2) Reasonable necessity for the means employed to prevent or repel it;

"(3) Lack of sufficient provocation on the part of the person defending himself."

We are of opinion, giving the accused the benefit of all reasonable doubts, that there was unlawful aggression on the part of the deceased, and lack of sufficient provocation on the part of the accused, but that there was no reasonable necessity for the use of the means employed by the accused to prevent or repel the aggression, or more accurately speaking, that the mode of defense adopted by him was in excess of what was reasonably necessary to protect himself from the aggression of his adversary.

While the accused might have been and doubtless was justified in picking up the bamboo pole to keep his adversary at bay, we do not think that under all the circumstances he was justified in using it as he did. He was not in any real danger of his life, and he must have known that he was not His adversary, although armed with a bolo, had not attempted to draw it, and limited his assault to an attempt to push the defendant back into the shallow pool into which he had been thrown at the outset of the quarrel. The accused must have been at some little distance from his victim when he struck the fatal blow with a bamboo pole 7 feet long, and we are satisfied that to repel the assault of the deceased, there was no reasonable necessity for his delivering a fatal blow at the head of his adversary, with such a weapon, and with such "terrible force."

We think that the judgment of the court below convicting the defendant of the crime of homicide must be sustained, but we think that in imposing the penalty he should be given the benefit of the provisions of article 86 of the Penal Code, and that having in mind the low order of intelligence of the accused (article 11 of the Penal Code as amended by Act No. 2142) the penalty should be reduced to six years and one day of presidio mayor.

The judgment of the court below, modified by substituting the penalty of six years and one day of presidio mayor for so much thereof as imposes twelve years and one day of reclusion temporal, should therefore be affirmed, with the costs of this instance against the appellant. So ordered.

Arellano, C. J., Torres, Johnson, Moreland, and Araullo, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.