

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. FILOMENO MARASIGAN, DEFENDANT AND APPELLANT.

G.R. No. 9426. August 15, 1914

Ponente: MORELAND, J.

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MORELAND, J.:

In this case it appears that about 4 o'clock of the afternoon of the 23d of January, 1913, Francisco Mendoza, while engaged in examining his sugar crop growing upon his lands in the barrio of Irucan, now called Calayan, in the municipality of Taal, Batangas Province, was asked by the accused and his wife to approach them.

On arriving near them the accused said to Mendoza: "Why is this line curved?" [indicating the division line between the lands of the two.] "Let us make it straight."

Francisco replied, saying: "Why do you want to make the line straight? If you make the line straight, it will put certain logs and trees on your land."

To this the accused replied: "Those logs are there simply for the purpose of marking my land."

Francisco replied: "Why are you not satisfied with the line just as it was when we took possession of our respective lands?"

To this the accused replied: "This is false." Saying this he drew his knife and struck at Mendoza.

On attempting to ward off the blow Mendoza was cut in the left hand. The accused continued the attack, whereupon Mendoza seized the accused by the neck and the body and threw him down. While both were lying upon the ground the accused still sought to strike Mendoza with his dagger. The latter seized the hand which held the dagger and attempted to loosen his hold upon it. While they were thus, fighting for the possession of the knife, the wife of the accused came forward and took the dagger from her husband's hand, throwing it to one side. She then seized Mendoza by the neck and threw him from her husband, who after various maneuvers, struck Mendoza a blow which knocked him senseless.

As a result of the fight Mendoza received three wounds, two in the chest and one in the left hand, the latter being the most serious, the extensor tendon in one of the fingers having been severed. The wounds were cured in seven days at a cost of about P45, but the middle finger of the left hand was rendered useless.

The story of the affair told by the accused is quite different from that just related, but the facts as stated were as found by the trial court and the evidence given fully supports the findings. We have examined, the case carefully and see no reason why it should be reversed upon the facts. We may say the same as to the law.

The accused asserts that he should have a new trial upon the ground that if he should be given another opportunity to present evidence he would be able to show by a physician, Gregorio Limjoco, that the finger which the court found to have been rendered useless by the cut already described was not necessarily a useless member, inasmuch as, if the accused would permit a surgical operation, the finger could be restored to its normal condition. He also

asserts that he could demonstrate by the physician referred to that it was not the middle finger that was disabled but the third finger instead.

We do not regard the case made as sufficient to warrant a new trial. It is immaterial for the purposes of this case whether the finger, the usefulness of which was destroyed, was the middle finger or the third finger. All agree that one of the fingers of the left hand was rendered useless by the act of the accused. It does not matter which finger it was.

Nor do we attach any importance to the contention that the original condition of the finger could be restored by a surgical operation. Mendoza is not obliged to submit to a surgical operation to relieve the accused from the natural and ordinary results of his crime. It was his voluntary act which disabled Mendoza and he must abide by the consequences resulting therefrom without aid from Mendoza.

The judgment appealed from is affirmed, with costs against the appellant.

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

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