2 Phil. 752

[G.R. No. 112. December 14, 1901]

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. BERNARDO PATALA, DEFENDANT AND APPELLANT.

D E C I S I O N

MAPA, J.:

Counsel for the Government in this case disregards entirely the testimony of the accused, for the reason, as alleged, that he, the accused, plead guilty in the Court of First Instance, and maintains that in such a case the judge of the Court of First Instance should have forthwith proceeded to enter judgment without trial. Disregarding thus the testimony of the defendant, the prosecution rests its case upon the absolute efficacy of the plea of "guilty." It is true that according to section 31 of General Orders, No. 58, series of 1900, which is the procedural law in force in these Islands in criminal cases, and the general principles of American legislation which are the basis of said general order, the plea of "guilty" entered by the accused puts an end, as a general rule, to the proceedings to the extent that counsel for the Government considers himself relieved from the necessity of proving the allegations of the complaint, because he expects, and justly so, that the accused, having confessed his guilt, will be sentenced by the judge upon his plea; but it is none the less true that according to the same principles of American legislation, and the provisions of section 25 of the said General Orders, the accused may withdraw his plea of "guilty," and the judge must thereupon necessarily order a trial upon the merits in order to hear the evidence that the prosecution must present, and the proof that the defendant may offer in his own behalf. Moreover, under the principles of American law, although there is no express provision to this effect in General Orders, No. 58, it is within the power and discretion of the judge, whenever there is any reasonable doubt in his mind as to the guilt of the defendant after he has plead "guilty," to order that a plea of "not guilty" be entered and try the case upon its merits. It then devolves upon the prosecution to present whatever proof it may have in support of the allegations of the complaint, and the accused acquires thereby the right to have his own testimony considered, as well as any other matter of defense presented by

him, the judge being at liberty in such a case, as well as in all cases, to give to the evidence such weight as it may be entitled to.

In this case the defendant offered to testify in his own behalf and the court granted his request. For that reason, the testimony of the accused, which counsel for the Government wishes us not to consider, appears in the record. The prosecution apparently contends that the judge erred in ordering a trial, after the defendant has plead "guilty." It has been quite a general practice since the promulgation of General Orders, No. 58, to try the case and hear the testimony of the accused, notwithstanding his plea of "guilty." This practice appears to be perfectly legal, provided the accused withdraws his plea and asks that his testimony be taken or that the judge order that a plea of "not guilty" be entered, so that the only thing lacking in this case, as well as in the proceedings had in the former Courts of First Instance, is the order of the judge directing that the plea of the defendant be withdrawn and a trial had upon the merits.

The judge, in his order directing that a trial be had, refers to section 31 of General Orders, No. 58, which lays down the procedure to be followed when the defendant pleads "not guilty." This goes to show that in the mind of the court, as well as in the opinion of the provincial fiscal, there was reasonable doubt as to the guilt of the defendant, notwithstanding his plea of "guilty," or that the defendant had withdrawn his plea of "guilty" when he asked that he be allowed to testify in his own behalf, a request which must necessarily be granted when the defendant expressly enters a plea of "not guilty."

The pleas of "guilty" and "not guilty" as accepted in American law were unknown to the Spanish law. Under the Spanish law there was what was called "judicial confession," whereby the accused admitted the commission of the act alleged in the complaint, but by so doing the defendant did not attempt to characterize the act as criminal, as is the case with a defendant who pleads "guilty" under American law. It also appears that there are no words in the Tagalog or Visayan dialects which can express exactly the idea conveyed by the English word "guilty." In a case of homicide, for instance, when the question is put to the defendant in either of these two dialects as to whether he is guilty or not guilty, he is asked whether he killed the deceased or not. If he answers that he did kill the deceased, he merely admits that he committed the material act which caused the death of the deceased. He does not, however, understand it to be an admission on his part that he has no defense and must be punished. The case at bar serves to illustrate this fact. Under these circumstances, we are of opinion that the trial judge should freely exercise his discretion in allowing the plea of "guilty" to be withdrawn; indeed, he must, on his own motion, order that it be withdrawn if,

in his opinion, the accused does not fully realize the probable effect of his admission.

As a matter of fact, the judge proceeded upon this theory, and inasmuch as in all cases in which the plea of "guilty" is withdrawn it is legal and proper and even necessary to try the case, we hold that the trial had in the case at bar was valid and proper, particularly because counsel for the prosecution agreed to it and took advantage of this opportunity to present such witnesses as would testify in support of the allegations of the complaint.

This being the case, we must also hold that the testimony given by the defendant as a witness in his own behalf in the Court of First Instance must be considered. There is no other proof of the commission of the crime charged in the complaint than the admission of the defendant himself. The prosecution introduced no evidence upon this point, But there are certain statements contained in the testimony of the defendant which, in our opinion, take away from the acts charged in the complaint any element of criminality. It appears from the testimony of the defendant that at the time of the occurrence he was cleaning fish on hoard the steamship *Compaña de Filipinas*; that, without any provocation on his part the deceased, who was the cook of the boat, believing that some of the fish was missing, slapped him and kicked him; that not being satisfied with this, when the defendant started to run away from him, the deceased pursued him and attacked him with a knife; that the defendant, taking advantage of some favorable chance during the struggle, succeeded in wresting the knife from the deceased and inflicted upon him a wound in the left side, from the result of which he died a few hours later.

In our opinion the attack of the deceased upon the defendant was not justified. The fact that he found some of the fish missing, even supposing that it was actually missing and that the defendant was responsible for the loss, which, by the way, was not proven at the trial, did not justify him in inflicting bodily harm upon the defendant in any manner whatsoever, and certainly not in the serious form in which he did it, and persisted in the attack. The aggression on the part of the deceased was in every respect unjustified, and the defendant had a perfect right to repel the attack in the most adequate form within his power under the critical circumstances of a sudden assault.

The serious intention of the aggressor was apparent from the fact that he pursued the defendant with a knife, after having beaten him with impunity. A person will not attack another with such a weapon unless he intends to either inflict a wound or kill. Considering the nature of the aggression, the defendant could have reasonably believed that his life was in danger and that it was a case of life or death with him. He had reason to believe that he

was placed in the alternative of killing or being killed when he was being attacked and pursued with a deadly weapon. This was the only weapon used during the struggle and it necessarily had to be either in his possession or in the hands of the deceased. If through a fortunate accident he came into possession of the knife, he could have lost control of it through a similar accident and then found himself at the mercy of his assailant. Therefore the act of the defendant rendering his assailant powerless as well as he could under the critical circumstances of the moment, and repelling his aggression, constitute, in our opinion, a true case of self-defense, which exempts the defendant from any criminal liability under paragraph 4 of article 8 of the Penal Code.

Therefore it is the judgment of this court that the defendant be acquitted and the judgment of the Court of First Instance accordingly reversed, with the costs of both instances *de oficio*. So ordered.

Arellano, C. J., Cooper and *Willard, JJ.,* concur.

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