

[G.R. No. 98. October 14, 1901]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. INOCENCIO ANCHETA, DEFENDANT AND APPELLANT.

D E C I S I O N

TORRES, J.:

It appears in the present cause that on a certain day in the month of December, 1899, Agapito Ramos, upon being taken unawares by his brother-in-law, Inocencio Ancheta, in the act of appropriating a shed roof belonging to the latter, assaulted the said Ancheta, the defendant herein, with his bolo. The latter, warding off the blow, succeeded in securing the weapon, and spurred on by the additional motive of resentment against Ramos because the latter had had illicit relations with his wife and left her *enceinte*, the defendant in turn attacked Ramos, inflicting twenty-one wounds upon his head, face, chest, and other parts of his body. From the effects of these wounds, which, according to the testimony of an herb doctor, were necessarily mortal, Ramos died within a short time. The father and wife of the deceased, however, and a minor daughter 14 years of age found him while still alive and heard him state that his assailant was the defendant, Inocencio Ancheta.

This action having been instituted upon an information filed by the prosecuting attorney, the defendant was arraigned and pleaded not guilty of the crime with which he was charged. As a witness under oath the defendant testified that the deceased sustained illicit relations with his wife on the occasion of his absence for two years in this city, and that he had pardoned them upon receiving a promise that they would not continue their relations; that, nevertheless, his brother-in-law, Agapito Ramos, continued to take advantage of him; that he surprised the latter in his house on the 30th of December; that furthermore the said Ramos carried away a brush shed roof which was the property of defendant, and that upon being required to return it gave the defendant a blow with the bolo which he was carrying; that defendant succeeded in evading the blow and having taken away the bolo, he in his turn attacked Ramos, inflicting upon him the wounds in question; that he immediately gave

an account of the occurrence to the local president of the town of Santa Lucia before two witnesses who heard and attested his statements.

The act which gave rise to this proceeding, and which is fully proved in the proceedings held for the purpose of its determination, constitutes the crime of homicide, prohibited and penalized in article 404 of the Code, since there was present at its commission no specific or qualifying circumstance which would give it a graver classification or heavier penalty.

Ynocencio Ancheta is the convicted and confessed author of the said crime, inasmuch as, notwithstanding his plea of not guilty, the accused has confessed voluntarily that he caused the violent death of his brother-in-law, Agapito Ramos, for which reason his direct participation in the crime which is prosecuted is indubitable.

In confessing the commission of the crime the defendant alleges in his favor the claim of exemption from responsibility on the ground that he was acting in the legitimate defense of his person, which had been unlawfully attacked, basing his contention on No. 4 of article 8 of the Penal Code. Inasmuch as there was no witness who was present at the occurrence and as the statements of the deceased made just before his death do not contradict or detract from those of the accused in his confession, and considering the merits of the case for and against the prisoner according to the rules of a sound discretion, we are obliged to admit the operation in his favor of the partial exemption to which article 86 of the Penal Code refers. There was an unlawful aggression on the part of Agaton Ramos, according to the statement of the defendant, and the latter did not provoke the affray. It appears, on the contrary, that the prisoner, Ancheta, was the one who had grounds for grievance and complaint against the deceased. Nevertheless, it is likewise an indisputable fact that the defendant did not limit his action to the requirements of his defense, because from the moment in which he succeeded in obtaining possession of the bolo there was no reasonable necessity for inflicting twenty-one wounds upon his aggressor, Agaton Ramos. Therefore the proper penalty is that next lower in grade to the one designated in article 404 Of the Code.

In applying this penalty there should be also taken into consideration the circumstances referred to in No. 7 of article 9 and in No. 1 of article 10 of the Penal Code, for the reason that it is a fact duly proved in this cause that the defendant committed the deed when blinded and impelled by the passion of jealousy produced by the illicit relations which the deceased sustained with his wife; and in spite of the fact that the deceased, Agaton Ramos, was the brother-in-law of his slayer, this relationship should be considered in the present case as a mitigating circumstance in view of the conduct pursued by said Ramos in

contracting adulterous relations with the wife of the defendant. On these grounds there should be imposed upon the defendant the penalty of *prision mayor* in its minimum degree.

In view, therefore, of the foregoing considerations, it follows that the sentence reviewed should be affirmed in all its parts with the costs of this instance against the defendant. It is so ordered.

Arellano, C. J., Cooper, Willard, Mapa, and Ladd, JJ., concur.

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