

PEOPLE OF THE PHILIPPINES, PLAINTIFF – APPELLEE, VS. RUBEN GANO Y SORIANO, ACCUSED – APPELLANT.

Ponente: GONZALES-SISON, M., J.

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GONZALES-SISON, M., J.:

On appeal before this Court is the 28 June 2012 Decision[1] of the Regional Trial Court of Tuguegarao City, Branch 03, finding appellant Ruben Gano[2] y Soriano guilty beyond reasonable doubt of Homicide, defined and penalized under Article 249 of the Revised Penal Code, as amended, and sentencing accused-appellant to suffer an indeterminate prison sentence ranging from twelve (12) years of prison mayor maximum as minimum to seventeen (17) years and four (4) months of reclusion temporal medium as maximum and to pay the heirs of victim Joseph Mallillin y Manera the following amounts: Fifty Thousand Pesos (Php50,000.00) as death indemnity; Twenty Five Thousand Pesos (Php25,000.00) as moral damages; Ten Thousand Pesos (Php10,000.00) as temperate damages; and to pay the costs.

In the court of origin, appellant was charged in an Information[3] worded as follows:

“That on July 15, 2002, in the City of Tuguegarao, Province of Cagayan and within the jurisdiction of this Honorable Court, accused RUBEN GANO y SORIANO, armed with a knife, with intent to kill, evident premeditation and treachery, did then and there willfully, unlawfully and feloniously, stab victim JOSEPH MALLILLIN, son of complainant ADORACION MANERA, inflicting upon him mortal stab-wound that ultimately caused his untimely death on July 25, 2002.

Contrary to law.”

During the arraignment[4] on 13 May 2003, accused-appellant, assisted by his counsel Atty. Alexander P. Daran, entered a plea of NOT GUILTY to the Information read in Itawes dialect which the accused speaks and understands. During the pre-trial[5] of the case on 17 September 2003, the parties entered into the following stipulation of facts, to wit:

“PROPOSAL FOR THE PROSECUTION:

1. The fact of death of the victim in this case Joseph Mallillin as shown by a photocopy of his death certificate – admitted. 2.

That the accused Ruben Gano killed the victim in this case Joseph Mallillin-admitted with complete self-defense.

NO PROPOSAL FOR THE DEFENSE.”.

In an Order dated 03 September 2004, the trial court provisionally dismissed the case upon motion of the prosecution and without objection of the accused and his counsel as the prosecution failed to present its prosecution witness after several resettings.

On 08 November 2004, an Order was issued by the trial court granting the Motion to Revive the case filed by the

private prosecutor.

The prosecution's evidence consists of the lone testimony of Jerry Quilang who was allegedly an eyewitness to the stabbing incident. On the other hand, the defense presented the testimonies of the accused himself and one Juanito Soriano.

We quote the narration of the trial court as follows:

“The EVIDENCE of the PROSECUTION

The evidence of the prosecution was presented through the sole testimony of Jerry Quilang who was allegedly an eyewitness to the stabbing incident as well as the events preceding it. He testified that at 9:00 p.m. on July 15, 2002 there was a drinking session at the house of one Irineo Alan at Linao West, Tuguegarao City as his group was celebrating their victory in the just concluded barangay elections. In that drinking session were Brgy. Kagawad Romeo Alan, Barangay Tanod Boy Balisi, Ruben Gano, Rosito Battung and Bando Soriano. In the course of the drinking spree, Rosito Battung, who was dosing (sic) beside the witness Jerry Quilang. The witness Jerry Quilang and Brgy. Tanod Boy Balisi. When the group was traversing an alley going to Alan Street, Linao West, one Bobing Mora suddenly appeared and slapped Ruben Gano from behind. After he was slapped by Mora, the accused drew his knife thinking it was Joseph Mallillin who slapped him from behind, said accused turned back and stabbed Joseph Mallillin once hitting the latter on the abdomen. The witness Jerry Quilang grappled with the accused Ruben Gano for the knife and was able to grab the weapon from the latter. The accused ran from the scene. The witness and his companions called for police assistance. When some policemen responded, they went to arrest the accused who had run home. The victim Joseph Mallillin was rushed to the Cagayan Valley Medical Center (CVMC) where he was given medical assistance. Unfortunately, he died.

The prosecution rested its case with the aforesaid testimony of lone prosecution witness Jerry Quilang and its documentary evidence consisting of the Medico-Legal Certificate showing the extent of injuries he [the victim] sustained; Death Certificate of the victim Joseph Mallillin; Certification from the Tuguegarao City Police Station and the Sworn Affidavit of prosecution witness Jerry Quilang.

The EVIDENCE of the DEFENSE

The defense presented as its first witness, the accused Ruben Gano. His testimony raised self-defense. He admitted the testimony of the prosecution witness Jerry Quilang that there was a victory drinking session on July 15, 2002 at about 9:00 PM in the house of Ben Alan in Brgy. Linao West, Tuguegarao City. He stated that those in attendance at the drinking session were himself, Brgy. Kagawad Jerry Quilang, Barangay Kagawad Rudy Soriano, Romy Alan, Bong Balisi, Cito Battung, Bando Soriano, Ben Alan and Joseph Mallillin. In the course of the drinking session, Cito Battung slept. He was awakened by Brgy. Councilman Romy Alan who instructed him to go and sleep inside the house. When he was awakened, Cito Battung suddenly punched Bando Soriano. The accused was then seated between Cito Battung and Bando Soriano. The accused did not know of any reason for Cito Battung to box Soriano. The two were then pacified and Bando Soriano was coaxed by Jerry Quilang to leave. The two then left the place. The accused followed Soriano and Quilang intending to go home so as not to be involved in any trouble. On his way home, his way was blocked by Bobing Mora who just came from his (Mora's) house. Mora suddenly hit him on the nape for no reason at all. After being hit on the nape, the accused ran away. He was chased by Brgy. Tanod Boy Balisi. After Balisi overtook the accused, he (Balisi) held him by the neck and boxed him on his body. To avoid any further trouble, the accused just continued home. However, as he was walking home, Joseph Mallillin also chased him and upon overtaking the accused, punched him on the ear and kicked him on his thigh. After being boxed and kicked, the accused fell on the ground. Joseph Mallillin drew a bladed weapon and tried to stab the accused. The latter two grappled for possession of the knife. In the course of the grappling for possession of the knife, the accused “accidentally” stabbed the victim Joseph Mallillin. After stabbing Mallillin, the accused decided to

give himself up to the police authorities that same day. The defense next presented Juanito Soriano as its witness to corroborate the testimony of the accused Ruben Gano that he merely acted in self-defense when he stabbed the victim.

Soriano testified that he was present during the drinking session on July 15, 2002 in the house of Ben Alan in Linao West, Tuguegarao City to celebrate their victory in the barangay elections. He testified that many persons attended the drinking session including Rosito Balisi, Jerry Quilang, Ruben Gano and others whose names he could not recall. During the drinking session, Rosito Battung dodged and when he awoke, he suddenly boxed Bando Soriano. Fortunately the proverbial cooler heads intervened and the trouble did not escalate because Jerry Quilang pacified Rosito Battung and brought him home. The witness Soriano and the accused Ruben Gano followed Rosito Battung and Jerry Quilang towards the road. On their way, they were met by Bobing Mora who suddenly slapped Ruben Gano without any apparent reason. Gano did not retaliate and the witness advised him to go home but Gano refused, saying he had not done anything wrong. At that juncture, Joseph Mallillin suddenly appeared and upon coming near to Ruben Gano kicked the latter, again for no apparent reason. After kicking Gano, Joseph Mallillin pulled out a bladed weapon. Seeing this, Ruben Gano grappled with Joseph Mallillin for possession the bladed weapon. While the two were grappling, Joseph Mallillin was stabbed. Thereafter, Ruben Gano was pacified by Bong Balisi and taken away towards the road. When Gano arrived at his home, policemen arrested him.”[6].

After trial, the lower court rendered judgment, the dispositive portion of which reads as follows:

“WHEREFORE, in light of the foregoing, this Court finds the accused RUBEN GANO y Soriano GUILTY beyond reasonable doubt of the felony of Homicide, defined and penalized under Article 249 of the Revised Penal Code, as amended, and hereby sentences him:

1. To suffer the indeterminate prison sentence ranging from twelve (12) years of prison mayor maximum as minimum to seventeen (17) years and four (4) months of reclusion temporal medium as maximum, and 2.

To pay the heirs of Joseph Mallillin y Manera, the amounts of:

- a. P50,000.00 as death indemnity;
- b. P25,000.00 as moral damages;
- c. P10,000.00 as temperate damages; and 3.

To pay the costs.

SO ORDERED.”

In seeking reversal of his conviction, accused-appellant assigns the following errors:

I

THE TRIAL COURT GRAVELY ERRED IN NOT CONSIDERING THE JUSTIFYING CIRCUMSTANCE OF SELF-DEFENSE.

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

In support of his assigned errors, appellant argues that:

- 1. It was the victim who hit him first and was about to attack him with a knife, hence, he defended himself.
- 2. There was no provocation on his part for it was the victim who initiated the altercation by initially hitting him

on the head and body. Moreover, considering that the victim had a weapon coupled with an evident resolve to inflict injury, it was logical for accused-appellant to do something to protect his being from the peril the victim posed.

3. The court a quo should have first carefully weighed and considered the circumstances indicating the possible innocence of the accused-appellant before rendering its verdict.

In contrast, the Office of the Solicitor General (OSG) maintains that no reversible error was committed by the trial court. It avers that the appellant, who possessed a bladed weapon, stabbed the victim even though he had already disarmed the latter, therefore demolishing appellant's plea of self-defense because unlawful aggression from the victim has ceased.

We now resolve this case.

An appeal of a criminal case opens its entire records for review, such that the appellate court may review all circumstances favorable to the accused[7], including of course, the testimonies of witnesses and the assessment thereof by the trial court.

As We contend here with conflicting versions of the prosecution and the defense, as reconstructed by witnesses' accounts, it is appropriate to recall the general rule that the trial court's choice of which version to believe is viewed as correct and entitled to the highest respect[8]; however, that general rule bends to the exceptional circumstance of the trial court plainly overlooking certain facts of substance and value, which, if properly considered, would affect the outcome of the case[9].

After painstakingly reviewing the records, We find that the RTC had indeed overlooked crucial facts. Upon proper consideration of those facts, We find cause to reverse the conviction of the accused-appellant and thereby acquit him of the crime charged. We discuss below.

In criminal cases, the prosecution has the burden of establishing the guilt of the accused beyond reasonable doubt. But once the commission of the act charged is admitted, the burden of proof shifts to the accused, who must now prove the elements of the justifying circumstances cited[10].

Relevantly, the accused who raises self-defense bears the duty to prove this justifying circumstance with clear, satisfactory and convincing evidence; in doing so, he cannot rely on the weakness of the prosecution but on the strength of his own evidence, for even if the evidence of the prosecution were weak it could not be disbelieved after the accused himself admitted the killing[11].

As We have noted, the versions of the prosecution and the defense contradict each other; such versions, however, have their common points, among them that accused had, on that fateful night, been with celebrants drunkenly celebrating a victory party; that after one of the party-goers punched another for waking him, they had gone home; and that on the way home, the accused was then assaulted by one Bobing Mora. The glaring differences between these versions, nonetheless, cannot be ignored.

The prosecution's witness, Jerry Quilang, narrates that Mora slapped accused-appellant from the back, and that the latter retaliated by withdrawing his knife and stabbing the deceased, whom he believed to have hit him. Thereafter, the accused fled and was later arrested.

On the other hand, the defense presents the version of accused-appellant being attacked first by Mora, and then by Boy Balisi. Mora only hit him once; but Balisi choked and hit him on different parts of his body. In both instances, the accused-appellant fled. Then according to the accused-appellant and his witness, the deceased chased the accused-appellant, hit him twice, causing him to fall down, and then drew a bladed weapon as if to stab

him. The accused-appellant then managed to parry the blow, wrestled with the deceased, and in the process, stabbed him.

After reviewing the testimonies of the witnesses, We are inclined to uphold the version of the defense, relying on self-defense.

Well-entrenched is the rule that evidence to be believed must not only come from the mouth of a credible witness, but must be credible in itself, as tested by human experience, observation, common knowledge and accepted conduct[12].

Prefatorily, We find the version of the prosecution difficult to accept.

The prosecution relied on its sole witness, Jerry Quilang. Unfortunately, Quilang's testimony is unbelievable to this Court as it belies human experience and sheer observation.

To recall, Quilang testified[13]:

“Q: What happened when Bobing Mora suddenly appeared? (sic)

A: He slapped Ruben Gaño, sir.

Q: Where were you when Bobing Mora slapped Ruben Gaño?

A: We were in an alley going to Alan St., Linao West, Tuguegarao City, sir.

x x x x x x x x

Q: Where was Bobing Mora coming at the time that he slapped Ruben Gaño?

A: In their residence sir.

Q: What did Ruben Gaño do after Bobing Mora slapped him? (sic)

A: He immediately withdrew his bladed knife and immediately stabbed Joseph Malilin.

Q: Where was Joseph Malilin at the time Bobing Mora slapped (sic) Ruben Gaño?

A: At my back sir.

Q: How about Ruben Gaño to your position?

A: In front of me, sir.

Q: How about Bobing Mora, where was he at the time he slapped Ruben Gaño?

A: At the back of Ruben Gaño, sir.

Q: What part of the body of Ruben Gaño was hit when Bobing Mora slapped (sic) him?

A: His face, sir.”

By this testimony, the witness recounts that while he and his companions were traversing that alley, they were walking in a line following a particular order: accused-appellant in front, followed by the witness, and then the deceased. Then Bobing Mora appeared without warning and hit accused-appellant, on the face, but coming from behind accused-appellant and in between the witness and the accused. The witness then proceeded to testify that accused-appellant stabbed the deceased in retaliation, believing him to be the perpetrator.

Given the witness' description of their respective positions when Mora carried out his unexpected attack, We find

it difficult to believe that the accused-appellant very suddenly stabbed the deceased even as two persons were physically blocking the body of deceased from the view of the accused. In truth, the witness' testimony would be more credible had the accused-appellant struck the person immediately behind him.

Then too, that accused-appellant wielded his knife and chose to strike the deceased who lingered behind Mora and Quilang does not paint a picture of someone immediately retaliating against a sudden strike, which the prosecution attempts to portray.

Moreover, such version would have this Court accept the physically improbable. A person's arm, even if armed with a knife, can only extend so far. Again We find it against ordinary experience that accused-appellant would be able to hit, with one sudden stabbing motion, the deceased who was at the end of the line and who was separated from him by two other persons. The only way this would be plausible is if the four of them had walked that alley so proximately that there was no longer any space between the fronts and rears of their bodies; but such conduct is so against normal human behavior that We are only inclined to dismiss the notion.

We also do not find it believable that the persons with the accused-appellant, upon seeing the latter bare a knife, would just stand by and wait for accused to strike at any one of them; to recall, accused had his back to his companions - thus unveiling his weapon and moving as if to strike somebody would have alerted them and elicited some defensive response.

Incidentally, We also note that the witness' doubtful testimony is uncorroborated, which further militates against its evidentiary weight.

Lastly, the investigation of the responding authorities does not support the version of the prosecution's witness and in fact reinforces accused-appellant's version, to wit:

“As per initila (sic) investigation conducted by SPOI L MAGUDDAYAO, disclosed that prior to the incident, the victim and the suspect together with some of their barangay mates were walking at an alley near the house of a certain ERIC BALISI. While they were walking, one BOBING MORA who was with the group suddenly boxed the head of GAÑO prompting the group to pacify MORA. At this point, GAÑO left the place to prevent further incident but he was followed by JOSEPH MALLILLIN. While they were in between the house of JUANITO MORA and KAGAWAD GERRY QUILANG, JOSEPH MALLILLIN physically assaulted, kicked and boxed RUBEN GAÑO prompting him to retaliate and stabbed MALLILLIN hitting his abdomen.”[14].

Sec. 3 (m) of Rule 131 of the Rules of Court provides for a presumption in favor of the regular performance of an official duty. As applied here, We presume that the officer who conducted the investigation performed his duty in accordance with law and with diligence. Unfortunately, the prosecution has not adduced evidence to overturn that presumption.

Since the version of the prosecution is attended by doubtful circumstances, the police report, being prima facie evidence of the truthfulness of the facts stated therein[15] and which contradicts the prosecution's version, must be given greater weight.

In any case, it is a pinnacle of criminal procedure that all doubts, including those in the interpretation of evidence, must be construed in favor of the accused[16].

Significantly, We find the version of the defense more believable. Sudden fistfights and brawls, We note, are observed to accompany or follow uninhibited drinking sprees among men, such as one narrated here, where liquor is kept flowing and imbibed for hours.

According to accused-appellant, they had been drinking for two hours, and have already consumed five bottles of Ginebra San Miguel.

One of them had already passed out, and when awakened, struck out at one of his drinking companions, hitting him. Such a sudden, senseless and violent act would not have happened were it not for the excessive liquor.

The accused-appellant has likewise believably testified to the attack. He had testified in a direct and convincing manner, identified his assailants and what they did to him, and narrated credibly the ensuing struggle with the deceased. His reaction during the attack is also convincing, for it is not hard to conceive that an ordinary and unarmed person would run for refuge in his own house, rather than retaliate and seek further harm. Likewise credible is his testimony on the circumstance of the stabbing, as two persons grappling for a knife already possessed by one of them, both impassioned by strong intentions to survive – albeit one of them intends to leave the other defenseless (the deceased) while the other seeks to prevent a perceived harm or death (the accused-appellant) – cannot be expected to be restrained in their actions; injuries, even fatal wounds, are conceivable outcomes of such an encounter.

In addition, accused-appellant's testimony has been corroborated by a witness and affirmed by the policemen who have been dispatched to investigate the same. As We have discussed above, the police report stating the results of the investigation are prima facie evidence of the truth stated therein, which We uphold since the prosecution has not adduced sufficient evidence to overturn the presumption.

We turn now to discuss specifically whether or not the the accused appellant has sufficiently proven the justifying circumstance of self-defense to absolve him of any criminal liability arising from his stabbing Mallillin, his attacker, which led to his death.

In pleading self-defense, the following elements must be established: 1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel such aggression; and 3) lack of sufficient provocation on the part of the person defending himself[17].

Anent the first element, We hold the same to be present.

Unlawful aggression refers to an assault or attack, or a threat thereof in an imminent and immediate manner, which places the defendant's life in actual peril. There is an unlawful aggression on the part of the victim when he puts in actual or imminent danger the life, limb, or right of the person invoking self-defense. There must be actual physical force or actual use of weapon. To constitute unlawful aggression, the person attacked must be confronted by a real threat on his life and limb; and the peril sought to be avoided is imminent and actual, not merely imaginary[18].

In the instant case, the attack of the deceased upon the unsuspecting accused-appellant, followed by the former's brandishing of his knife as if to stab the accused-appellant when he was alone, cornered, and prone after being assaulted, all constitute the element of unlawful aggression. There is no doubt that the threat is actual, and swift to come.

There being unlawful aggression, We now determine whether the means employed by the accused-appellant, i.e., stabbing the deceased with his own knife while they were grappling for the weapon, satisfies the second element. Is this action reasonable?

Considering again the circumstances as established by the defense, We answer in the positive.

In *Jayme v. People*[19], the Supreme Court made the following relevant discussion:

“Reasonable necessity does not mean absolute necessity. It must be assumed that one who is assaulted cannot have sufficient tranquility of mind to think, calculate and make comparisons which can easily be made in the calmness of the home. It is not the indispensable need but the rational necessity which the law requires. In each

particular case, it is necessary to judge the relative necessity, whether more or less imperative, in accordance with the rules of rational logic. The defendant may be given the benefit of any reasonable doubt as to whether he employed rational means to repel the aggression.

"The rule of reasonable necessity is not ironclad in its application; it depends upon the circumstances of the particular case. One who is assaulted does not have the time nor sufficient tranquility of mind to think, calculate and choose the weapon to be used. The reason is obvious, in emergencies of this kind, human nature does not act upon processes of formal reason but obedience to the instinct of self-preservation; and when it is apparent that a person has reasonably acted upon this instinct, it is the duty of the courts to sanction the act and to hold the actor irresponsible in law for the consequences."

Here We observe that accused-appellant had already been struck down and lying on the ground. He was in darkness and he thought himself isolated. Then without warning, the deceased brought out his knife, and attacked accused-appellant's stomach with it. The accused-appellant managed to parry the blow; unfortunately, the deceased held on to the knife.

Consequently, a struggle followed. In the course of that struggle, accused-appellant, confronted by the fear that he was about to be killed, cannot be expected to be reasonable enough to consider all available options. We cannot blame him for selecting that one which is most available and effective. Accused-appellant merely succumbed to the natural will to live and survive, which he manifested by stabbing the deceased once, in the stomach, and with the latter's own weapon which accused-appellant managed to possess. In the face of apparent, certain death or serious injury, accused-appellant only chose the most direct and available means to allay that fate.

Such chain of events, We note, never gave accused-appellant opportune time to contemplate on the means to defend himself. We might speculate, he could have groped for a rock, stabbed the accused in the leg, choked him – but these conjectures ignore the primordial instinct that overpowers reason in life-threatening confrontations, which must have possessed accused-appellant to opt for that reachable and effective method to hinder his attacker.

The dissenting opinion of Justice Morland in the vintage case of *U.S. v. Bumanglang, et. al.*[20] offers guidance here:

This court has gone very far in the direction of liberality in lying down the principles governing the defense of self-defense and the means that may be legally employed to make that defense effective — very much further, indeed, than it is necessary to go absolved the appellant in the case at bar. In the case of *United States vs. Patala* (2 Phil. Rep., 752), the court says, page 756:

- It appears from the testimony of the defendant that at the time of the occurrence he was cleaning fish on board the steamship *Compañía de Filipinas*; that without any provocation on his part the deceased, who was the cock of the boat, believing that some of the fish was missing, slapped him and kicked him; that no being satisfied with this, when the defendant started to run away from him, the deceased pursued him and attacked him with a knife; that the defendant, taking advantage of some favorable chance during the struggle, succeeded in wresting the knife from the deceased and inflicted upon him a wound in the left side, from the result of which he died a few hours later.

. . . The aggression on the part of the deceased was in every respect unjustified, and the defendant had a perfect right to repel the attack in the most adequate from within his power under the critical circumstances of a sudden assault.

. . . He had reason to believe that he was placed in the alternative of killing or being killed when he was being attacked and pursued with a deadly weapon. This was the only weapon used during the struggle and it necessary had to be either in his possession or in the hands of the deceased. If through a fortunate accident he came into possession of the knife, he could have lost control of it through a similar accident and then found

himself at the mercy of his assailant. Therefore the act of the defendant rendering his assailant powerless as well as he could under the critical circumstances of the moment, and repelling his aggression, constitute, in our opinion, a true case of self-defense, which exempts the defendant from any criminal liability under paragraph 4 of articles 8 of the Penal Code.

It is important to note too, that the deceased suffered only from one stab wound, which persuasively leans in favor of accused-appellant's assertion of self-defense. Accused-appellant was almost a foot shorter than the deceased. Closely pressed by the deceased who appeared possessed of intent to kill him, We cannot condemn accused-appellant for resisting and using the nearest weapon made available to him. It would be unfair for Us to expect him to be worried that he might seriously injure his attacker, for the grievous harm looming before him should have pushed out all calm thought and dwarfed all other concerns but his own.

As the Supreme Court has reminded in *Soplente v. People*[21]:

“It would be wrong to compel Rogelio to have discerned the appropriate calibrated response to Notarte’s kicking when he himself was staring at the evil eye of danger. That would be a gargantuan demand even for the coolest under pressure. The Court has been reasonable enough to recognize some unreason as justifiable in the law of self-defense.” (Emphasis Ours.)

In addition, the factual circumstances of this case impel Us to consider the discussion in *United States v. Brello*[22]:

“The evidence of the defendants and his witnesses was to the effect that at 10 o’clock at night Candelario came to the house of the defendant, knocked at the door, and insisted upon the defendant coming out saying that if he did not he would burn the house. The defendant refused to go out and thereupon Candelario broke the door down, came in and attacked the defendant with a cane, throwing him to the ground two or three times. He defended himself as well as he could and finally seized a bolo and struck Candelario in the stomach. Immediately after the affair the defendant presented himself to the authorities of the town, stating what had happened. It does not appear that Candelario had any other weapon than a cane.

These facts to our mind constitute a complete defense. Candelario committed a crime in entering the house as he did, the defendant was justified in protecting himself with such weapons as were at his hand, and if from that defense the death of the aggressor resulted, that result must be attributed to his own wrongful act and cannot be charged to the defendant.”

Similarly, accused-appellant here only defended himself with such weapons that came to hand against the unlawful assault of his aggressor – an assault which not only threatened bodily harm on accused-appellant, but was designed to take his very life. If in the above case the Court found the actions of the accused justified, then We must do so as well, in the case now before Us.

For emphasis, We stress that accused-appellant cannot be faulted for using the weapon obtained from the deceased. In the flurry of the violent tussle, with death or serious injury swiftly bearing down upon him, can justly We blame him for resorting to that measure which resulted in his attacker's demise? Here the dissent in *Bumanglag* finds relevance, aptly describing that such circumstances hardly offer time for calm thought, for everything is excitement and confusion; everybody yells and dreads. There is no time to think; no time for deliberate, careful judgment and nice precision; no opportunity to devise means or to lay plans. Under such circumstances, the law does not hold men to the standards of careful thought and calm judgment[23]. Thus, We must judge accused-appellant's actions not from the safe and secure positions We are in now, but rather, from his perspective and in his shoes at the time of the affair; in this deliberation, We find his action fully justified and his means reasonable.

Finally, nothing in the evidence shows that accused-appellant provoked the deceased. Moreover, accused-appellant has not been shown to have harbored any resentment or other ill-motive against the deceased, further establishing that he had no intent to kill or even harm the deceased.

Considering that the elements of the justifying circumstance of self-defense have been proved, as discussed above, We hold that accused-appellant must be acquitted.

WHEREFORE, the assailed Decision of the Regional Trial Court of Tuguegarao City, Cagayan, Branch 03 is hereby REVERSED and SET ASIDE. Appellant Ruben Gano y Soriano is ACQUITTED of the crime charged. The Director of the Bureau of Corrections, Muntinlupa City, is hereby DIRECTED to RELEASE the appellant from detention unless he is being detained for some other cause. The Director is likewise directed to report to this Court his Compliance with this Court's Decision within ten (10) days from notice.

SO ORDERED.

Carandang, and Sorongon, JJ., concur.

[1] Rollo, pp. 35-41.

[2] Also spelled as “Gaño” in the records.

[3] Records, p. 2.

[4] See Order at records, p. 52.

[5] See records, pp. 62-65.

[6] Rollo, pp. 35-37.

[7] See *People v. Tolentino and Fabros*, G.R. No. 139179, 3 April 2002.

[8] See *People v. Antonio*, G.R. No. 144933, 3 July 2002.

[9] See *People v. Obello*, G.R. No. 108772, 14 January 1998.

[10] *People v. Catbagan*, G.R. No. 149430-32, 23 February 2004.

[11] See *People v. Beltran*, G.R. No. 168051, 27 September 2006.

[12] See *People v. Mirandilla, Jr.*, G.R. No. 186417, 27 July 2011.

[13] See TSN dated 7-20-06 at pp. 4-5.

[14] Records, p. 28.

[15] See *National Trucking and Forwarding Corporation v. Right Forwarders Corporation, et. al.*, G.R. No. 142941, 26 June 2006.

[16] See *People v. Abujan and Valmores*, G.R. No. 140870, 11 February 2004.

[17] *People v. Paycana, Jr.*, G.R. No. 179035, 16 April 2008.

[18] *Mahawan v. People*, G.R. No. 176609, 18 December 2008.

[19] G.R. No. 124506, 9 September 1999.

[20] G.R. No. L-5318, 23 December 1909.

[21] G.R. No. 152715, 29 August 2005.

[22] 9 Phil. Rep., 424, p. 425.

[23] Supra at note 20.

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