

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. JOSE PATOTO, DEFENDANT AND APPELLANT.*G.R. No. 9259. December 01, 1914*

Ponente: CARSON, J.

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Jose Patoto, the appellant in this case, was convicted in the court below of the crime of homicidio (felonious homicide), and sentenced to twelve years and one day of reclusion temporal, together with the accessory penalties prescribed by law, to indemnify the heirs of the deceased in the sum of P11,000, and to pay the costs of the trial. The prescribed penalty was imposed in its minimum degree because the trial judge was of opinion that the crime was committed in vindication of a grave offense against the daughter of the accused.

Giving the accused the benefit of any reasonable doubts raised by the conflicting testimony of record, it appears that the deceased, Catibog, struck and reprimanded the daughter of the accused for trespassing on his land; that not long afterwards the accused approached Catibog and asked him what he meant by maltreating his daughter; that a quarrel ensued in the course of which Catibog struck the accused several times with a club; that after receiving one or two blows on the head the accused took out his pocketknife and slashed Catibog across the abdomen; that soon after being stabbed Catibog fell helplessly to the ground and died four or five hours later; that immediately after the quarrel the accused gave himself up to the municipal authorities; that Catibog was a decidedly larger and stronger man than the accused, and had a reputation as a dangerous man in the community in which he lived.

The most serious conflict in the testimony arose in relation to the question as to which of the two struck the first blow. We are of opinion, however, that the disinterested testimony of the medical officer is conclusive on this point. He testified that it would have been a physical impossibility for Catibog to have struck the accused with the club after receiving the knife thrust in the abdomen, which disemboweled him. This evidence raises a reasonable doubt as to the exact truth of the story told by a niece of the deceased who was the only eyewitness of the fight—a doubt which is not dispelled by the vague, uncertain, and indefinite ante mortem statement of the deceased.

On the whole record, and giving the accused the benefit of the doubt, we incline to the belief that before the accused took out his knife Catibog had struck him at least twice with his club, and that the accused made use of his knife in repelling the attack upon him by the deceased.

Upon these findings of fact we are of opinion that the accused is exempt from criminal responsibility for the striking of the fatal blow. The victim of an unlawful and unprovoked assault with a heavy club in the hands of a strong and powerful man, whose reputation as a dangerous man was well-known in the community in which he lived, the accused had a perfect right to defend himself, provided the means adopted to repel the attack were reasonably necessary to relieve him from the danger to which he was exposed. Unarmed, as he was, we are not prepared to say that in taking a knife from his pocket and stabbing his powerful assailant, who had already struck him twice on the head, he did any more than was reasonably necessary to protect himself from an assault which

might well have resulted in the loss of his life, and could hardly fail to result in the infliction of grave personal injuries. When the fatal blow was struck he had already received two severe blows on the head. There was no one present upon whom he could call for help. His assailant was a larger and more powerful man than himself, armed with a club and still pressing the unlawful and unprovoked assault. Under such circumstances, and there not appearing to have been any other means by which the accused could reasonably hope to avoid the threatened danger, we believe that he was entirely justified in the use of his knife, the only available weapon of self-defense.

We conclude, therefore, that the judgment entered in the court below convicting the accused of the crime of homicidio (felonious homicide) and imposing the penalty prescribed by law for that offense should be reversed; that he should be acquitted of the crime with which he is charged in the information; that if in detention, he should be set at liberty forthwith, and if at liberty under bail that his bondsmen should be exonerated; and that the costs in both instances should be noted de officio. So ordered.

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

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