

6 Phil. 443

[G.R. No. 3000. September 11, 1906]

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ANGEL MONTES,
DEFENDANT AND APPELLANT.**

D E C I S I O N

TORRES, J.:

It appears from the record in this case that on the evening of the 19th of July, 1904, the defendant, Angel Montes, had trouble with his tenant, Pascual de la Cruz, about the destruction of a seed plot wherein were growing young rice plants, and that he, the defendant, beat him across the back with some tool or instrument, and kicked him in the abdomen, thereby causing a rupture of the spleen and of the splenic artery which was followed by an internal hemorrhage, as a result of which the deceased died a few hours later. The deceased, after having been thus assaulted by the defendant, was hardly able to descend from the house and return to his home, being obliged to drag himself along the ground on account of the intense pain and weakness resulting from his injuries. He then succeeded in climbing the steps of his own house and, once there, informed his wife and his uncle, Baldomero Lazaro, of what had taken place.

Dr. Justo Panis, president of the provincial board of health, testified that the defendant called on him about 7 o'clock on the following morning and, after a short conversation about the condition of the rice fields and his carabaos, told him, Dr. Panis, that he, the defendant, had been surprised to hear of the death of one of his tenants whom he had only reprimanded and struck across the buttocks with a cane for some fault. While at the doctor's house he was arrested by the police.

It appears from the investigation and examination of the body of the deceased made by the aforesaid doctor and the municipal physician, Hilario Jacinto, that blood clots had formed in the abdominal cavity as a result of the rupture of the splenic artery which was followed by a copious flow of blood, resulting in the death of the deceased. The skin was also discolored

where the blows had fallen, the doctors being of the opinion that death was the result of a traumatic wound upon the left hypochondrium and rupture of the said artery and the hemorrhage which followed it.

The trial court, after considering the evidence adduced during the trial, sentenced the defendant to twelve years and one day of imprisonment (*reclusion temporal*) and accessory penalties, and to pay an indemnification and the costs of the proceedings, from which judgment and sentence the defendant appealed.

The beating of the deceased, Pascual de la Cruz, by the defendant, Angel Montes, in violation of the law, is fully established by the evidence of record and it does not matter what his motive was. If the deceased died as a result of such injuries the nature of the wrongful act committed by the defendant should be determined by taking into consideration the extent and effect of the same.

The facts hereinbefore set out clearly show the commission of the crime of homicide as defined and punished in article 404 of the Penal Code, and the evidence does not disclose the existence of any of the circumstances enumerated in article 403 which would require the imposition of a more severe penalty, since it appears that the death of the deceased, Pascual de la Cruz, was caused by the rupture of the splenic artery brought about by a traumatic wound in the left hypochondriacal region which was followed by a copious internal hemorrhage.

The acts committed by the defendant, Montes, to wit, the beating of the deceased with a blunt instrument and kicking him in the abdominal region, were voluntarily and willfully committed. These acts are notoriously unlawful and contrary to law, and the party responsible therefor should be held liable for the crime of homicide thus committed. He who commits an unlawful act, such as the maltreatment or beating of a person, should be held responsible for all the consequences of his criminal action, even though it was not his intention to kill the person assaulted. (See article 1 of the Penal Code and criminal judgments of the supreme court of Spain of March 10, 1871, June 26, 1880, and July 3, 1889, which refer to the construction and application of the provisions of the Penal Code, which is almost identical with the one in force in these Islands.)

The deceased, De la Cruz, walked to the defendant's house unaided on the night in question and appeared to be in good health, and it does not appear that he was suffering from any illness at the time, but when he left the house of the defendant, after having been assaulted

by the latter, he was obliged to drag himself along the ground to his house, as he was barely able to walk because of the intense pain and extreme weakness which he experienced, and his wife, Flora Libunao, had to help him up the stairs and into the house, he dying shortly after he was laid down upstairs. The post-mortem examination held by the two physicians shows conclusively that the kicks and blows received by the deceased were the direct cause of his death. In an ante-mortem statement the deceased told his wife what had occurred, and she repeated the statement to the court under oath, her testimony being corroborated by that of the uncle of the deceased, who was also present and heard the statement made by the deceased.

Hearsay testimony is not as a rule admissible, but in a prosecution for the crime of murder or homicide the statement of the deceased as to the cause of his death or any circumstance connected therewith should be taken into consideration if, in the judgment of the court, the deceased when making such statement was in imminent danger of death and without hope of living. Such was the critical condition of the deceased, Pascual de la Cruz, in this case when he made the said statement to his wife. He died almost immediately and it is not probable that while in such a critical condition he would have made a false statement or accused the defendant falsely.

It is apparent that the defendant had no intention of killing the deceased, De la Cruz, and that through the fault or negligence of the latter as a tenant the defendant's seed plot was damaged or ruined. This loss and damage to his property caused the latter to lose his self-control. These facts show very plainly the existence of extenuating circumstances 3 and 7 of article 9 of the Penal Code, there being no aggravating circumstances to offset them. In accordance with rule 5 of article 81 of the Penal Code the penalty which should be imposed upon the defendant is that immediately lower than the one provided for in article 404, to wit, that of *prision mayor* in its minimum degree.

This case is similar to the case of the United States vs. Ricardo Luciano, for homicide (No. 1041, 2 Phil. Rep. 96).

For the reason hereinbefore stated we are of the opinion that the judgment of the court below should be reversed and the defendant, Angel Montes, sentenced to six years and six months' imprisonment (*prision mayor*), with the accessory penalties provided in article 61 of the Penal Code, and to indemnify the widow and heirs of the deceased in the amount of 1,000 pesos, and to pay the costs. After the expiration of ten days from the date of final judgment the case will be remanded to the court below for proper action. So ordered.

Arellano, C. J., Mapa, Carson, Willard, and Tracey, JJ., concur.

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