

44 Phil. 517

[G.R. No. 19586. February 17, 1923]

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. ANACLETO TEMBREVILLA ET AL., DEFENDANTS. ANACLETO TEMBREVILLA, APPELLANT.

D E C I S I O N

STATEMENT

In this case the information alleges:

“That on or about the 27th day of February of the present year, 1922, in the municipality of Cauayan, Occidental Negros, Philippine Islands, and within the jurisdiction of this court, the aforesaid accused, all provided with deadly weapons, and, having previously agreed among themselves, deliberately decided to kill Nicomedes Taleon, and in effect did willfully, unlawfully, and feloniously, with treachery and abuse of superior strength on account of the force and number of the said accused, surround said Nicomedes Taleon absolutely defenseless, and once in that situation, the accused Pedro Tembrevilla suddenly struck Nicomedes Taleon with a *bolo* in the right forearm which caused his death a few hours thereafter. Contrary to law, and with the 2d, 7th, 8th, and 9th circumstances of article 10 of the Penal Code now in force.”

The defendants Federico Tembrevilla, Quirico Tembrevilla, and Hilarion Cayang were never placed under arrest, because they could not be found. The lower court acquitted the defendants Pedro Tembrevilla, Benito Tembrevilla, and Esteban Encoy, and found the defendant Anacleto Tembrevilla guilty, and sentenced him to fourteen years, eight months and one day of *reclusion temporal*, with the

accessory penalties, to indemnify the heirs of the deceased in the sum of P500, and to pay one-seventh of the costs, from which he appeals, claiming that the trial court erred in finding that the defendant was the aggressor, that he was not acting in self-defense and in finding him guilty of the crime charged.

JOHNS, J.:

The trouble had its origin over a dispute about a parcel of land. It appears that while Anacleto Tembrevilla, the appellant, was fencing the land, Nicomedes Taleon, with several of his companions, went to the place where Anacleto was at work, and that a dispute arose between him and the deceased. That aroused in anger Taleon unsheathed his *bolo* and struck at Anacleto, who stepped backward. That Taleon struck at the defendant the second time, who took another backward step to the fence behind him at which he was working where he defended himself with his own *bolo*, and, in doing so, struck Taleon on the wrist of his right arm, from the effects of which he died about four hours later.

A detailed statement of the facts would not serve any useful purpose. Suffice it to say that it tends to show that the deceased was the aggressor and more or less of a quarrelsome disposition, and that the appellant acted in self-defense. That it appears that before going to the place, Taleon gave his companions some *tuba*, telling them "take each one glass only because we are going to a fight."

After a careful analysis of the evidence, the Attorney-General with commendable frankness recommends the acquittal of the defendant. Although there is some conflict in the testimony, it tends to show a case of justifiable homicide, and is not sufficient to convict the defendant, beyond a reasonable doubt.

The judgment of the lower court is reversed, with costs *de officio*, and the defendant discharged. It appearing that he is now confined in Bilibid, it is ordered that he be released at once. So ordered.

*Araullo, C.J., Street,
Malcolm, Avanceña, Villamor, Ostrand, and Romualdez, JJ.,*
concur.

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