

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
GENARO SOLAÑA, WENCESLAO SOLAÑA, FRUTO SOLAÑA AND
CRISPINO SOBOSA, DEFENDANTS AND APPELLANTS.**

G.R. No. L-13967. September 29, 1962

Ponente: REGALA, J.

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REGALA, J.:

On June 6, 1957, an information for murder was filed with the Court of First Instance of Iloilo against Genaro Solaña, Wenceslao Solaña, Fruto Solaña and Crispino Sobosa. The information charged:

"That on or about January 3, 1956, in the municipality of Leganes, Province of Iloilo, Philippines, and within the jurisdiction of this Court, the said accused, conspiring and working together, taking advantage of night time and of their superior strength to better realize their purpose, with deliberate intent, treachery, evident premeditation, and with a decided purpose to kill, armed with wooden clubs and bolos, did assault, strike and stab Santiago Sobrevega with the arms with which they were provided, thereby inflicting upon the latter wounds and contusions on the different parts of his body which caused his death thereafter."

After the trial, the lower court, in a decision rendered on April 17, 1958, convicted all the above-named accused. They were all meted reclusion perpetua and its accessory penalties. All of them were likewise ordered to indemnify, jointly and severally, the heirs of the deceased in the sum of P6,000.00 and to pay the costs.

From this judgment of conviction, the four defendants elevated the case to this Court for review. They contended that the trial court erred in finding them guilty beyond reasonable doubt primarily on the basis of their admission that they inflicted the mortal blow upon the victim; that the lower court likewise erred when it rejected their plea of self defense and defense of relatives and properties; and finally, that it was reversible error for the trial court to have failed "to take the necessary action according to law of other characters whose participation in the incident is vital in the satisfactory and unerring solution of this case."

The records of this case bear out the following salient facts. On the night of January 3, 1965, Tiburcio Sobrevega was sleeping with his father, Santiago Sobrevega, in their farm hut in Barrio Lapayon, Leganes, Iloilo. At about 11:00 o'clock, he was awakened by some disturbing sounds from the direction of where his father was sleeping. Looking around, he saw four men wrestling with his father.

Tiburcio Sobrevega was then a 16-year old farm lad. Much as he had wanted to help his father, the spectacle of four men attacking his father completely overcame him with fear. Thus afraid and realizing how by himself alone he could not be of significant help to his father anyway, Tiburcio inched his way out of the nipa wall and escaped from their house to ask for help from his uncle, Josue Soteo. The latter's house was some 300 meters away from the hut of the Sobrevegas. On his way to the house of his uncle, Tiburcio saw six other men outside their hut. Of the six, he recognized only one, a certain Silveriano Sobretudo.

Together with his uncle, he returned to their hut but only to discover that his father was no longer there. For some

ten minutes, he and his uncle observed around the premises. Somewhere in the distance, in the direction of the house of Alejo Provido, where three of the accused lived, they heard the barkings of dogs. Both Tiburcio and his uncle then concluded that the deceased must have been brought there.

What transpired after Tiburcio Sobrevega left his father to the fate of his four attackers was furnished by another prosecution witness, Cayetano Sunio. He testified that on the night of January 3, 1956, when the crime was perpetrated, he was resting in the hut of Miguel Sumoncad, a shack in the vicinity of the scene of the crime. Suddenly, he heard someone shout for help. Rushing out to investigate, he hid himself behind a pile of rice stalks, and, while thus concealed, he witnessed four men forcibly dragging the deceased towards the house of Alejo Provido. At the same time, they were beating and manhandling him. Of the four men, Cayetano Sunio recognized the three Solaña brothers. At the trial, he positively identified the same three brothers.

This court would like to emphasize this observation regarding the testimony of Cayetano Sunio. His testimony was one of the most vital evidence of the prosecution. At the witness stand, he positively identified the accused; and, the substance of his testimony was to the effect that he was an eyewitness to the commission of the crime. And yet, nothing in the records even suggested that he was lying.

The defense had embarked upon no effort whatsoever to impugn the declarations at the witness stand of the said Cayetano Sunio. Not one among the many witnesses for the defense even hinted a cause, a reason for Cayetano to lie. The herein accused failed completely to establish the fact that the said prosecution witness had a motive for incriminating them.

None among the four appellants denied at the trial their participation in the offense charged. On the contrary admitted and even described their respective roles in the attack upon the victim. Moreover, it should be recorded in this decision that all of the herein appellants likewise owned the criminal assault upon the victim at the investigation conducted by the Police authorities and agents of the National Bureau of Investigation when they, the appellants presented themselves for interrogation soon after the incident.

In defense, however, all four defendants offered a common plea. They all claimed self defense based on this version of the incident.

On the evening of the alleged crime, between the hours of 9 and 10, a gang of about ten men arrived at the farm house of Alejo Provido. Some of the men attempted to force open the door, while some others could be heard in the yard. The occupants of this farm house, on that evening, were the accused Teodoro Solaña, Wenceslao Solaña and Crispino Sobosa. They were then staying there because they were the caretakers of the carabaos and other properties of Alejo Provido.

Concerned that their lives might be harmed by the robbers who were yelling threats at them because they would not open the door, the above three tenants of the Provido house jumped out of the window, one after the other.

The first one out was Teodoro Solaña. Immediately, he ran to his mother's house, which was just a few hundred meters away. He notified the household thereof of the robbery, and of his fear that his brother Wenceslao, one of the accused, might have been caught and maltreated by the robbers. In this house too lived Genaro Solaña, another brother of Teodoro and likewise an accused. When Genaro heard of his brother's report, he got a bolo and rushed to the Provido hut to give succor to Wenceslao.

In the meantime, the village had awakened. There was a general commotion, confusion, and alarm in the neighborhood. Dogs kept on barking, some people kept on shouting. Frantic cries of "Robbers! Robbers! Help, Robbers! filled the normally serene barrio night.

At last, Genaro Solaña arrived in the premises of the Provido house. He called for his brother Wenceslao but heard no answer. Then, while thus searching for his brother—who, by the way, was still hiding, unaware that it was his brother Genaro calling for him—he saw a figure of a man some meters away. Genaro asked the approaching man to identify himself. The man kept silent. As they came nearer each other, the man suddenly lunged at him with a butcher's knife. Genaro was hit and wounded at the forearm, a little below the elbow of his left hand. Thus it was that he sensed the imminent danger to his life. With the bolo he was carrying, he struck back at the man. The man staggered, reeled, and fell in a squatting position. He was Santiago Sobrevega.

Frightened by the wound in his arm which would not cease to bleed, Genaro shouted for help. Wenceslao Solaña, Crispino Sobosa and Fruto Solaña heard his cry for aid and so came out of their hiding places. As they rushed to Genaro, however, they still were unaware that the man squatting near him was Santiago Sobrevega. Believing that the man was Genaro's attacker, and, likewise believing that the man was still dangerous, Crispino and Wenceslao struck the deceased with wooden clubs which each of them had provided their selves. Fruto Solaña struck the victim too with the scabbard of Genaro's bolo when Santiago attempted to rise and stand.

Genaro's wound continued to bleed. So accompanied by his two brothers, Teodoro and Genaro and two neighbors, he immediately left for the Provincial Hospital in Iloilo City. On the way, they notified Provido Alejo of the robbery. The group arrived at the hospital at about past 12:00 o'clock where Dr. Estrella Mirasol, a resident physician, attended to the wound.

After carefully weighing the evidence of both parties to this case, this Tribunal is convinced beyond doubt that justice would be served if it sustained the position of the Solicitor General that the alleged robbery was but "a thinly veiled concoction." With this finding, it result, therefore, that appellants' plea of self defense and defense of relatives and properties should be rejected. The justifying circumstance invoked was based solely upon that alleged robbery. As We held that the claimed robbery could not have really occurred, so must We logically hold that there could not have been any unlawful aggression upon the persons or properties of the herein accused. In the absence of unlawful aggression, how could a plea of self defense be sustained?

The jurisprudence on self defense in this land is clear and settled. To prosper, the plea must be supported by clear and convincing proof (*People vs. Berio*, 59 Phil. 533). Moreover, if an accused indeed must hope to be sustained in his plea of self defense, he must rely on the strength of his own evidence and not on the weakness of that for the prosecution, for even if the latter were weak, it could not be disbelieved after he himself had admitted the killing (*People vs. Ansoyon*, 75 Phil. 772).

This court also agrees fully with this observation of the Solicitor General, to wit: "Even assuming that Santiago was found near the farm house of Alejo that fateful evening and that upon being asked by Genaro to identify himself, Santiago refused to talk but instead lunged at Genaro with a butcher's knife, still after Genaro had bled the deceased in the left cheek causing him to whirl and fall helplessly, the subsequent attacks by the other appellants herein when the victim could no longer be of any risk to them constitute alevosia and are inconsistent with self defense, thus qualifying the crime they committed to murder."

Appellants argued that their conviction should be reversed because the prosecution had failed to establish the motive for the killing. They argued that the failure constituted reversible error. Let the doctrine be restated now that motive is unessential to conviction when there is no doubt as to the identity of the culprit (*U. S. vs. McMann*, 4 Phil. 563; *U. S. vs. Carlos*, 15 Phil. 47; *People vs. Paladin*, [CA] 54 Off. Gaz. No. 5 p. 1440) as in the instant proceeding where all the defendants owned and admitted participation in the criminal event.

It was forcefully insisted by the counsel for the appellants that when the lower court considered only the portions of appellants' sworn statements, which were adverse to the affiants, and, in the premises, rejected those portions

which were favorable to them, the trial court committed a grave reversible error. It is true, of course, that under the Rules and in the spirit of fair play, the whole of a confession must be put in evidence by the prosecuting officer. To allow the introduction of fragments of a confession admitting those indicative of the prisoner's criminality and suppressing others which, by limiting or modifying the former, may establish his innocence, is utterly inconsistent with all principles of justice and humanity. When a confession is offered and admitted, the defendant is entitled to have all that was said at the time introduced in evidence, concluding exculpatory statements. (Rules of Court, Francisco, Vol. VI. p. 365-366, 1955 Ed.).

Nevertheless, the aforecited rule cannot be held to exclude exceptions. It is not absolute. There are instances, occasions, and circumstances which can make it justifiably imperative for the trial judge to believe or accept only a part of the confession and reject the rest. One such instance is where the trial judge, in the sound exercise of his discretion, holds that certain portions of the confession are improbable or dangerous to believe because other facts or events reveal that the said portions are incredible and unworthy of credit. This exception is founded upon the natural tendency of every transgressor, with perhaps very rare exceptions, to acquit himself, while he can do so, from all liability that might arise from his act, or at least mitigate it in the eyes of the law and those of his fellowmen (*People vs. Layos*, 60 Phil. 765-766). Indeed, this very Court had, on a number of cases, sanctioned and permitted partial acceptance of confessions (*People vs. Piring et al.*, 63 Phil. 546; *U. S. vs. Gavarlan*, 18 Phil. 510; cited in Francisco, Rules of Court, *supra*).

Finally, herein appellants claimed that the trial court committed error when it failed "to take necessary action according to law of other characters whose participation in the incident is vital in the satisfactory and unerring solution of this case." This Court cannot sustain this contention. The doctrine pertinent to the issue raised is that which We laid down in the case of *Maddela vs. Aquino, et al.*, 104 Phil. 433, where this Court declared:

Court declared:

"In the case of *Guiao vs. Figueroa*, (94 Phil., 10158; 50 Off. Gaz., 4828), we said that the law makes it the duty of the prosecuting officers to file the charges against whosoever the evidence may show to be responsible for an offense. But we also said there that this does not mean that the prosecuting officers shall have no discretion in the matter, for where the law demands that all persons who appear responsible for an offense shall be charged in the information, it also implies that those against whom no sufficient evidence of guilt exists are not to be included in the charge; and, needless to say, the determination of whether or not there is, as against any person, sufficient evidence of guilt to warrant his prosecution necessarily involves the exercise of discretion."

Whenever this Court reviews judgments of conviction by the lower court, as in the present case where the sentence imposed is as severe as life imprisonment, considerable care and caution is observed to preclude, to the limit that is humanly possible, any miscarriage of justice. But independent of this judicial temperament, this Court relies greatly upon the trial judge's conclusion.

The philosophy behind the above principle is that the trial judge observes and is in direct contact with the demeanor and conduct of the witnesses at the trial. And, a witness' demeanor in the box is often better evidence of his veracity than the answer he gives. (*Harper vs. Cameron*, 2 British Columbia, 411). Besides, the rule is firmly settled that "in determining where the preponderance of evidence on the issues involved lies, the court may consider the witness' manner of testifying (Rules of Court, Francisco, Vol. VI, p. 1124, 1955 Ed.). As was succinctly expressed in a case decided by this Court, "to understand Ms testimony, the court may consider the witness' manner of testifying, for his emphasis, gesture, and inflection of the voice are potent aids in understanding the testimony of a witness, and the trial court which has the opportunity of observing his conduct, is presumed to have taken advantage of said aids in weighing the testimony of the witness (*U. S. vs. Macuti*, 26 Phil. 170-172).

In view of the foregoing, the judgment appealed from is hereby affirmed in its entirety.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Reyes, J. B. L., Paredes, Dizon, and Makalintal, JJ., concur.

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