

43 Phil. 683

[G. R. No. 18717. August 29, 1922]

**THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS.
LUCIO BAGUIO, DEFENDANT AND APPELLANT.**

D E C I S I O N

STATEMENT

An amended information "accuses Lucio Baguio of the crime of homicide committed on or about the 28th of October, 1921, in the barrio of Catarman, municipality of Liloan, Province of Cebu, the accused above-mentioned then and there provided with wooden stick, attacked and maltreated Alfonso Cañete, inflicting wounds in different parts of his body which produced the instantaneous death of the said Cañete."

The defendant was found guilty of the crime charged with the mitigating circumstance of lack of instruction in his favor, and sentenced to twelve years and one day of reclusion temporal, to indemnify the heirs of the deceased in the sum of P1,000 and to pay the costs, from which he appeals, claiming that the trial court erred in not sustaining his plea of self-defense, and in finding him guilty as charged.

Johns, J.:

While the defendant was on his way home from the sea and in front of the house of his nephew, Mariano Cañete, in the afternoon of October 28, 1921, he heard Mariano using insulting language which he thought referred to himself in connection with the loss of a rooster which belonged to Mariano. The defendant went to his own home and then returned to that of Mariano, and asked him: "Why do you make me responsible, conceive me the thief of your animals? You are silly." Mariano answered; "I do not attribute to you the loss of my roosters; I only blamed my son and my wife for the loss of the rooster."

The defendant then beat Mariano to death with a club. The noise attracted the attention of

the wife of Alfonso Cañete, who, at her instance, went to the house of his son, Mariano, to find out what was the trouble. On reaching the premises, he was met and also beaten to death by the defendant with a large stick. The defendant admits having killed both Alfonso Cañete and Mariano Cañete, but claims that he acted in self-defense. He testified that his sister, Macaria Baguio, who was the wife of Alfonso “Cañete, took an axe belonging to him and refused to return it, and that it was Alfonso who was mad at the defendant. He also testified that Alfonso personally attacked him after Mariano Cañete had first attacked him, but on cross-examination he was asked whether Alfonso Cañete and Mariano Cañete with their wives all attacked him at the same time, and said: “Their respective wives came with them.”

Fidel Cañete, a grandson of the defendant, personally saw him beat Alfonso Cañete to death, and Macaria Baguio, a sister of the defendant, found the body of the deceased.

It is very significant that the two daughters of the defendant, who were in his home at a distance of less than twenty *brazas* from that of Mariano Cañete at the time the crime was committed, did not testify in favor of the defendant.

There is no merit in the plea of self-defense. Apparently, it was a vicious, brutal homicide.

The trial court found ignorance as a mitigating circumstance, and the penalty imposed conforms to the information filed, and the judgment is affirmed, with costs.

If the evidence in the record as to the killing of Mariano Cañete by the defendant is true, another information should be filed against him, and he should be prosecuted for that offense. So ordered.

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