

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
SENANDO PANGANIBAN, SAMSON PANGANIBAN, ELEUTERIO
PANGANIBAN AND ROBERTO FLORES, DEFENDANTS-APPELLANTS.**

G.R. No. L-22476. February 27, 1968

Ponente: FERNANDO, J.

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FERNANDO, J.:

Appeal from a Judgment of conviction for the murder of Almaquio Martinez, appellants Senando Panganiban and Samson Panganiban having been found guilty as principals, the former sentenced to suffer the penalty of reclusion perpetua, and the latter to suffer an indeterminate sentence of from, ten (10) years and one (1) day of prision mayor as minimum, to eighteen (18) years, two (2) months and twenty-one (21) days of reclusion temporal as maximum, and appellants Eleuterio Panganiban and Roberto Flores as accomplices on whom were imposed respectively the indeterminate penalty of from six (6) years and one (1) day of prision mayor as minimum to twelve (12) years and one (1) day of reclusion temporal as maximum and the indeterminate penalty of from one (1) year, seven (7) months and eleven (11) days of prision correccional as minimum, to six (6) years and one (1) day of prision mayor as maximum for appellant Flores, he being entitled to the privileged mitigating circumstance of minority being only sixteen years of age at the time of the commission of the offense, with each and everyone of the above appellants being likewise sentenced to indemnify jointly and severally the heirs of the deceased in the sum of P6,000.00 and with each one being liable for one fourth of the costs.

There is no dispute as to the death of Almaquio Martinez being due to acute hemorrhage arising from the multiple wounds sustained by the injuries consisting of a total of nineteen wounds, seven located on the head, ten on the right upper extremity, one on the lower extremity, and one on the back with fractures on the skull, right arm and legs, as well as contusions and abrasions on the left upper arm and the back.[1]

It is indisputable likewise that what subsequently became a guilty tragedy had its origin in a carabao owned by the deceased, Almaquio Martinez, having been gored by 2 carabao, belonging to one Rufino Prado, which was then being tended by appellant Samson Panganiban, with consequent damage to a portion of the palay crop of former. The incident took place on November 15, 1959 in Barrio San Pedro, San Jose, Occidental Mindoro. The matter was sought to be settled by Emilio Lida, barrio lieutenant of San Pedro, who, on November 17, 1959, drafted a document entitled Kasunduan,[2] pursuant to which Samson Panganiban promised to lend his carabao to Martinez while the injury lasted and also to pay him one (1) cavan of palay after harvest to compensate him for the loss of a portion of his crop.

It likewise appeared that it was not until November 24th that Almaquio Martinez could get hold of the carabao owned by Samson Panganiban. He tried to return it that afternoon of the same day, but there was no one in the house of Panganiban to receive it. He brought it instead to the barrio lieutenant, Lida, and left it under his care for the night, promising to return in the morning expecting Samson Panganiban and his uncle, Eleuterio Panganiban, one of the appellants, to meet him there. There was a misinterpretation of such failure of the deceased to return

carabao on November 24th, Eleuterio Panganiban thinking that in violation of the agreement, Martinez deliberately hid the carabao.

The finding of the lower court as to the particulars pre-ceding the fatal encounter could be briefly summarized thus: At past noon, the next day, November 25th at the yard of the barrio lieutenant, Lida, Eleuterio who was unarmed, Senando Panganiban, another appellant, and Samson, each of whom was armed with a bolo, and Roberto Flores, the last of the accused appellants, who was holding a scythe and a piece of wood, were gathered. At that time, the wife and daughter respectively of the barrio lieutenant, Emilia Ganao and Milagros Lida, were in the house, having returned from harvesting palay, the wife then finishing her lunch while the daughter, who had just finished eating, was sitting at the balcony reading comics. Appellants at the time were sitting on a pile of wood in the yard, about 17 meters away from the balcony. The deceased, Almaquio Martinez, soon made his appearance. He inquired from Emilia Ganao, who was then by the kitchen window, whether the barrio lieutenant was there. Upon receiving a negative answer, he went to the place where the four appellants were seated.

The version of the killing as accepted by the lower court could be summed up thus: The four appellants stood up. Eleuterio Panganiban talked to Martinez, while his three co-appellants surrounded the latter in a semi-circle. They con-versed briefly. Then Martinez was heard be Milagros Lida saying in Visayan: "Gindala ko diri para maayos sang mahusay", which means "I brought it here so that the matter may be settled amicably". Without further ado, Eleuterio Panganiban suddenly hit Martinez on the face and knocked him down. Then, Roberto Flores, kicked him on the legs as a result of which Martinez "was placed in a lying position face upwards." From behind, Samson Panganiban hacked him on the nape with a bolo while almost simultaneously, Senando Panganiban struck him with his bolo on his right knee. Roberto Flores followed suit by clubbing the victim several times with a piece of wood. Samson and Senando continued the assault with their sharp boloes as he lay helpless on the ground. During the gory incident, Eleuterio Panganiban was heard shouting in Visayan "Sigue, Samson, patia ninyo! Patia ninyo." [3]

There was testimony to the effect that Milagros Lida, filled with a deep sense of pity at seeing Samson Panganiban still continuing with his bolo thrusts on the defenseless victim, shouted from the balcony "Samson, tama na, kaawa-awa naman si Manong Making." [4] Samson did pause for a while and glanced at the frightened Milagros, advancing towards her with upraised bolo. She promptly ran inside the house and bolted the door after her. She was met at the door by her mother, who likewise saw what happened, from her vantage point at their kitchen window. Samson Panganiban was by no means through; he did use his bolo again on the prostrate body of Martinez. Only then, in the company of the other three appellants, did he leave the premises.

In their brief as appellants, the antecedents leading to the death of Almaquio Martinez were set forth thus: "At about 7:00 a.m. of November 25, 1949, Eleuterio went to the house of the barrio lieutenant, Emilio Lida, to find out why Martinez brought their carabao to the said barrio lieutenant. Then Samson also arrived. At that time, Emilia Ganao and Milagros Lida left their house to harvest palay. The barrio lieutenant also left to look for Martinez, while Eleuterio, Samson and Aladino Badi, who was called by the barrio lieutenant to entertain the two, seated themselves in the balcony of the house of Lida, conversing. Emilia Lida arrived at about 9:00 a.m., saying that he could not find Martinez After which, he left again to look for the latter. The three remained in the place talking up to 12:30 p.m. When Lida did not return, they went home. Eleuterio and Samson went to the house of Samson in sitio Cambaroang which was about one-half kilometer from Lida's house. They ate, after which, Eleuterio took a rest, while Samson went to his field to clean the same. Eleuterio then returned to the house of Lida alone. When he arrived in said house, nobody was in the premises, so he sat on a sledge in the yard. After clearing his field, Samson, with a relative, accused Roberto Flores, proceeded to the house of Lida, and on the way, they met Senando Panganiban who was also going to the barrio lieutenant to look for his missing carabao.

When these three arrived, there was nobody yet in the house as Emilia Gagnao and Milagros Lida were harvesting palay in Cambaroang from 10:00 a.m. up to 3:00 p. m., together with Corita Sualog, who took her lunch with the said mother and daughter. When Emilio Lida failed to arrive in his house, Eleuterio instructed Flores to look for him, and he left. After some moments, Martinez came. Eleuterio was then seated on a sledge and Senando was behind him, while Samson was near a well drinking."[5]

As to how the killing took place, appellants would impress upon this Court that it happened thus: "Upon Martinez' arrival, asked Eleuterio why they were there and in reply, Eleuterio asked him why he brought the carabao to the barrio lieutenant. Martinez answered that he brought it there as they did not comply with the agreement. And then in a loud and angry voice, he added, 'You sons of prostitute, you are all good in amicable settlement, I'm going to kill you and I am going to stay in Muntinlupa for that. Eleuterio insisted that they settle the matter amicably. While they were conversing, Samson approached them and asked: 'Is it true that you promised to return the carabao after you are through making the furrow?' Martinez then answered: 'You are like that, sons of prostitute. Immediately after uttering these words, Martinez boxed Samson, but the latter was able to evade it. Martinez then took hold of the handle of his bolo as if he was going to draw the same. To defend himself, Samson hacked Martinez with the bolo he was then carrying for fear that the latter would hack him first. As Martinez drew his bolo (he was able to raise the bolo up to the level of his breast), Samson did not stop hitting him. He hit him many times. After the first blow of Samson, Senando and Eleuterio ran away for fear. Eleuterio did not deliver fistic blow to the deceased; Senando also did not hack the victim on any part of his body; and Roberto Flores was not at the scene of the crime when the incident happened. During the incident Eleuterio and Senando have no weapons. When Eleuterio was already far, he shouted at Samson to stop hacking the victim as the latter was already dead. After the incident Samson, ran towards the poblacion and on the way he overtook Eleuterio and Senando. Samson accompanied by Eleuterio, went to the municipal building and surrendered himself to the Chief of Police."[6]

The lower court, after evaluating the evidence gave "full weight and credit to the testimony of the State witnesses, which is probable, clear and unbiased."[7] The decision continues: "There is nothing in the records which shows that the witness for the prosecution - the barrio lieutenant, his wife and his daughter could have been motivated by no other desire than to tell the truth. In fact the barrio lieutenant is an elected public official and is presumed to have performed his functions regularly and well. The two witness to the commission of the crime, Milagros Lida, daughter of the barrio lieutenant, and her mother, Emilia Gagnao, were undeniably at a vantage place in witnessing the deadly assault by four accused on the deceased Almaquio Martinez, as the daughter was in the veranda of their house overlooking the yard where the crime took place, while the mother was at the window of the kitchen and there, was able to see very well the incident happening below the house."[8] Why their testimony should be believed was stressed by the lower court thus: "The testimony of mother and daughter jibe with each other in all important details. The deadliness of the attack of the said four accused find corroboration in the great number of mortal wounds suffered by the deceased Almaquio Martinez which were caused by sharp bladed instrument. On the head, he suffered seven (7) wounds; on the right and left upper extremities he suffered ten (10) wounds; and on the right lower extremity one wound. There were contusions and fractures which confirm the attack with blunt instruments. As the daughter the gruesome events, the court cannot help but be impressed with her sincerity. She was at the time so overwhelmed by the recalling of the events that she sobbed on the witness stand."[9]

The conclusion thus reached by the lower court must be upheld. It has, as was noted in *People v. Gumahin*, [10] "in its favor the well-settled principle that as far as credibility is concerned, the findings of the lower court which had the opportunity to see, hear and observe the witnesses testify and to weigh their testimonies be accorded the highest degree of respect by this Tribunal." It is the rule then for this Court to desist from "disturbing the

conclusion of the trial court concerning the credibility of the witnesses, * * *." [11]

In seeking a reversal, of the judgment of conviction, appellants invoked the plea of self-defense in their two assigned errors although the very wording of the first error assigned is quite indicative of their own lack of complete belief in the plausibility of their plea as it is phrased in the conditional, "the deceased could be the aggressor as he had a grudge against, the appellants", and the second merely would dispute the failure of the lower court to give credence to their testimony that they acted in self-defense. In view of the number of wounds of the deceased, nineteen (19) in number, the plea of self-defense cannot be seriously entertained. So it has been constantly and uninterruptedly' held by this Honorable Tribunal United States vs. Gonzales, [12] to People vs. Constantino, [13] a span of sixty (60) years.

In the Gonzales case, the then Justice Torres considering ten (10) wounds inflicted on the deceased correctly characterizes the allegation of self-defense as "incredible because it is improbable." In People v. Constantino, this Court, thru Justice Bengzon had to reject the plea of self-defense which in his opinion was "belied and negated" by the "nature, number and location of the decedent's wounds". People v. Sornera, [14] speaks to the same effect thus: "The theory of self-defense on the part of Pablo is clearly negated by the numerous (19) wounds inflicted upon Felix. Upon the other hand, such wounds are indicative of aggression and of the participation therein of appellant. In another opinion of this Court in People v. Mendoza, [15] it was persuasively stressed: "Finally, the number of wounds on the body of the deceased, and their location as registered in the autopsy report, expose the inherent weakness of the claim to self-defense. There were in all fifteen wounds, one in the neck, two in the abdomen, seven in the chest and the others in the various parts of the arms". The two alleged errors assigned by appellants therefore do not call for a reversal of, the judgment of conviction.

The lower court was correct in finding that the killing of the deceased Almaquio Martinez constituted murder, qualified by treachery. The appropriate penalty on each of the appellant as set forth in the opening paragraph of this opinion, was meted out, Samson Panganiban being entitled to the mitigating circumstance of voluntary surrender and Roberto Flores having in his favor the privileged mitigating circumstance of minority.

WHEREFORE, the judgment appealed from is affirmed. With costs.

Reyes, J.B.L., (Acting C.J.), Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, Ruiz Castro, and Angeles, JJ., concur.

[1] Exhibits A and C.

[2] Exhibit D.

[3] "Go ahead, Samson, kill him! kill him."

[4] In rough translation: "That's enough, Samson. Have pity on Manong Making (referring to the deceased.)"

[5] Brief for the Appellants, pp. 4 and 5.

[6] Idem, pp. 5-6.

[7] Decision, Appendix to Appellants' Brief, p. 33.

[8] Idem, pp. 33-34.

[9] Idem, at pp. 34-35.

[10] L-22357, October 31, 1967.

[11] *People v. Orzame*, L-17773, May 19, 1966, citing *People v. Lumayag*, L-19142, March 31, 1965 and *People v. Dayday*, L-20806, August 14, 1965. See also *People v. Tilaon*, L-14206, June 30, 1961 and *People v. Secapuri*, L-17518, February 28, 1956.

[12] 8 Phil. 443 (1907).

[13] L-23558, August 10, 1967.

[14] 83 Phil. 548 (1949).

[15] L-16392, January 30, 1965.

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