

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARTURO MANZURES, DEFENDANT-APPELLANT.

G.R. No. L-39942. April 26, 1982

Ponente: AQUINO, J.

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AQUINO, J.:

Arturo Manzures and Gerardo Malfarta appealed from the decision of the Court of First Instance of South Cotabato, finding them guilty of murder, sentencing them to reclusion perpetua and ordering them to pay P24 ,000 as indemnity to the heirs of Cesar Valenzuela (Criminal Case No. 316). Malfarta withdrew his appeal. The withdrawal was allowed in the resolution of July 15, 1981 (p. 145, Rollo).

According to the prosecution, in the evening of November 15, 1969, while Cesar Valenzuela, 25, with his sweetheart, Milagros Eliseo, was at the dance hall in Barrio Lamsogod, Surallah, South Cotabato, Gerardo Malfarta, 20, who was at his back, suddenly stabbed him on the right arm. Then, Arturo Manzures, 21, a cousin of Malfarta, grappled with Valenzuela and stabbed him in the abdomen.

Valenzuela fell on a desk, holding his abdominal wound. In that position, he was able to kick Manzures in the thigh. Milagros shouted for help. The two assailants fled to the house of their uncle at Barrio Lambontong.

Valenzuela was brought to the hospital. He died there a few minutes after his arrival (Exh. A) . The autopsy disclosed that the abdominal wound affected Valenzuela's stomach and liver. When he was wounded in the arm, his medial and fourth ribs were also hit. The brachial artery and vein were completely cut (Exh. B) . Doctor Velasquez testified that the wounds were caused by two different bladed weapons.

Malfarta and Manzures were arrested in the afternoon of the following day while trying to flee from their uncle's house. During the investigation, Manzures admitted having stabbed Valenzuela (3-13 tsn, Feb. 22, 1972).

At the trial, Manzures claimed that he acted in self-defense and in his brief he assails the credibility of Milagros Eliseo, the prosecution eyewitness, whose testimony was the basis of the judgment of conviction.

We have read carefully her testimony which is a substantial reproduction of her statement to the chief of police (Exh. C) . We find it to be credible. It belies Manzures' claim of self-defense. The trial court meticulously scrutinized Manzures' testimony and cited several circumstances to show that he did not act in self-defense.

He testified that Valenzuela kicked him, then boxed him on the right cheek, rendering him unconscious, and then rode on him and squeezed his neck. Manzures allegedly used Valenzuela's knife in wounding the latter to repel his supposed unlawful aggression.

The fact that the only injury suffered by Manzures was a contusion in the right thigh (Exh. 2) shows the fabricated character of his plea of self-defense. As shown by the Solicitor General, the testimonies of Trinidad Bañon and Antonio Aliparo in support of the theory of self-defense are not truthful.

The other points raised in appellant's brief, namely, the conjectural nature of the doctor's opinion that the wounds

were caused by different weapons, the failure of the prosecution to prove the motive for the assault, the nonproduction of the weapon allegedly used by Manzures and the failure to present the barrio captain as a witness, do not generate any doubt as to appellant's guilt. His identity as the person who inflicted the mortal abdominal wound was proven beyond reasonable doubt. Valenzuela did not perpetrate any unlawful aggression against Manzures.

The crime committed by the two assailants is murder qualified by treachery which absorbs nocturnity and abuse of superiority. Evident premeditation was not proven. There being no modifying circumstances, the trial court did not err in imposing the penalty of reclusion perpetua.

The trial court's judgment is affirmed with the slight modification that Arturo Manzures' liability for the payment of the indemnity of P24 ,000 is solidary with that of his co-accused, Gerardo Malfarta. Costs de oficio .

SO ORDERED.

Barredo, (Chairman), De Castro, Ericta, and Escolin, JJ.,concur.
Concepcion, Jr., and Abad Santos, JJ.,on leave.

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