

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO LACHICA AND JILLY SIGADOR, ACCUSED-APPELLANT.

G.R. No. L-38175. September 28, 1984

Ponente: ESCOLIN, J.

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ESCOLIN, J.:

Charged with the crime of murder before the Criminal Circuit Court of Rizal, Romeo Lachica and Jilly Sigador were found guilty as charged and sentenced to the supreme penalty of death.

The crime was committed in the New Bilibid Prison in Muntinlupa. Lachica was detained therein, pending review by this Court of the two death penalties imposed upon him by the then Court of First Instance of Davao del Norte for the crimes of "double murder and double frustrated murder,"[1] committed while he was serving sentence as a convict in the Davao Penal Colony at Panabo, Davao del Norte; while Sigador was awaiting execution of the death sentence meted out by the Court of First Instance of Surigao del Sur, and affirmed by this Court in a per curiam decision in L-24877 dated June 30, 1969.[2]

Pursuant to the final judgment in L-24877, Jilly (Gelly) Sigador was executed by electrocution on June 26, 1974. As the charge against him has become moot and academic, this mandatory review will deal only with the conviction of Lachica.

The evidence on record discloses the following facts: In the morning of March 28, 1971, Dominador Aguilar, also a prisoner in the New Bilibid Prisons, was stabbed inside his cell in Dormitory 1-C. He died instantly. Dr. Rodulfo Soratos of the NBI, who performed the autopsy, found that the deceased sustained eight (8) stab wounds, the most serious of which was the injury which penetrated his left lung and perforated the ventricles of the heart.

Immediately after the incident, the assailants, identified as Romeo Lachica and Jilly Sigador, were pursued by the prison guards. Cornered after a brief chase near the main gate of Dormitory 1-C, they voluntarily gave themselves up and surrendered to prison guard Baldovino the knives they admittedly used in attacking the victim.

Lachica and Sigador were then investigated by the officers of the Investigation Section of the New Bilibid Prison; and they gave their respective statements confessing responsibility for killing the deceased.[3] Pertinent portions of Lachica's statement read as follows:

"T - Bakit ka naririto ngayon sa Tanggapan ng Pangkat ng Pagsisiyasat?

S - Dahil po sa ako ay isa sa mga nanaksak kanina.

T - Kailan nangyari itong sinasabi mong pananaksak?

S - Ngayon pong araw na ito humigit-kumulang ay mga ika-10:30 ng umaga.

T - Sino naman ang tinutukoy mo na sinaksak mo?

S - Si bilanggong Dominador Aguilar po.

T - Saan nangyari itong sinasabi mong pananaksak mo kay Dominador Aguilar?

S - Sa loob po ng selda 43 ng Dormitoryo I-C.

T - Bakit mo sinaksak itong si bilanggong Dominador Aguilar?

S - Dahil po sa si bilanggong Dominador Aguilar ang siyang mastermind sa saksakang naganap noong ika-28 ng Septiembre 1970.

T - Papaano mo natiyak na itong si bilanggong Dominador Aguilar ang siyang mastermind sa saksakang naganap noon, sang-ayon sa sinasabi mo?

S - Sapagkat ako po ay dating miembro ng 'Commando Gang' at kilala ko po siya (Dominador Aguilar) na isang Bosyo ng Commando at siya rin ang supplier ng matalas.

T - Sino o sino ang tinutukoy mong mga kasama mo ng pananaksak kay bilanggong Dominador Aguilar?

S - Si bilanggong Gilly Segador po at si Rodolfo Andaya na kapwa mga taga Dormitory I-D rin po (Prisoner Lachica pointing his finger to prisoners Gilly Segador #8182-D and Rodolfo Andaya #47015-P).

T - Kailan po ninyo binalak na saksakin itong si bilanggong Dominador Aguilar?

S - Kagabi po nang mga pasadong alas 9:00 ng gabi pinag-usapan po namin nina bilanggong Segador at Andaya na saksakin si bilanggong Dominador Aguilar.

T - Ano ang ayos nito si bilanggong Aguilar ng siya ay iyong saksakin?

S - Nakaupo po siya at nagsusulat sa loob ng Selda 43 ng Dormitory I-C na paharap sa pintuan.

T - Ilang beses mong sinaksak itong si bilanggong Dominador Aguilar?

S - Hindi na po matandaan, pero sa palagay ko po ay mga limang beses."

Lachica and Sigador were thereafter charged with the crime of murder. Assisted at the arraignment by counsel de oficio Atty. Jose O. Galvan, they voluntarily pleaded guilty to the crime charged. When informed by the court of the consequences of their plea of guilty, they manifested that they were fully aware of the fact that "they would be punished in accordance with law." Whereupon the trial court promulgated in open court a sentence convicting the accused of the crime charged and imposing on each of them the supreme penalty of death.

The trial court subsequently ordered the prosecution to present evidence for the purpose of determining the degree of culpability of the accused. At the hearing, the prosecution adduced the testimony of Rodolfo Andaya, a co-prisoner of the accused. He declared that in the morning of March 28, 1971, Lachica and Sigador met with him and informed him of their plan to kill Dominador Aguilar. Since the slaying of some of their co-prisoners from Dormitory I-D on September 28, 1970, which Aguilar masterminded, their determination to take revenge on Aguilar had been frustrated by the tight security measures adopted by the prison authorities. At 10:00 o'clock in the morning of March 28, 1971, Lachica, Sigador and Andaya - the trial court found that the latter was forced by the two accused to go with them - waited for the prison guard to bring the prisoners' food inside Dormitory I-C, and once the gate was opened and the guard had entered, they stealthily slipped inside Dormitory I-C and quickly proceeded to Cell 43 where Aguilar was confined. Without warning, Lachica repeatedly stabbed the victim who was seated on a chair. Despite the wounds he sustained, Aguilar attempted to escape his assailants by running to another cell. The accused pursued him, and when they caught up with the wounded man, Sigador stabbed him several times until he collapsed. Thereafter they went out, and as they were looking for a place to hide, they ran into Baldovino, a prison guard, to whom they gave themselves up and surrendered their knives.

Testifying in his defense, Lachica gave his version of the incident thus: At 10:00 in the morning of March 28, 1971, he went to Dormitory I-C to watch a television show of a horse race program being telecast at the time. While betting with the inmates of Dormitory I-C, an altercation arose between him and Aguilar. As one word led to another, Aguilar threatened accused with the words, "Baka hindi ka na makalabas nang buhay dito sa Dormitory I-C." Because he suspected that the deceased would kill him, and rather than wait to be assaulted, he beat Aguilar to the attack by suddenly stabbing him.

Thus, the accused would seek exemption from criminal liability on the theory of self-defense.

Unlawful aggression is the primordial element of self-defense. For the right to exist, it is necessary that the accused be attacked, or at least be threatened with an attack in an immediate and imminent manner, such as brandishing a knife with which to stab or pointing a gun to the accused.[4] But when the commission of an act is in response to a mere threat or menacing posture of an unarmed victim, as in the case at bar, the defense cannot be invoked.

From the facts testified to by the accused, it cannot be reasonably concluded that the deceased had the least intention of inflicting harm on the accused. In fact the latter did not receive any injury at all because neither the victim nor any of his companions was armed at the time the intimidating words were uttered.

As heretofore pointed out, accused had pleaded guilty to the crime charged. Considering the gravity of the offense, a hearing was conducted by the trial court, but only for the purpose of ascertaining the degree of culpability of the accused. In his extrajudicial statement,[5] the accused had freely and positively acknowledged having inflicted the fatal wounds sustained by the victim. At the hearing a quo, no attempt whatever was made to repudiate said confession. Such confession therefore constitutes the strongest evidence of his guilt. The fact that the accused had not been informed of his right to silence and to counsel, as stressed by appellant's counsel, does not detract from this conclusion, since the confession in question was obtained before the effectivity of the 1973 Constitution.[6]

The facts on record adequately support the lower court's conclusion that the crime was committed with treachery and evident premeditation. The fact that accused Lachica is a quasi-recidivist - the new offense (murder) having been committed while he was serving sentence for a previous crime - more than justifies the death sentence meted out by the lower court. Quasi recidivism is a special aggravating circumstance which imposes the maximum of the penalty for the new offense without regard to the presence or absence of mitigating or aggravating circumstances (People vs. Bautista, 65 SCRA 460; Article 160, Revised Penal Code).

However, for lack of the necessary votes, the penalty is hereby commuted to reclusion perpetua. Some Justices hold the view that the death sentence should not be imposed as the accused has been incarcerated for more than ten years. Accused is further ordered to indemnify the heirs of the deceased Dominador Aguilar in the amount of P30,000.00. Cost against the accused.

SO ORDERED.

Fernando, C.J., Makasiar, Aquino, Abad Santos, Melencio-Herrera, Plana, Relova, Gutierrez, Jr., De La Fuente, and Cuevas, JJ., concur.

Teehankee, J., no part.

Concepcion, Jr., and Guerrero, JJ., on leave.

[1] In its decision dated November 21, 1980, this Court commuted the sentence to two reclusion perpetua (101

SCRA 246).

[2] 28 SCRA 642

[3] Exhibits "F" and "G"

[4] 1 Viada, 5th Ed., 173, p. 3275

[5] Exhibit "F"

[6] Magtoto v. Manguera, 63 SCRA 4.

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