

43 Phil. 207

[G. R. No. 18240. March 18, 1922]

**THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS.
ENGRACIA CAPACIA, DEFENDANT AND APPELLANT.**

D E C I S I O N

ROMUALDEZ, J.:

Ruperto de Joya died as a result of wounds received on the right side of the thoracic cavity and in the posterior part of the middle of the right arm.

The complaint charges the appellant, Engracia Capacia, with having inflicted said wounds, qualifying the crime as that of parricide because she was the wife of the deceased. The court *a quo* so held and sentenced her to twenty years of *reclusion temporal*, with the accessories of the law, and to pay an indemnity of P1,000 with costs, deducting from the imprisonment term one-half of the preventive imprisonment undergone by her. The accused maintains that it was Vicente Saballo and not she who killed her husband.

The evidence for the prosecution consists in the testimony of Dr. Vivencio Ramos Afable who examined the wounds of Ruperto de Joya and who heard his declarations to the justice of the peace. Upon this point the doctor, on cross-examination, testified as follows:

“Q. You stated that the justice of the peace asked De Joya who wounded him?—A. Yes, sir.

“Q. Did you hear the answer?—A. Yes, sir, I was present and he said that there were two persons; the justice of the peace inquired who were the two persons and the wounded man said ‘Engracia Capacia’ and then stopped; and the justice of the peace asked, ‘who was the other one?’ to which the wounded replied, ‘Vicente Saballo’

“Q. When the justice of the peace of Tuy put the question did he ask the deceased

if he felt himself near death?—A. Yes, he said that he was feeling very bad.

“Q. After the wounded man had told the justice of the peace that Vicente Saballo was one of the persons who had wounded him, what happened, did he die afterwards?—A. No, he was taken to the City Hall for first aid treatment and upon arriving at the City Hall a suture and dressing was performed, and ten minutes before two o’clock he died.” (Folios 4 and 5, st. n.)

According to the declaration of the deceased there were two persons who wounded him; the accused, Engracia Capacia, and Vicente Saballo. In the complaint before the justice of the peace, the one last named was included, but according to the judgment appealed from, the case against the said Vicente Saballo was, at the fiscal’s request, dismissed on account of lack of evidence.

Estanislao Rivera, another witness for the prosecution, testifies as follows, regarding this point: “A. I saw Ruperto and Engracia stabbing each other.

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“A. Ruperto was standing while Engracia had a knife in her hand with which she was stabbing him, and Ruperto had a ‘bolo’ with which he defended himself.

“Q. What was Ruperto de Joya doing with the ‘bolo’?—A. He was brandishing it and dodging the blows of the accused.

* * * * *

“A. Afterwards Ruperto succeeded in clinching with Engracia, and Engracia succeeded in getting away and afterwards I did not see her any more.

“Q. Why did you not see her any more?—A. Because I was looking from the inside of the doorway and then the door itself prevented me from seeing them.

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“A. Ruperto was behind the accused holding her with both hands. After hearing the cries I descended from the house and saw Engracia coming out of her house and go in an easterly direction and after I saw Ruperto I went to call a

policeman." (Folios 6 and 7, st. n.)

This witness, therefore, did not see the stabbing of the deceased. Another witness for the prosecution, Dionisio Caringal, upon this point, testifies as follows:

"A. I heard Ingay (the accused) command Tintoy (the deceased) to come downstairs, which he did, when Ingay began to stab him.

"Q. What did Tintoy do?—A. Tintoy defended himself.

"Q. How did the deceased defend himself?—A. By retreating and avoiding the blows.

"Q. What else did you see on that occasion?—A. I also saw Tintoy go near the woman and clinch with her, trying, I supposed, to disarm her.

"Q. What weapon did the woman have?—A. A penknife.

"Q. How long was its blade?—A. About 15 cm.

"Q. And did the deceased succeed in clinching with his wife, the herein accused?—A. Yes, sir, he succeeded in disarming her.

"Q. And what happened next?—A. After stabbing Tintoy, Ingay went away.

"Q. If the accused was in a clinch with the deceased, as you said, how could she inflict upon him the wounds that caused his death?—A. Because she succeeded in freeing herself.

"Q. When the accused inflicted those wounds upon her husband was she clinched with her husband or not?—A. No, sir." (Folios 12 and 15, st. n.)

This witness states that the deceased succeeded in disarming the accused and it would seem from his testimony that this was done after he (the deceased) had already been wounded. If the two wounds were serious, the one in the thoracic cavity and the other on the right arm, "severing the muscles, cartilages, veins, arteries, etc., from the humerus," according to Exhibit A, it is difficult to see how the deceased, in such a condition, could still have enough strength to disarm the accused, as this witness testified. And if the deceased

had disarmed the accused before being wounded, then, how did the accused wound him since she was already disarmed?

The last witness for the prosecution 'is Sinforoso de Torres who did not see the act complained of, but who testified only to having found the accused with a wound and having been told by her that it was she who had wounded the deceased. This witness also testified that the accused told him that she did not know where she threw the knife with which she wounded the deceased. But did not the previous witness testify that the knife had been taken away from her by the deceased?

This is the evidence for the prosecution. The evidence for the defense consists in the testimony of the accused herself, her mother Jacinta Velez and of her sister, Martina Capacia. The last two testify to having witnessed the act. The three of them affirm that it was Vicente Saballa or Zaballos who inflicted the wounds upon the deceased which caused his death.

The fact is that the result of the evidence shows that Vicente Saballo, Saballa or Zaballos was at least a coparticipant in the struggle. In the dying declaration of the deceased he was mentioned as one of the two aggressors.

According to the witnesses for the defense, Vicente Saballo wounded the deceased with a *bolo*. According to the only witness for the prosecution, who saw the accused in the act of stabbing her husband, she did it with a knife 15 centimeters long (this being undoubtedly the length of the blade as it would not be a knife if the 15 centimeters referred to the width of the weapon).

The medical certificate Exhibit A describes the wounds and states that the one in the thoracic cavity was penetrating and about one inch long. The blade of a knife 15 centimeters long could hardly be one inch wide, the width of the wound received by the deceased in the thoracic cavity. It is more probable that the wound was caused not by a knife, but by a *bolo* which the accused did not have.

As to the wound on the right arm of the deceased the improbability is still stronger. According to the medical certificate Exhibit A this wound was "20 centimeters long and 8 centimeters wide, which severed the muscles, cartilages, veins, arteries, etc., from the humerus, a wound produced by a sharp weapon, with a downward stroke," which description corresponds to a wound caused by a *bolo* and not by a knife of the size mentioned by the witness for the prosecution.

Although from the proceedings had we can glean some facts against the accused, yet we believe that the evidence presented does not prove her guilt beyond a reasonable doubt. Therefore, we give her the benefit of the doubt and she is hereby acquitted of the charge, thus reversing the judgment appealed from, with costs de officio. So ordered.

Araullo, C. J., Malcolm, Avanceña, Villamor, Ostrand, and Johns, JJ., concur.
