

WILLIAM GUEVARRA, PETITIONER, VS. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. L-41061. July 16, 1990

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

The accused-appellant, William Guevarra, was originally charged with frustrated homicide before the then Court of First Instance of Manila, Branch IV in Criminal Case No. 77792. The information was later amended to that of homicide due to the death of the victim, one Jaime Alvarez, two days after the incident. The information reads:

"The undersigned accuses William Guevarra y Astor of the crime of Homicide, committed as follows:

"That on or about January 1, 1965, in the City of Manila, Philippines, the said accused, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and use personal violence upon one Jaime Alvarez y Villaruel, by then and there stabbing the latter with a kitchen knife on his body thereby inflicting upon the latter serious physical injuries which were the direct and immediate cause of his death thereafter." (p. 6, Brief for Accused- Appellant)

Upon being arraigned, the accused pleaded not guilty.

The evidence for the prosecution revealed that:

"x x x at about 1:30 o'clock in the afternoon of January 1, 1965, accused appeared at the residence of the deceased looking for the latter but did not catch up with him since the accused (sic) was out at that time. He was invited by the deceased's father to go upstairs who asked him why he was looking for Jaime (deceased) but accused just left without giving any explanation whatsoever. Not long thereafter, while victim was walking along Magdalena near Arguelles Street, he was seen being chased by three men, one of whom was the accused William Guevarra. Jaime fell and while he was lying down with face upwards, accused hacked him while his other companions stabbed him. The tallest of the three hacked the victim three times. Jaime defended himself against the three with his bare hands and after managing to stand up, ran towards O' Donnel Street, whereas the accused with his companions ran towards Mayhaligue Street." (CFI Decision, pp. 54-55, Brief for Accused-Appellant)

The defense interposed by the accused was self-defense. The accused testified that at about twelve o'clock in the afternoon of January 1, 1965, his niece, one Myra Roces, reported to him that the previous day, the victim, together with his friends who were all drunk, entered their dwelling and dragged her. After he ate his lunch, the accused went to the house of the victim in order to report the matter to the latter's father. The victim's father, however, did not heed him and branded him a coward. After he left the victim's house he passed by a store at the corner of Arguelles Street to buy cigarettes. While waiting for his change, he noticed through the mirror of the barber shop that the deceased was approaching him from behind. At a distance of about three (3) meters, he faced the deceased who continued to walk towards him. When he was about to leave the store, the deceased uttered "Putang ina mo. Balita ko hinahanting mo raw ako," addressing the invectives to the accused. When he was about to answer, the deceased drew a jungle bolo from his back and tried to hack him. Appellant parried the first and

second attempts but was hit in his left palm on the third attempt. At this time, both the accused and the victim fell in front of a fruit vendor's store where the accused was able to take hold of a bladed instrument. He held the victim's left hand holding the jungle bolo under his armpit and using the bladed instrument he grabbed from the fruit vendor's stall, he stabbed the deceased but he could not remember how many times.

On June 10, 1969, the trial court rendered judgment finding the accused guilty beyond reasonable doubt of the crime charged. The dispositive portion of the decision reads:

"WHEREFORE, finding accused William Guevarra y Astor GUILTY beyond reasonable doubt of the crime of Homicide as charged in the information, he is hereby sentenced to an indeterminate penalty of TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of prision correccional as the minimum, to SIX (6) YEARS and ONE (1) DAY of prision mayor as the maximum; to indemnify the heirs of the offended party in the sum of P6,000.00 without subsidiary imprisonment in case of insolvency in view of the nature of the penalty imposed, and to pay the costs.

"SO ORDERED."

(p. 61, Brief for Accused-Appellant)

Not satisfied with the decision of the trial court, the accused appealed to the Court of Appeals which affirmed in toto the decision of the trial court on March 18, 1975 (p. 38, Rollo).

On July 31, 1975, the accused filed the instant petition for review on certiorari with the following assignment of errors:

"I. Is not the utterance of "Putang Ina Mo. Hinahanting mo raw ako" followed by a series of hacking blows of a bolo by the victim on the person of the accused, an attack or assault with intent to kill, unlawful aggression on the part of the victim?

"II. Is the elopement of Flora Rocas, the niece of the accused with the victim three years before the incident sufficient ground for respondent Court of Appeals to conclude that the accused is the unlawful aggressor by the mere fact that accused went to the house of the victim's father to report that the victim together with some companions who were drunk forcibly entered his house and dragged his niece so that victim may be reprimanded?

"III. In the face of victim's persistent hacking blows of his bolo intended to kill the accused, is the latter's act of stabbing the victim in so defending himself reasonable means of repelling aggression?

"IV. What weight should be given to the presumption relied upon by the respondent court in finding that the accused provoked the conflict in the absence of direct evidence as to who actually initiated it?" (pp. 6-7, Rollo)

The issue in the instant petition is whether or not the accused acted in self-defense when he committed the offense.

The three requisites of self-defense as stated in paragraph 1 of Article 11 of the Revised Penal Code are: (1) unlawful aggression; (2) reasonable necessity of the means employed to prevent or repel it; and (3) lack of sufficient provocation on the part of the person defending himself. The first requisite is indispensable (*Ortega v. Sandiganbayan*, G.R. No. 57664, 8 Feb. 1989, 170 SCRA 38).

The first three assigned errors deals with the first requisite in self-defense: unlawful aggression. The accused contends that the deceased was the unlawful aggressor. The deceased allegedly accosted him, uttered invectives at him and gave him a series of hacking blows with his bolo, all designed to kill him.

The matter of whether or not the deceased was the aggressor is factual. It is a settled rule that the trial court is in a

better position to ascertain the facts under the circumstances. In the absence of any justifiable reason, this Court is bound to uphold the findings of the trial.

It cannot be believed that the victim was the unlawful aggressor. The trial court found that the petitioner purposely sought the victim to confront him regarding an affront committed against his family the day before the incident. Knowing the victim to be a dangerous police character, who had been in and out of prison and who is a member of a dreaded gang, it is improbable that petitioner proceeded to the victim's place unarmed and not bent to exact his revenge.

While it maybe that the elopement of accused's niece and the deceased three (3) years before the incident happened was so remote and insufficient to be a cause for the accused to be the aggressor, it cannot be denied that, taken together with the more recent incident of the dragging of another niece of the accused by the victim the day before the incident, a sufficient reason for the accused to harbor ill-feelings against the deceased existed. In fact, his ire was so intense that immediately after he was informed of the dragging incident, he went to the victim's house to confront him.

The accused alleged that he did not seek for the victim but that he only intended to see the victim's father so that the latter can reprimand his son. The trial court however, refused to believe the accused and We agree. The trial court said:

"That he went there only to report the matter to the accused's father is belied by his very statement (Exh. D) which he earlier gave to the police right after the commission of the offense, the pertinent portion of which is as follows:

"x x x Pinuntahan ko nga po ang bahay ni Jaime, pagkatapus ko makapananghalian at tanongin ko lang sana ang dahilan ng ginawa niya sa amin. x x x." (p. 6, Appendix A, Brief for the Petitioner)

One factor which belies the claim of the accused that he merely acted in self-defense, is the number of wounds inflicted upon the victim. The victim suffered two (2) hacking wounds and seven (7) stab wounds inflicted by one or two or more weapons (TSN, March 24, 1966, pp. 7-9). The nature and number of wounds inflicted by an assailant [are] constantly and unremittingly considered ... important indicia which disprove a plea of self defense (People v. Ganut, G.R. No. L-34517, November 2, 1982, 118 SCRA 35, 43; People v. Masangkay, No. 73461, January 25, 1988, 157 SCRA 320 People v. Merciales, G.R. No. 61961, October 18, 1988, 166 SCRA 436), especially when compared with the wound suffered by the accused which was but a lone incised wound between his left index and his left thumb (Exh. 3), the gravity of which is not reflected in the defense evidence. As observed by the trial court:

"x x x. If the deceased was really armed with that jungle bolo (Exh. K) and still with several other companions at the time he accosted the herein accused, as testified to by the latter, it was too impossible for the deceased not to have been able to inflict more injuries and mortal wounds upon the accused considering the length of time that they had been locked up with one another in that quarrel. There is nothing on record that will show accused to be an expert or master in the art of self-defense. If the deceased was armed and he (accused) originally was not, then the least fate that would have befallen him would be to sustain injuries worse and more serious than those suffered by the deceased especially so, when he was alone whereas the deceased was with several companions." (Brief for Accused-Appellant, p. 59)

Petitioner also faults respondent court for finding that the accused provoked the conflict in the absence of direct evidence as to who actually initiated it.

Even if there were no direct evidence as to who actually initiated the conflict, petitioner having invoked self-defense, it was incumbent upon him to prove by clear and convincing evidence the main ingredient of the

defense, i.e., the unlawful aggression on the part of the victim. He must rely on the strength of his own evidence and not on the weakness of the prosecution, for even if it were weak, it could not be disbelieved after the accused admitted the killing. (People v. Llamera, G.R. Nos. L-21604-06, May 25, 1973, 51 SCRA 48, 57, and the cases cited therein; People vs. Rey, G.R. No. 80089, April 13, 1989, 172 SCRA 149, 506, See also Ortega v. Sandiganbayan, supra.). The trial court observed that surprisingly, the defense presented no other witness except the petitioner himself, to support his theory, more particularly with respect to the unlawful aggression.

For failure of petitioner to show clearly and convincingly that there was unlawful aggression on the part of the victim, no self-defense can be appreciated in his favor.

The trial court appreciated two (2) mitigating circumstances in favor of petitioner: 1) sufficient provocation; and 2) voluntary surrender. The court opined that there was sufficient provocation because the victim, upon seeing the accused, started calling him names and even cursed him. There was also voluntary surrender because when the accused, while being treated for the wound on his left palm, saw Patrolman Teodoro Pacquing in the same hospital, he introduced himself to the police officer and went with the latter to the precinct for investigation. What the law considers as mitigating is the voluntary surrender of an accused before his arrest showing either acknowledgment of the guilt or an intention to save authorities from trouble and expense that his search and capture would require (People v. Radomes, G.R. 68421, March 20, 1986, 141 SCRA 548).

The penalty for homicide prescribed by Article 249 of the Revised Penal Code is reclusion temporal. Since two mitigating circumstances and no aggravating circumstance attended the commission of the offense, the said penalty shall be lowered by one (1) degree pursuant to Article 64 paragraph 5 of the same Code, which in this case, is prision mayor. This penalty shall be imposed in its medium period considering that no other modifying circumstances attended the commission of the offense, the two mitigating circumstances having been already taken into account in reducing the penalty by one degree lower (Basan v. People, L-39483, November 29, 1974, 61 SCRA 275). Applying the Indeterminate Sentence Law, the minimum of the penalty shall be within the range of the penalty next lower in degree which is prision correccional and the maximum of which shall be within the range of the medium period of prision mayor.

The trial court ordered the accused to indemnify the heirs of the victim in the sum of P6,000.00 which should now be increased to P30,000.00.

ACCORDINGLY, the judgment of conviction is AFFIRMED with the following MODIFICATIONS: (1) petitioner is sentenced to an indeterminate penalty ranging from two (2) years, four (4) months and (1) day of prision correccional as minimum and eight (8) years and one (1) day of prision mayor as maximum, and (2) the indemnity to be paid to the heirs of the victim is increased to P30,000.00.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Griño-Aquino, JJ., concur.

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