

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BRGY. CAPTAIN EDILBERTO MENDOZA ALIAS “EDDIE” AND BRGY. TANOD JOSEFINO DATINGUINO ALIAS “TAGUPAK”, ACCUSED, BRGY. CAPTAIN EDI...

Ponente: DIMAAMPAO, J.

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DIMAAMPAO, J.:

Murder is one of the instances when man descends to a level lower than that of the beast, for it is non-instinctive killing, a deliberate destruction of a member of the same species for reasons other than survival.[1]

Accused-appellant rails against the Decision[2] dated 4 September 2012 of the Regional Trial Court, Fourth Judicial Region, Pallocan West, Batangas City, Branch 4, finding him guilty of the crime of Murder, in Crim. Case No. 13494. The fallo thereof reads:

“WHEREFORE, PREMISES CONSIDERED, judgment is hereby rendered as follows:

- The case against accused Josefino Datinguino is hereby DISMISSED, by reason of his death on February 15, 2004;

- Accused EDILBERTO MENDOZA is hereby found GUILTY of the crime of Murder, with the use of an unlicensed firearm, under Article 248 of the Revised Penal Code as amended by R.A. 7659 in relation to P.D. 1866 and is hereby sentenced to suffer the penalty of Reclusion Perpetua with the accessory penalties imposed by law and by reason of R.A. 9436.

- Accused Edilberto Mendoza is likewise ordered to pay the heirs of the victim:

- a) P50,000.00 as civil indemnity for the death of Meynard F. Abu;
- b) P50,000.00 as moral damages;
- c) P25,000.00 as temperate damages;
- d) P25,000.00 as exemplary damages; and
- e) P76,000.00 as unrealized earnings and income based on the testimony of Meynard Abu's mother;

Accused(s) preventive imprisonment shall be credited in the service of his sentence.

The Director of the National Penitentiary Bilibid Prisons is hereby ordered to commit the person of the accused therein and to enforce this decision and thereafter inform the Court on the action taken within three (3) days from receipt hereof.

SO ORDERED.”[3]

The Information[4] charged accused-appellant Edilberto Mendoza (MENDOZA) and Josefino Datinguinoo (Datinguinoo) with the crime of Murder punishable under Article 248 of the Revised Penal Code, as amended by R.A. 7659 in relation to P.D. 1866, as amended by R.A. 8294, the accusatory averments of which read—

“That on or about the 26[th] day of August 2003, at about 9:30 o'clock in the evening, at (sic) Barangay San Roque, Municipality of Bauan, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, accused Edilberto Mendoza alias “Eddie” armed with a short firearm and co-accused Josefino Datinguinoo alias “Tagupak” armed with an unlicensed .12 caliber shotgun, conspiring and confederating together, acting in common accord and mutually helping each other, with intent to kill, with the qualifying circumstances of treachery and evident premeditation, and without any justifiable cause, did then and there willfully, unlawfully and feloniously attack, assault and shoot with the said firearms, suddenly and without warning one Meynard Abu y Falogme, thereby inflicting upon the latter multiple gunshot wounds on his body, which caused his death.

Contrary to law.”

On 15 February 2004 or prior to the filing of the case in court, Datinguinoo was gunned down to death. Thus, the case proceeded only against MENDOZA who, upon arraignment, plead not guilty to the charge.[5] Thereafter, trial on the merits ensued.

The version of the prosecution, moored on the testimonies of its witnesses, is synthesized as follows:

On 26 August 2003, at around 9:30 o'clock in the evening, eyewitnesses Louie Celerico (Celerico) and Benito Dagalaya (Dagalaya) saw the victim Meynard Abu (Meynard) on board a motorcycle being pursued by a white barangay patrol car which eventually overtook the motorcycle and blocked its way. Celerico and Dagalaya heard a gunshot originating from the front portion of the patrol car. In a jiff, they saw MENDOZA stepping out from the right front passenger seat of the vehicle followed by the driver, Datinguinoo. The duo who were armed with short and long firearms, respectively, fired successive shots at Meynard who was still on board the motorcycle. Five empty shells of caliber 9mm bullets and two cartridges of gauge 12 shotgun ammunition were recovered from the scene of the crime.[6] Meynard suffered 17 gunshot wounds in his stomach, buttocks and thighs, two of which were fatal.[7]

Looking askance at the foregoing account of the prosecution witnesses, the defense proffered a divergent theory.

On the date of the fateful incident, MENDOZA chanced upon Meynard on board a motorcycle with a gun tucked on his waist. MENDOZA and his tanods pursued and chased Meynard and was able to overtake and block his path at the boundary of Barangays San Roque and Bolo. Meynard fired several shots and hit MENDOZA while alighting from the patrol vehicle. MENDOZA sustained an injury on his left foot. He drew his 9mm Jericho pistol and fired successively on Meynard who slumped to the ground. Thereafter, MENDOZA sought medical treatment for the wound inflicted upon him by Meynard.[8]

Ploughing through the discordant theories and evidence on record, the court a quo rendered the impugned judgment of conviction.

Nonplussed, MENDOZA (now, appellant) seeks refuge before Us asseverating that the court a quo erred—

I

IN NOT CONSIDERING THE JUSTIFYING CIRCUMSTANCE OF SELF-DEFENSE.

II

IN FINDING THE ATTENDANCE OF TREACHERY ASSU-MING ARGUENDO THAT THE ACCUSED-APPELLANT WAS NOT JUSTIFIED IN KILLING THE VICTIM.

III

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

The Appeal is barren of merit.

Appellant theorizes that he should be acquitted as he merely acted in complete self-defense when he shot Meynard, the victim. Controverting the inculpation, he insists on his innocence and maintains that Meynard initially fired several shots prompting him to retaliate.

Appellant's pretension does not hold sway.

By invoking self-defense, it became incumbent upon appellant to prove by clear and convincing evidence that he indeed had acted in defense of himself. The requisites of self-defense are: (1) unlawful aggression; (2) reasonable necessity of the means employed to repel or prevent it; and (3) lack of sufficient provocation on the part of the person defending himself.[9] Although all three elements must concur, self-defense must rest firstly on proof of unlawful aggression on the part of the victim. If no unlawful aggression attributed to the victim is established, there can be no self-defense, whether complete or incomplete. Unlawful aggression is a condition sine qua non for the justifying circumstance of self-defense to apply. As an element of self-defense, 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.[10]

In the case at bench, appellant failed to establish the existence of unlawful aggression. As explicated by the court a quo, it was appellant and his co-accused who shot Meynard, unarmed and was still on board his motorcycle.

The issue of whether or not the accused acted in self-defense is undoubtedly a question of fact, and it is well entrenched in jurisprudence that findings of fact of the trial court command great weight and respect unless patent inconsistencies are ignored or where the conclusions reached are clearly unsupported by evidence.[11] We scoured the records and found no plausible reason to disturb the aforesaid factual findings of the court a quo.

Moreover, the unequivocal declarations of the prosecution eyewitnesses tellingly demonstrate the absence of unlawful aggression on the part of the victim—

“A

While I was walking, I noticed a motorcycle being chased by a barangay service vehicle.

x x x

x x x

A The barangay patrol vehicle overtook and blocked that motorcycle and so I went on the side of the road and hide (sic).

x x x

x x x

A

I saw the right door of the barangay patrol vehicle opened and a man alighted, after which I heard a shot.

Q

This shot that you heard, from what direction did it come from?

A

I did not see where it came from but it is (sic) in the front of the patrol vehicle.

Q

This person who alighted from the patrol vehicle whom you saw, who was this person?

A

I recognized him as our barangay captain Edilberto Mendoza, ma'am.

x x x

x x x

A

After alighting, I saw him limping (papilay-pilay) as he walk (sic) immediately towards the person riding the motorcycle and fired at him many times.

Q

Were you able to see what caliber or model of firearm that was used?

A

I don't know the caliber but it is a short firearm, ma'am.

Q

Were there other persons or did Captain Mendoza have any other companions at that time?

A

Yes, ma'am, Barangay Captain Mendoza was with Teofilo Datinguinoo who was carrying a shotgun and also alighted from that vehicle and helped barangay captain in shooting that person riding the motor-cycle using a shotgun.

Q

After the shooting incident that you saw, what happened next(,) if any?

A

That person riding the motorcycle fell down from the motorcycle and they continued shooting that man.

Q

And where were you during this time when the shooting was happened?

A

I was hiding behind the coconut tree by the side of the road.

Q

At that precise moment where you were hiding, how far were you from the place of the shooting incident?

A

More or less twenty (20) meters, ma'am.

x x x

x x x

Q

From your position where you were hiding behind the coconut tree, could you tell the Honorable Court if you saw an exchange of gun fire?

A

None, ma'am, because that person riding the motorcycle was already lying face down on the ground and I did not see him having any firearm.

Q

When this accused Edilberto Mendoza first fired at the victim, where was the victim?

A He was still there in his motorcycle, Your Honor.

x x x

x x x

A

He was still riding in the motorcycle but the motorcycle was no longer moving, Your Honor.

Q

What happened to the victim Meynard Abu when he was fired at by Captain Mendoza and Teofilo Datinguinoo?

A

That person riding in the motorcycle fell on the side of the road and then Captain Mendoza continued shooting, he even got the shotgun of Datinguinoo and fired another shot and then he declared that that person is dead already.

Q

Did you hear what Edilberto Mendoza said after shooting the victim with the firearm he got from Datinguinoo?

A I heard he said "patay na", Your Honor.

x x x

x x x "[12]

A

While I was walking, a man riding in a motorcycle was followed by a barangay patrol and the barangay patrol overtake (sic) the motorcycle and blocked the way of the motorcycle.

x x x

x x x

A

Then I saw the right door of the patrol car was opened and the person sittted (sic) on the right front seat steeped down and then I heard a shot coming from the inside of the barangay patrol, ma'am.

x x x

x x x

Q

After you saw that person alighted (sic) from the vehicle and hearing (sic) a gun shot coming from the inside of the vehicle, what happened next?

A

I saw Edilberto Mendoza shot (sic) Meynard Abu with the driver of the patrol nickname "Tagupak" helping him, ma'am.

x x x

x x x

A

And this Edilberto Mendoza was limping as he alighted from the patrol car, ma'am.

x x x

x x x

A

I noticed his left leg was blooded, ma'am.

Q

And you also said earlier that you saw (b)rgy. Captain Edilberto Mendoza shot (sic) the victim Meynard Abu, who was this Meynard Abu?

x x x

x x x

Q

Was this Meynard Abu, the one in the motorcycle that you noticed earlier?

A

Yes, ma'am.

Q

Were you able to see the weapon or the instrument used in shooting Meynard Abu by Brgy. Captain Mendoza?

A

A short firearm while Tagupak used a shot gun in shooting Meynard Abyu, ma'am.

x x x

x x x

Q

How many gunshots did you hear or did you see?

A Many shots, I did not count, ma'am.

Q Was there an exchange of gunfire?

A None, ma'am.

x x x

x x x

Q

You said earlier that even before Captain Mendoza alighted from the barangay patrol, you already heard one gun shot, is that correct?

A

Yes, ma'am.

Q

And that first gun shot came from the inside of the vehicle from the front part thereof?

x x x

x x x

A

From the front part of the vehicle of the barangay patrol, ma'am.”[13]

Indeed, the primordial requisite of unlawful aggression is wanting. This being so, We find no necessity to determine whether the other two remaining elements of self-defense are present given that there is no finding of unlawful aggression. The circumstances of “reasonable necessity of the means employed” and lack of “sufficient provocation” on the part of one invoking legitimate self-defense both presuppose unlawful aggression,[14] which, as earlier adumbrated above, is lacking in the case at bench. Ergo, appellant's plea for self-defense nebulously falls through.

Along this grain, appellant's assertion that the prosecution failed to establish the presence of treachery deserves short shrift.

For treachery to be appreciated, two elements must be present: (1) at the time of the attack, the victim was not in a position to defend himself; and (2) the accused consciously and deliberately adopted the particular means, methods, or forms of attack employed by him. The essence of treachery is that the attack is deliberate and without warning, done in a swift and unexpected way, affording the hapless, unarmed and unsuspecting victim no chance to resist or escape.[15]

Here, extant evidence reflects that the victim, Meynard, was still on board his motorcycle when appellant and his co-accused instantaneously fired successive shots at him without any warning. The incident took place in a matter of seconds. Thence, the victim was caught off guard by the sudden and unexpected attack that there was no way he could have defended himself. In actual fact, the victim immediately fell on the ground due to the gunshot wounds inflicted upon him.

Therewithal, the records are devoid of any smidgen of evidence that would show ill motive on the part of the prosecution eyewitnesses in their testimonies against the appellant, especially on such serious charge of murder. In the absence of any evidence to show that the witness was actuated by any improper motive, the identification of the accused as the assailant should be given full faith and credit.[16]

One final reflection. Appellant repugned the credibility of the prosecution eyewitnesses.

Well-ensconced is the rule that questions concerning the credibility of a witness are best addressed to the sound discretion of the trial court, since it is the latter which is in the best position to observe the demeanor and bodily movements of a witness. This becomes all the more compelling when the appellate court affirms the findings of the trial court. Thus, we generally defer to the trial court's assessment, unless there is a clear showing that such findings are tainted with arbitrariness, capriciousness or palpable error.[17] The trial judge had the benefit of observing the witnesses first hand, their emotions or lack of it, their spontaneity or reluctance, their bodily reactions to interrogations, or the slight changes in the expressions on their faces. These send strong signs of falsehood or truth in testimonies. For this reason, the factual findings and conclusions of the trial court from such testimonies are usually entitled to much weight.[18]

Appellant takes issue with the alleged failure of the witnesses to: (a) see who fired the gun inside the patrol vehicle; (b) recall the date when Celerico executed his sworn statement; and (c) determine whether the first shot came from the patrol mobile. Suffice it to say, these are trivial matters and insufficient to whittle down the credibility of the prosecution witnesses.

We find and so rule that the prosecution witnesses steadfastly chronicled the principal occurrence and forth-rightly identified appellant as the culprit of the gruesome killing of the victim. Testimonial discrepancies

could be caused by the natural fickleness of memory which tends to strengthen rather than weaken credibility as they erase any suspicion of rehearsed testimony.[19] Trivial inconsistencies do not rock the pedestal upon which the credibility of the witnesses rests but enhances credibility as they manifest spontaneity and lack of scheming. Doctrinal precedent even warns against a perfect dovetailing of narration by different witnesses as it could mean that their testimonies were prefabricated and rehearsed.[20]

In addition to the damages awarded by the court a quo, We deem it judicious to impose on all the amounts of damages, an interest of six percent (6%) from this date until fully paid, in line with the current jurisprudential principle enunciated by the Supreme Court.[21]

With the foregoing discourse, We entertain no doubt on the culpability of appellant for the crime charged. Perforce, the judgment of conviction must be upheld.

WHEREFORE, the Appeal is hereby DENIED. The Decision of the Regional Trial Court, Fourth Judicial Region, Pallocan West, Batangas City, Branch 4, in Criminal Case No. 13494, is AFFIRMED with MODIFICATION in that accused-appellant Edilberto Mendoza is further ordered to pay an interest at the rate of six percent (6%) per annum from the finality of judgment until fully paid.

SO ORDERED.

C E R T I F I C A T I O N

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Ybañez and Sadang, JJ., concur.

[1] People v. Beltran, Jr., 503 SCRA 715, 721 (27 September 2006).

[2] Book II, Original Records, pp. 455-465.

[3] Book II, Original Records, pp. 464-465.

[4] Book I, Id., p. 1.

[5] Book I, Original Records, p 171.

[6] Exhibits “V”-“V-5” and “W”-“W-2”, Folder of Exhibits for the Prosecution.

[7] TSN, 1 February 2007; 22 June 2005, pp. 7-12; 22 February 2004, pp. 7-11.

[8] TSN, 24 May 2012, pp. 13-14, 17-19, 28-29.

[9] See People v. Mortera, 619 SCRA 448, 461 (23 April 2010).

[10] Mahawan v. People, 574 SCRA 737, 746 (18 December 2008).

[11] People v. Mortera, 619 SCRA 448, 461-462 (23 April 2010).

[12] TSN, 22 February 2006, pp. 7-14.

[13] TSN, 22 June 2005, pp. 6-13.

[14] People v. Basadre, 352 SCRA 573, 584 (22 February 2001).

[15] See People v. Lagman, 669 SCRA 512, 524 (16 April 2012).

[16] See People v. Cabrera, Jr., 402 SCRA 299, 310 (30 April 2003).

[17] See People v. Lucero, 636 SCRA 533, 540 (6 December 2010); See also People v. Orias, 622 SCRA 417, 426-427 (29 June 2010).

[18] People v. Talita, 602 SCRA 687, 695 (2 October 2009).

[19] See People v. Castro, 567 SCRA 586, 596 (6 October 2008).

[20] See People v. Camat, 677 SCRA 640, 658 (30 July 2012).

[21] See People v. Gabrino, 645 SCRA 187, 204, (9 March 2011); People v. Hatsero, 700 SCRA 597, 607 (3 July 2013).

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