

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. FAUSTINO CORONEL, DEFENDANT AND APPELLANT.

G.R. No. 9842. March 18, 1915

Ponente: TORRES, J.

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TORRES, J.:

This case has been brought up on an appeal filed by the defendant from the judgment dated January 30, 1914, whereby the Honorable Mariano Cui, judge, found him guilty of the crime of homicide and sentenced him to the penalty of fourteen years eight months and one day of reclusion temporal, the accessories, an indemnity of P1,000 to the heirs of the deceased, and the costs of the case.

About 8 o'clock of the night of December 13, 1912, Demetrio Tumambing and his compañera Sotera Marquez, residents of the barrio of Mataas-na-lupa, left their house and went toward the barrio of Sambat, Demetrio to look for plowmen for his brother's lands and his compañera to get her daughters who had been at school, but while they were still in their barrio of Mataas-na-lupa, municipality of Bauan, Batangas, they saw the defendant, Faustino Coronel, some 12 meters away from them. Demetrio whistled to him, then they approached each other, exchanged some words, and separated from Sotera, going to another spot where they sat down and went on conversing. Tired of waiting for Demetrio, Sotera went back home and fell asleep, for she was feeling ill, and the next day she learned that Demetrio had been killed.

That same night the witnesses for the defense, Ladislao Manalo and Lamberto Panganiban, state that they heard a voice crying, "Help! robbers!" wherefore the lieutenant of the barrio, Ladislao Manalo, went from his house into the street and saw the defendant and defendant's father, Pedro Coronel. The defendant said that a robber was there, wounded and lying two brazas away from the stairway of his father's house, and at some three brazas from him was a bull. Thereupon Manalo sent Panganiban to report the affair to the authorities. Some time afterwards the policemen Umali and Cuaresma arrived, and Pedro Coronel told them that his son Faustino had killed Demetrio Tumambing because the latter was stealing cattle. The policeman Cuaresma took from defendant's possession the bolo, Exhibit G of the prosecution and Exhibit 1 of the defense, which had belonged to the deceased, and saw that the scabbard was suspended from the deceased's shoulder and lying across his chest. Then the defendant himself also stated to the policeman Umali that he had killed the deceased because the latter was stealing cattle belonging to him.

The justice of the peace of Bauan, the president of the municipal board of health, and the chief of police visited the scene of the occurrence that same night to make the preliminary investigation, and the justice of the peace set down in Exhibit A, among other things, that the deceased had many wounds; that from one of them protruded his bowels, which were cut in various places; that he was bound elbow to elbow with the end of the rope which was attached to a cow standing three brazas away from the corpse.

That night an autopsy was held on the corpse and verified the next day, and from the examination it appeared that the deceased had a slash in the cheek, a bruise behind the left ear in the mastoid region, and 10 wounds in the

abdomen, with an inflammation in the right temple. The principal wounds in the abdomen were one under the navel, 2 centimeters wide and 25 centimeters long, a centimeter and half deep, which severed the small intestine, some 5 varas of which protruded through the 2-centimeter opening; another, on the right side below the line of the ribs, a centimeter in length and running upwards toward the edge of the liver; the other 8 were of less importance, but as they were in the nature of stabs the intestines had been punctured in three places, corresponding to three different wounds. The one first described was necessarily fatal, as it had traversed the abdominal region and severed the small intestine.

About 8 o'clock that same night Simeon Borromeo was coming from the town, where he had been buying rice, and in the road met the defendant with his father and two other persons unknown carrying an individual, whether dead or ill, he did not know, in the direction of the house of the defendant's father in Mataas-na-lupa.

None of the witnesses for the defense contradicted Sotera Marquez, the deceased's querida, who asserted that at about 8 o'clock in the night of December 13, 1912, the defendant overtook them on the road to the barrio of Sambat, on which occasion he entered into conversation with the deceased and they forthwith separated from her in order to continue their conversation sitting down; that she therefore went back home to sleep and learned the next day that the deceased had been killed the previous night. This testimony does not appear to have been weakened at the trial.

The facts stated are duly proven in the case and constitute the crime of homicide, provided for and penalized in article 404 of the Penal Code, for the defendant stated at the trial that it was he who inflicted the wounds that caused the death of the deceased, because the latter had attacked him with a bolo and had tried to take away a cow belonging to him.

The defendant pleaded not guilty and endeavored to prove that in killing the deceased he had acted in self-defense, for which purpose he alleged that he was living with his grandfather in the barrio of Mataas-na-lupa and that on the said night, after eating his supper, he had gone toward his father's house, located in the same barrio, where he had some bulls and a cow with a calf; that he was then carrying a pole, Exhibit B, which he was going to use as a "pinga" or "banghy" for transporting firewood; that upon entering his father's yard he saw some one taking away his bull and on asking who it was he got for an answer a slash with the bolo, Exhibit 1, which he was able to dodge, defending himself with the pole; that in the struggle which ensued his assailant, who turned out to be Demetrio Tumaming, dropped the bolo, so he was able to get possession of it; that as Demetrio succeeded in catching him around the legs, he was afraid his assailant would kill him, so he stabbed him several times with the bolo in order to make him let go, and at the same time called for help; that the fight took place in his father's yard; and that he then saw Demetrio's companions make their escape, but was unable to recognize them on account of the darkness of the night.

There can be no doubt that the defendant was the person who inflicted the wounds that caused the deceased's death, for he himself admitted it and so stated of his own accord to the first agents of the authorities who appeared at the scene of the crime. But in admitting that he caused Demetrio Tumaming's death the defendant alleged in his favor the extenuating circumstance of self-defense, but this allegation cannot be sustained on account of the lack of evidence that there was first an unlawful aggression that put his life in danger, so that in defending himself it was necessary to inflict upon the deceased with a pole, a bolo, and a two-edged dagger, 12 wounds in the face, 10 in the abdomen, and a bruise on his forehead, especially when the incriminating facts in the case, far from sustaining his defense, convincingly prove that he was guilty as the undoubted perpetrator by direct participation, fully convicted, of the homicide under prosecution.

The number of wounds the victim Tumaming received from pole, bolo and dagger is incompatible with the story

that the person inflicting them was forced to defend himself against a sudden and unexpected attack, and with the position in which the alleged assailant was placed when receiving said wounds, according to the physician who examined them and conducted the autopsy on the corpse, for this professional man states that some of them were inflicted while the parties were standing face to face while others at right angles to the line of his body were inflicted upon the deceased as he was stretched out on the ground and tied up by his right leg, with his arms bound elbow to elbow, while he was still alive, for the medical man noticed that the blood was well distributed in the tissues and there was ecchymosis in the arms, which would not have been the case had he been tied up after he was a corpse.

Aside from the fact that the defendant, his father Coronel, and two other persons were seen carrying an individual apparently either sick or dead on that same night; that the defendant and the deceased were seen together and in conversation the same night in a street of the same barrio; and that the justice of the peace did not discover at the place where the corpse was found tracks of feet indicating a light on the ground, on which, as it was dry, were seen footprints apparently old: all these facts and the other merits of the case demonstrate that the allegation made by the culprit with a view to exempt himself from responsibility is neither sound nor true.

It does not appear that the bolo which it is alleged was the deceased's and which the defendant used to wound him was stained with blood, or that stains or drops of blood were found in the yard where the corpse was, or in the place where the defendant and his victim held their conversation, because no inquiry was made on these points. But it can be inferred from the facts stated that Tumaming was severely wounded elsewhere and then carried to the yard of the house, where his corpse was later discovered, tied up for the purpose of giving an appearance of truth to the allegation that he was trying to take away a cow belonging to the defendant; and if it were true that the defendant wounded the deceased while embraced by him, the former's clothes would have been stained with blood, a detail that does not appear to have been brought out in the case.

As there was no eye-witnesses to the commission of the crime, it is improper to hold the concurrence therein of any mitigating or aggravating circumstance, or any qualifying circumstance requiring the classification of murder, wherefore the penalty imposed is in accordance with law.

The other witnesses for the defense, public officials, testified that the deceased was a person without any known occupation, that he had two *queridas* and dressed well; that he was one of the individuals who make up the list of suspects in the municipality of Bauan; that he had been tried along with defendant's father for the theft of large cattle (Exhibit 3), and had also been prosecuted for adultery, but had been acquitted in both these cases. But these antecedents do not tend to legalize the violent death of which he was the victim, for even supposing that the deceased did perform the acts ascribed to him, and even though he was in fact a person of very shady antecedents, this was no justifiable ground for taking his life, because the defendant was not authorized to violate the law that protects a person's life, rights and property.

For these reasons, whereby the errors assigned to the judgment appealed from are refuted, said judgment should be affirmed, as we do affirm it, with the costs of this instance against the appellant.

Arellano, C. J., Johnson, Carson, Moreland, Trent, and Araullo, J., concur.

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