

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EUGENE BACLIG Y CANSERAN, ACCUSED-APPELLANT.

Ponente: BUESER, J.

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BUESER, J.:

Before the Court is an appeal from the decision rendered by the Regional Trial Court, Branch 85 of Quezon City finding the accused-appellant guilty of Murder in Criminal Case No. Q-09-158244 entitled “People of the Philippines vs. Eugene Baclig y Canseran”.

Culled from the records[1] are the following pertinent, material antecedent facts:

Accused-appellant Baclig and the deceased Ocbina were neighbors in Samar Street, Brgy. Santo Cristo, Bago Bantay, Quezon City. They were born and grew up together in the said neighborhood.

At around 4 o'clock in the afternoon of 31 January 2009, the deceased Ocbina passed by the house of spouses Rosalie and Ryan Fernando at Samar Street. Ocbina seemed to be intoxicated and made some insulting remarks. Believing he was referring to her, Rosalie who was the accused-appellant's niece, felt incensed and hit Reynaldo's head with keys. Reynaldo became piqued and cursed her. They shouted expletives at each other.

Thereafter, Reynaldo went inside his house and told his sister, Erlinda what transpired. At around 5:30 that day, the deceased was outside of his house fixing his tricycle when Ryan and Rosalie arrived on board a tricycle. They confronted the deceased and hurled verbal abuse against each other. Ryan and Reynaldo were on the verge of engaging a fistfight. However, Ryan and Rosalie threw stones at Reynaldo and Erlinda. Erlinda ran towards their house which was only several meters away.

The accused-appellant upon seeing Ryan and Reynaldo were fighting, approached and tried to pacify them. He was able to separate Ryan and Reynaldo by putting his right arm around Reynaldo's shoulder and led the deceased away. Suddenly Baclig removed his arm from Reynaldo's shoulder, took an ice pick from his right side and stabbed the deceased on his left chest.

Injured, Reynaldo held on to the accused-appellant's arm. Ryan and Rosalie threw stones at the deceased. Eventually, Ryan hit him at the back and this made the deceased loosen his hold on the accused-appellant. Accused-appellant ran towards their house, while Ryan and Rosalie went to their veranda.

The deceased was still able to walk towards his tricycle uttering “may tama ako before he collapsed on the pavement. Reynaldo's brother, Romeo arrived and brought him to the Quezon City General Hospital. Reynaldo succumbed to his injury moments after his arrival to the hospital.

In an information, accused-appellant was charged of the crime of murder:

“That on or about the 31st day of January 2009, in Quezon City, Philippines, the above-named accused, did then and there wilfully, unlawfully and feloniously, with intent to kill, with qualifying aggravating circumstance of evident premeditation and treachery, attack, assault and employ personal violence upon the person of one REYNALDO OCBINA y RUIZ, by then and there stabbing him, hitting the left portion of his

chest, thereby inflicting upon him serious and mortal wounds which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of said victim.

That the accused planned the commission of the crime prior to its execution until commission, consciously adopting the means and methods of execution done suddenly and unexpectedly so that victim will not be able to defend himself, thus accused committed the attendant circumstances and (sic) evident premeditation and treachery.

CONTRARY TO LAW.”

On 9 June 2009, the accused-appellant was arraigned with the assistance of counsel de parte. He plead not guilty to the crime charged. After the termination of pre-trial, trial on the merits ensued.

On 21 November 2012, the court a quo rendered its Decision finding the accused-appellant guilty of Murder, viz:

“WHEREFORE, judgment is hereby rendered finding the accused Eugene Baclig y Canseran GUILTY beyond reasonable doubt of the crime of Murder and is hereby sentenced to suffer the penalty of reclusion perpetua for the death of Reynaldo Ocbina y Ruiz.

Accused Eugene Baclig y Canseran is further adjudged to pay the heirs of Reynaldo Ocbina y Ruiz, represented by his brother, Romeo Ocbina the following amounts:

- Php 75,000.00 as civil indemnity;
- Php 50,000.00 as moral damages;
- Php 30,000.00 as exemplary damages; and
- Php 84, 404.50 as actual damages, plus cost of suit

SO ORDERED”

Hence the appeal. Accused-appellant assailed the court a quo's decision on the following grounds:

I

THE TRIAL COURT ERRED IN NOT GIVING CREDENCE TO APPELLANT'S CLAIM OF SELF-DEFENSE.

II

THE TRIAL COURT ERRED IN GIVING FULL CREDENCE TO THE TESTIMONIES OF HARRY JAMES MARCOS AND MELODY AMBITA WHICH SHOULD HAVE BEEN STRICKEN OFF THE RECORD FOR LACK OF OPPORTUNITY OF THE APPELLANT TO CROSS- EXAMINE THEM.

III

THE TRIAL COURT ERRED IN GIVING FULL CREDECE TO THE TESTIMONY OF EMAN AMBITA FOR THE REASON ALONE THAT HE IS OF TENDER AGE WITHOUT REGARD TO THE EVIDENCE THAT HE WAS UNDER THE INFLUENCE OF COMPLAINANT.

IV

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED.

In claiming that he killed the deceased out of self-defense, accused-appellant alleged that at around 5:30 in the

afternoon of 31 January 2009, he saw Reynaldo Ocbina and Erlinda attack his niece and nephew. Upon alighting from the tricycle, Ocbina approached Ryan and Rosalie and drew an icepick from the back of his waist.

Erlinda was then following behind Reynaldo. The accused-appellant ran towards them and when he reached them, the deceased was already attempting to stab Ryan. Ryan was able to avoid getting stabbed and was pulled inside their gate by Rosalie.

The accused-appellant pacified the deceased, however the latter turned on him, said “isa ka pa” and tried to stab the accused-appellant twice. The accused-appellant was able to avoid being stabbed by stepping backwards and was able to hold the deceased's right hand, pushed him and ran away.

However, contrary to the accused-appellant's contentions, the prosecution witnesses testified that they saw him place his arm around the deceased's shoulder and led the latter away from the confrontation with Ryan and Rosalie. Moments later, accused-appellant removed that arm and stabbed the deceased with an ice pick. The three prosecution witnesses were all consistent on these facts.

Accused-appellant claimed that he was merely defending himself. Self defense in order to prosper must have the following requisites:

- Unlawful aggression;
- Reasonable necessity of the means employed to prevent or repel it; and
- Lack of sufficient provocation on the part of the person defending himself

In the instant case, the accused-appellant claimed that the deceased tried to stab him but he avoided the deceased's attack by stepping backward and was able to push him.[2] Accused-appellant was able to hold the deceased's right hand and pushed it. This act of pushing caused the ice pick to pierce the deceased's body.[3]

We have carefully reviewed the records of the case. In particular, the autopsy report[4] of the Quezon City Police District Laboratory has stated that the deceased died from a puncture wound on the left chest, which wound measured seven (7) centimeters deep directed posterior ward, downward and medialward and pierced the upper lobe of the deceased's lung, pericardial sac and heart. The nature of the wound, specifically its depth bellies the claim of accused-appellant that he killed the deceased out of self-defense. The nature of the wound sustained by the deceased belied the claim that he was killed out of self defense.

II

Accused-appellant assails the court a quo in giving credence to the testimonies of Harold James Marcos and Melody Ambita on the ground of lack of cross-examination. A scrutiny of the records of the case has shown that the counsel of the accused, Atty. Putor “manifested that they will not conduct cross-examination on the witness James Marcos.[5] On the other hand, the cross-examination[6] of Melody Ambita was conducted on 1 March 2011.

We also find that the court a quo did not err in giving credence to the testimonies of prosecution witnesses Harold James Marcos, Eman and Melody Ambita.

In *People of the Philippines vs. Sagarino*,[7] it was held:

Doctrinally, it is settled that the issue of credibility of witnesses is to be resolved primarily by the trial court because it is in the better position to assess the credibility of witnesses having heard the testimonies, observed the deportment and manner of testifying of the witnesses. Accordingly, its findings are entitled to great respect and will not be disturbed on appeal in the absence of any showing that the trial court overlooked,

misunderstood, or misapplied some facts or circumstances of weight and substance which would have affected the result of the case.

Moreover in *People vs. Bautista*:^[8]

"the trial court's assessment of the credibility of a witness is entitled to great weight, sometimes even with finality."xxx where there is no showing that the trial court overlooked or misinterpreted some material facts or that it gravely abused its discretion, then We do not disturb and interfere with its assessment of the facts and the credibility of the witnesses. This is clearly because the judge in the trial court was the one who personally heard the accused and the witnesses, and observed their demeanor as well as the manner in which they testified during trial. Accordingly, the trial court, or more particularly, the RTC in this case, is in a better position to assess and weigh the evidence presented during trial."

All told, finding no cogent reason to reverse the court a quo's findings, accused-appellant's conviction stands.

WHEREFORE, premises considered, the instant appeal is denied. Accordingly, the Decision dated 21 November 2012 rendered by the Regional Trial Court, Branch 85, Quezon City in Criminal Case No. Q-09-158244 is hereby AFFIRMED IN TOTO.

SO ORDERED.

De Guia-Salvador (Chairman) and Garcia, JJ., concur.

[1] Rollo, pp. 1-92

[2] TSN of Eugene Baclig dated July 24, 2012, p. 22

[3] TSN of Eugene Baclig dated July 24, 2012, p. 28

[4] Records, pp. 208-209

[5] Minutes of the Session dated 3 August 2010, Records p. 118

[6] TSN of Melody Ambita dated 1 March 2011, pp. 1-12

[7] G.R. Nos. 135356-58, September 4, 2001

[8] *People vs. Bautista*, GR. No. 191266, June 6, 2011

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