

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAYMUNDO SACAYAN Y RANCES, ACCUSED-APPELLANT.

G.R. No. L-39333. March 29, 1982

Ponente: CONCEPCION JR., J.

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CONCEPCION JR., J.:

At about 12:00 p.m., on December 27, 1971, at Barrio Busac, Oas, Albay, while the victim Abdon Balde was work-ing on his ricefield, he was suddenly attacked by a man armed with a gun and a bolo, who viciously hacked the victim many times causing his death.[1]

A criminal complaint for murder was filed against Raymundo Sacayan y Rances in the Municipal Court of Oas, Albay.[2] After the first stage of the preliminary inves-tigation, the accused waived his right to the second stage on January 20, 1972.[3]

An information for murder was filed on January 31, 1972, in the Circuit Criminal Court, 10th Judicial Dis-strict, as CCC-X-No. 312 (Albay), as follows:

"The undersigned Acting Provincial Fiscal accuses RAYMUNDO SACAYAN y RANCES of the crime of MURDER, committed as follows:

"That on or about the 27th day of December, 1971, in the Barrio of Busac, Municipality of Oas, Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a sharp-pointed long bolo, with intent to kill, with treachery, with evident premeditation, and with cruelty, to wit: by deliberately and inhumanly augmenting the suffering of the victim ABDON BALDE and outraging and scoffing upon his person, did then and there wilfully, unlawfully, and feloniously hack and kill ABDON BALDE, inflicting upon the latter several fatal hack wounds on the different parts of his body which directly caused his immediate death.

"CONTRARY TO LAW.[4]

After arraignment, plea of not guilty,[5] and trial on the merits, the Circuit Criminal Court, 10th Judicial District, Legaspi City, in its Judgment dated May 21, 1974, convicted the accused, with dispositive portion as follows:

"WHEREFORE, the Court finds the accused GUILTY of MURDER beyond reasonable doubt qualified by evident premeditation and, considering that one of the two aggravating circumstances of treachery and cruelty is offset by the mitigating circumstance of surrender to the authorities, hereby sentences him to suffer imprisonment for the rest of his life (Reclusion Perpetua); to indemnify the heirs of the victim Abdon Balde in the amount of P20,000.00; to pay the said heirs in the amount of P10,000.00 as moral damages; and to pay the costs."[6]

The version of the prosecution is:

At about 12:30 p.m. on December 27, 1971, at Barrio Busac, Oas, Albay, Salvador Balde, Nelson Balde, and Nel-son's father, the victim Abdon Balde, were working in their ricefield, gathering water lilies and throwing

them away, preparatory to planting. The victim Abdon Balde was then pulling a heavy wooden marker.[7] There were workers around, including Saturnino Guerrero, Arnulfo Remoto and Benjamin Rances.

In white polo shirt and short pants, Abdon Balde was not armed with a bolo. Salvador Balde and Nelson Balde also did not carry bolos at that time. Suddenly, appellant Raymundo Scayan came into view and approached the victim Abdon Balde. He pulled out his gun (Exh. "F") pointed it at Abdon Balde, and shouted, "You are the one who opened again the dam." Abdon was then holding the wooden marker. Appellant pulled the trigger of the gun, but it misfired. Appellant tucked the gun to his waist and instantaneously he unsheathed his long bolo from its scabbard (Exhs. "E" and "E-1"; "guinunting") and began attacking the old man Abdon. To fend off the attack, Abdon tried to raise and use as a shield the wooden marker he was holding. Abdon was not able to use the heavy and cumbersome wooden marker, so he parried the first bolo thrust with his left arm which was hit. Abdon, with his left forearm almost severed and dangling, let go the wooden marker, and turned to run away. As Abdon did so, the ap-pellant hacked him on the left side of his back, causing him to fall to the ground on his face.[8]

The victim Abdon in such an inert position, appellant again hacked the victim from behind, this time on victim's buttocks and anus. At that moment, Nelson and Salvador tried to approach the victim, but appellant chased them, brandishing his bolo. Both of them fled in fear. Accused desisted from further chasing Nelson and Salvador. He returned to the prostrate Abdon who was then lying on his back and he hacked the victim with his bolo repeatedly.

Salvador and Nelson ran home and reported to Nelson's mother what happened. All three rushed to the place of the incident, but they were warned by persons gathered there not to approach the victim as appellant Sacayan was still around.[9]

The victim's wife, together with Salvador and Nelson, went to the municipal building, for police assistance so they could go to the victim. Sgt. Rodrigo, three other policemen, Dr. Manuel Rebueno and a photographer, proceed-ed to the scene of the crime, to investigate. They found the victim Abdon Balde already dead. Photographs were taken of the cadaver.[10] The cadaver was brought to the house of the victim to clean it of mud. More photographs were taken.[11]

Dr. Manuel Rebueno, Oas Municipal Health Officer, conducted the postmortem examination on the cadaver of the victim. The doctor found on external findings, presence of flacidity and blood, with stomach and intestines coming out, position supine. There were 13 incise wounds on different parts of the body. The cause of death was shock due to external hemorrhage secondary to multiple incise wounds on the neck, arm, forearm, back left, chest, and abdomen.[12]

Appellant admits he hacked the victim several times in the afternoon of December 27, 1971, but claims he did it in self-defense. Appellant narrated that in the after-noon of December 27, 1971, at about 12:30, he was at his ricefield which adjoins the property of the victim Abdon Balde at Barrio Busac. Appellant saw Abdon Balde demolish-ing the rice paddies which served as boundary between their properties, and as a result large quantities of water entered appellant's ricefield, destroying rice seedlings because of the entry of weeds, called "daraico." [13] Seeing the victim Abdon Balde in the act of opening the rice paddies or embankment, appellant shouted at Abdon asking why the latter opened the rice paddies. Abdon pro-ceeded towards the west and again made some openings on the rice paddies.[14] Appellant again shouted at Abdon, but the latter proceeded towards his rice seedlings. Appellant followed Abdon and asked the latter why he opened the rice paddies which was the boundary between their ricelands.[15] Abdon answered by asking the appellant if the latter saw him make the opening. Appellant told Abdon that the lat-ter pretended not to know and to see what he did in opening the embankment. Abdon answered appellant in this manner - "You pretend to be brave, you animal, you savage. What do you want?" Then, Abdon Balde struck accused with the wooden marker Exhibit "A".[16] Appellant was hit at

the left temporal side of his head,[17] and he was hit again at the interior portion of his left thigh.[18] Appellant's vision dimmed.[19] He unsheathed his bolo and hacked Abdon Balde. He could not remember how many times he hit the victim.

After hacking the victim Abdon Balde, the appellant proceeded to the Barrio Captain to surrender, but the latter was not there.[20] Appellant went to the town proper and surrendered to the Chief of Police of Oas. He also surrendered his bolo.[21]

Appellant claims that the trial court committed an error in taking into consideration, based on the prosecution evidence, the qualifying circumstance of evident pre-meditation to qualify the killing to murder. Appellant argues that what immediately preceded the criminal act was the quarrel on the opening of the rice paddies allegedly done by the victim on that occasion, and that appellant did not have enough time for reflection to proceed or desist from his plan to kill the victim because of the very short interval of time from the quarrel to the act of killing.

There is sufficient prosecution evidence to establish that appellant even long before the incident of December 27, 1971, had a criminal intent to injure, if not kill the victim, because of boundary disputes over the adjacent lands they were cultivating. There existed a deep-seated grudge between appellant and the victim arising out of that boundary dispute.

Sgt. Rodrigo at one time tried to settle the dispute between the two right on location of the disputed boundary, but Abdon Balde insisted that their common boundary should follow the concrete monument, so no settlement was arrived at.[22]

When Abdon Balde insisted on the concrete monument as boundary, appellant Raymundo Sacayan got angry. He told Abdon Balde on that occasion that if the latter "was arrogant or pretending to be brave I will kill you." These utterances were made in the presence of Sgt. Rodrigo, the wife of Abdon Balde, Salvador Balde, and Abdon Balde. Sgt. Rodrigo advised them not to resort to trouble.²³

From the time the quarrel between the appellant and the victim ensued due to the unsettled boundary dispute about a year before, the time when the appellant announced openly his intention to kill the victim up to the time of the crime on December 27, 1971, there is no doubt that appellant had ample opportunity for reflection to proceed with or desist from his announced plan to kill the victim. Evident premeditation is clearly established under those proven circumstances.

Appellant questions the trial court's finding that the evidence shows he killed the victim with treachery. Treachery was indeed present because of the suddenness of the attack, the victim not having any chance to defend himself.

Appellant's claim of self-defense, considered not credible by the trial court, leaves him without any defense at all. It is fundamental, that self-defense must be established by credible, clear and convincing evidence on the part of appellant. Appellant's evidence is too weak to merit consideration. However, the trial court correctly appreciated in favor of the appellant the mitigating circumstance of voluntary surrender.

WHEREFORE, and upon recommendation by the Solicitor General, the Judgment, dated May 21, 1974, in Criminal Case No. CCC-X-312-Albay, by the Circuit Criminal Court, 10th Judicial District, Legaspi City, convicting the appellant, being in accordance with law and the evidence, is hereby **AFFIRMED** in toto, with costs.

SO ORDERED.

Barredo, (Chairman), De Castro, Ericta, and Escolin, JJ., concur. Aquino, J., concur. Treachery was not present. Hence, it cannot be appreciated as an aggravating circumstance. The killing was qualified by evident premeditation. The aggravating circumstance of cruelty is offset by the mitigating circumstance of voluntary surrender to the authorities. Reclusion perpetua is the correct penalty.
Abad Santos, J., on official leave.

[1] pp. 48-49, rollo.

[2] p. 1, Original Record, CCC-X-312, Albay.

[3] p. 20, Id.

[4] p. 23, Original Record.

[5] p. 38, Id.

[6] p. 67, rollo.

[7] spacer for planting rice; Exhs. "A", "A-1", p. 234, Original Record.

[8] pp. 3-15, t.s.n., April 13, 1972.

[9] pp. 15-19, t.s.n., April 13, 1972.

[10] Exhs. "B", "B-1", p. 234, Original Record.

[11] Exhs. "C", "C-1", "D", "D-1" to "D-2", p. 235, Id.

[12] Exh. "I", pp. 9-10, Original Record; pp. 2-21, t.s.n., August 14, 1973.

[13] pp. 4, 6, t.s.n., December 11, 1973.

[14] p. 11, t.s.n., December 11, 1973

[15] p. 12, Id.

[16] p. 13, t.s.n., December 11, 1973.

[17] p. 19, Id.

[18] Exhibit 3.

[19] p. 20, t.s.n., December 11, 1973.

[20] p. 21, t.s.n., Id.

[21] pp. 23-24, Id.

[22] pp. 21-24, t.s.n., April 14, 1972.

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