

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. BERANG (BAGOBO), DEFENDANT AND APPELLANT.*G.R. Nos. 46526 and 46527. October 31, 1939*

Ponente: CONCEPCION, J.

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The appellant was charged in three different cases with parricide. He was acquitted in one of them and found guilty in the other two. From these judgments he appealed to this court.

In the morning of November 4, 1938, Beling, the wife of the accused, and his children, four-year-old Paya and six-month-old Trinidad, alias Sinanga, were boloed to death in the appellant's house. The first Government agents who arrived at the house were Constabulary Sergeant Ignacio Bersamina and the health inspector of Tugboc, Agustin Candia. The accused told the sergeant that he killed his wife and children because he was mad with rage. In the afternoon of the same day the accused, who showed some wounds, was taken to the Davao Public Hospital, and on the following day, November 5th, answering the questions of the fiscal in the presence of Lieutenant Villares, deputy clerk of court Mr. Frias, and Sergeant Bersamina, he admitted having killed his wife and children and having wounded himself on the neck and head. His declaration was reduced to writing.

After trial, the court rendered a decision wherein it made an analysis of the evidence for the prosecution and for the defense. As Mora Bayna, mother of the accused, testified that she saw her son deal bolo blows on Paya and Beling, and that she also saw the latter wrest the bolo from her son and wound her own child Sinanga who was in the arms of its mother Beling, the court entertained "doubt as to how the child Trinidad alias Sinanga met its death." "It is," said the court "possible that while Beling was already wounded, as testified to by witness Bayna, in wresting the bolo from the accused and in the struggle for its possession, she could have wounded the child Sinanga who was in its mother's left arm. It might be that the accused had not remembered correctly whether he or Beling had caused the wounds of Sinanga, for which reason he admitted to the Fiscal having caused its death."

Finding the accused guilty beyond reasonable doubt of killing his daughter Paya and Beling, with whom he lived maritally, in the absence of clear evidence of the marriage, the court considered the crime committed by Berang in killing Mora Beling as homicide only, and acquitted the accused in one of the three cases, sentencing him in the other, for the crime of homicide, to an indeterminate penalty ranging from six (6) months and one (1) day of prision mayor to twelve (12) years and (1) day of reclusion temporal, to indemnify the heirs of Beling in the amount of P2,000, and in the third case, for the crime of parricide for the death of his daughter Paya, it sentenced the accused to reclusion perpetua, and to pay the costs in both cases, without pronouncement as to the indemnity for the death of said Paya, considering that the accused, as the father, is the presumptive heir of the deceased.

In the present appeal the accused contends that his guilt has not been established beyond a reasonable doubt; that the testimony of Bayna is contradictory; that he could not read well his declaration before the Fiscal when it was read to him, and that he had not spoken to Sergeant Bersamina. He testified that on November 4, 1938, while he was sleeping, he was wounded by Beling, and when he woke up he saw his daughter Paya dead by his side, and

upon noting that Beling was holding a bolo, he grabbed it from her and gave her bolo blows, because according to him he took pity on his children.

We believe that the evidence for the defense has not overcome that for the prosecution.

Wherefore, we affirm the appealed judgment, with the costs to the appellant. So ordered.

Avanceña, C. J., Villa-Real, Imperial, Diaz, and Laurel, JJ., concur.

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