

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.  
LEONARDO MANLAPAZ, ILUMINADO PADRE AND MARCELINO  
CAMPO, DEFENDANTS AND APPELLANTS.***G.R. NO. L-27259. February 27, 1974*

Ponente: FERNANDO, J.

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In this appeal from a lower court decision sentencing the accused<sup>[1]</sup> to reclusion perpetua, arising from a prosecution for murder, the antecedent circumstances that led to the killing of the hapless victim Diogenes Esquilona are by no means unique, considering the state of Philippine society in the rural areas. A group gathered together in what should be a convivial atmosphere, imbibing tuba, can end up in dissension, with a harsh exchange of words, the boundaries of rhetoric being crossed and exploding into physical violence — and even death. So it did happen here. There is justification for the view then that the cup which presumably cheers likewise encourages the bellicose and aggressive instincts in man. The deceased in this case, his ire aroused by the failure of the appellant Leonardo Manlapaz, one of those in such a group, to bring a fried chicken for pulutan, gave him a fist blow. Not content, he did the same to appellant's wife. On his way home, he was accosted from behind by Manlapaz and dealt a bolo wound. The deceased tried to fight back but to no avail, receiving in the process five wounds, all fatal in character. Nor did Manlapaz dispute that he was responsible for such a gory occurrence, but he would plead self-defense and would exculpate his two co-accused who were at the scene of the crime. As will be discussed later, such a plea cannot be accepted; however, the crime committed was homicide, not murder. As for the criminal liability of the other two accused, Iluminado Padre and Marcelino Campo, their guilt not having been clearly shown, the verdict should be one of acquittal.

These are the relevant facts as testified to by the wife of the deceased, Amelia Albao. She accompanied her husband, Diogenes Esquilona, the unfortunate victim, on July 8, 1965 to the house of Iluminado Padre located in barrio Cagara, Baleno, Masbate. Soon after, she left for the poblacion to sell copra. It was not until 3:00 in the afternoon that she came back. She noticed that her husband, who at his arrival was invited by Padre to drink tuba, was still at it. Leonardo Manlapaz, Marcelino Campo and Antonio Maglente were with them. She pleaded with her husband that they go home. That they did after seeking permission from Padre. They proceeded on their way to the house of her mother in the same barrio. She noticed the accused Leonardo Manlapaz following them. After they had covered some distance, he suddenly stabbed her husband with a bolo, hitting him at the back and causing him to fall on the ground face upward. She shouted for help, and Antonio Maglente responded. He struck Leonardo Manlapaz with a piece of wood on the head, without causing him to fall. Instead, Manlapaz was able to stab the former in the back. Iluminado Padre and Marcelino Campo, the father-in-law of Leonardo Manlapaz, approached Diogenes Esquilona, then still in a prone position. Each also had a bolo. Campo hit him on the left forearm while Padre, on the right arm below the shoulder.<sup>[2]</sup> The accused Manlapaz, as if not through with the victim, returned to the place where he was lying down. He struck at him again, notwithstanding his arms raised as a sign of surrender and submission, cutting his right hand and severing it at the wrist. Seeing him in this pitiful

situation, Amelia Albao ran to the house of the barrio captain to ask for help, but it was too late to do anything for her husband.[3]

It was on the basis of such evidence for the prosecution that the judgment of conviction was passed. Its reversal is sought on the ground that while appellant Manlapaz admittedly stabbed the deceased, he acted in self-defense, and that appellants Padre and Campo, outside of their presence on such occasion, played no part in this tragic affair. As noted at the outset, the theory of self-defense does not merit acceptance, but the offense committed was that of homicide and not murder, the qualifying circumstance of treachery not having been proven. Also, as made mention of the plea of exculpation on the part of the other two appellants must be given credence, the proof of their alleged participation not sufficing to rebut the constitutional presumption of innocence.[4]

1. The plea of self-defense is proper if the circumstances attending the commission of the offense are such that all three requisites are present. They are: unlawful aggression; reasonable necessity of the means employed to prevent or repel it; and lack of sufficient provocation on the part of the person defending himself.[5] It is now, as it has been these past seven decades, the established doctrine that the burden of proof to show the presence of such requisites is on the accused.[6] It can be met only by evidence sufficient, satisfactory and convincing in character.[7] In the language of Justice Pablo: "La defensa propia es una alegacion afirmativa que debe ser probada de una manera acabada; en caso contrario, la condena del acusado es forzosa porque admite ser autor de la privacion de la vida del occiso." [8] Tested by the above legal standard, the claim of appellant Manlapaz that he acted in self-defense must be disregarded. For one thing, the number and nature of the wounds found in the body of the deceased belie such an assertion.[9] It does not detract from the force of the observation if mention be made of the widow alleging that the other two appellants likewise had a hand in such stabbing. For appellant Manlapaz himself, in his testimony, admitted that it was he who, noticing that the deceased "was about to stab [him] \* \* \* stabbed him first and his hand was severed and fell to the ground together with his bolo so that I continued stabbing him until he fell to the ground." [10] From his own version then, he and he alone, was responsible for the various wounds, fatal in character, inflicted on the victim. Nor could his mere assertion indicate that there was any real peril to his life, as required by law, in order to have in one's favor these justifying circumstances.[11] The version of the widow, which would indicate that at no time was his life endangered, certainly appears to be more in accordance with what did transpire.[12] What is lacking, therefore, is that solidity of evidence, marked by clarity and persuasiveness, in order to free him from any penal responsibility. It cannot be said, however, that treachery characterized the offense. While the widow of the deceased would impute to appellant Manlapaz a sudden unprovoked attack, the testimony of the defense would indicate that the deceased himself was, in a way, to blame for this tragedy, as he dealt a fist blow not only on appellant Manlapaz, but also on his wife, for failure to bring the chicken to serve as pulutan in the drinking party. Such a version has the ring of truth and inspires credence. It would be a highly irrational act for appellant, without any apparent cause just to stab the deceased repeatedly as if goaded by irrepressible ire. Under the circumstances, however, the victim must have known that he had provoked appellant Manlapaz by hitting not only him, but also his wife, and should have been sufficiently forewarned that reprisal might be in the offing. The element of a sudden unprovoked attack indicative of treachery is therefore lacking.

2. Now as to why conviction must be reversed insofar as appellants Padre and Campo are concerned. The documentary evidence offered by the defense was a declaration of the victim to the effect that only appellant Leonardo Manlapaz was his assailant. It reads thus: "I, [Diogenes Esquilona], hereby declare that, on the 8th day of July, 1965, at around 4:00 o'clock in the afternoon, I, Diogenes Esquilona, Nardo Manlapaz, and Antonio Maglente were together in going to the house of Iluminado Padre for the purpose of drinking tuba. Upon arriving at the house of Iluminado Padre, Antonio Maglente struck (binalbag) Nardo Manlapaz and I was stabbed by Nardo Manlapaz. I fell to the ground and he continued stabbing me. [In truth], this is my declaration, Diogenes

Esquilona. This is the thumbmark of the left hand of Diogenes Esquilona." [13] Thus, there was a declaration of the victim immediately after the occurrence and right on the spot where it took place. Moreover, it was brought about at the instance of the barrio captain, Ricardo Albao, an uncle of the deceased, in the presence of one Fidel Aparejado, a rural policeman from the same barrio and brother-in-law of the deceased, both of whom affixed their signatures as witnesses. It was therefore difficult to explain, much less justify, why the lower court did not accord any weight to such proof. Considering the seriousness of the wounds, it was highly improbable for the victim to have trifled with the truth. Moreover, the parties before whom he made his statement included an uncle and a brother-in-law. He could not have acted then under the fear that he was in the midst of a hostile group vent on eliciting from him only such testimony as would exculpate appellants Padre and Campo. Then there is the testimony from one Antonio Maglente, originally mentioned as a witness for the prosecution, himself an eye-witness to the stabbing, but for some reason or another, not called upon to testify for the State. When the defense asked him to take his stand, and he did so, he contradicted the version of the widow and categorically declared that neither appellant Padre nor appellant Campo had anything to do with the infliction of the bolo wounds on the deceased. What was said by him was further entitled to credence, for he could have joined forces with the prosecution, as he was himself a victim of a stab on the back by appellant Manlapaz. When it is further considered that a young girl of eleven, Merlita Padre, who was likewise in a position of having seen what did transpire, did corroborate the testimony of Maglente as a witness, her testimony standing firm under a rigid cross-examination, the conviction of both appellants Padre and Campo becomes less defensible. An excerpt from *People vs. Cidro* [14] comes to mind: "Much stress is laid on the alleged incompetence of witness Adela Camasis who was only 11 years old, the defense claiming that she cannot be expected to narrate what she had seen because of her tender age. This contention is untenable. The rule is well-settled that unless a child's testimony is punctured with serious inconsistencies as to lead one to believe that he was coached, if he can perceive and make known his perception, he is considered a competent witness. Such a situation does not here obtain, for, as the trial court has observed, Adela showed that she was able to relate well her impression of what she had seen despite the rigid cross-examination she was subjected to by the defense. The trial court, therefore, did not err in giving credence to her testimony." [15] There is thus more than ample justification for the strong and insistent plea on the part of counsel for appellants Padre and Campo to seek a reversal of their conviction. Certainly, their guilt had not been shown beyond reasonable doubt.

WHEREFORE, the lower court decision of November 19, 1966 is modified in the sense that appellant Leonardo Manlapaz is convicted of homicide, and there being no mitigating nor aggravating circumstances, sentenced to the indeterminate penalty of eight years and one day as minimum and fourteen years, two months and one day as maximum. He is further required to pay an indemnity of P12,000.00 to the heirs of the victim, Diogenes Esquilona. The aforesaid decision of the lower court is reversed insofar as appellants Iluminado Padre and Marcelino Campo are concerned, both of them being entitled to an acquittal their guilt not having been shown beyond reasonable doubt. Appellant Leonardo Manlapaz to pay one-third of the costs.

Zaldivar, (Chairman), Antonio, Fernandez, and Aquino, JJ., concur.

Barredo, J., took no part.

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[1] Appellants are Leonardo Manlapaz, Iluminado Padre and Marcelino Campo.

[2] T.s.n., January 24, 1966, 2-6.

[3] Ibid, 7.

[4] According to Art. III, Section 1, par. 17 of the 1935 Constitution: "In all criminal prosecutions the accused

shall be presumed to be innocent until the contrary is proved, . . ." Such a provision is now found in Art. IV, Section 19 of the present Constitution.

[5] Art XI, Revised Penal Code.

[6] Cf. *United States vs. Mack*, 8 Phil. 701 (1907); *United States vs. Ah Chong*, 15 Phil. 488 (1910); *United States vs. Santos*, 17 Phil. 87 (1910); *People vs. Babiera*, 52 Phil. 97 (1928); *People vs. Gutierrez*, 53 Phil. 609 (1929); *People vs. Payumo*, 54 Phil. 181 (1929); *People vs. Apolinario*, 58 Phil. 586 (1933); *People vs. Ramos*, 59 Phil. 7 (1933); *People vs. Gimena*, 59 Phil. 509 (1934); *People vs. Moldes*, 61 Phil. 1 (1934); *People vs. Yuman*, 61 Phil. 786 (1935); *People vs. Espenilla*, 62 Phil. 265 (1935); *People vs. Ansoyon*, 75 Phil. 772 (1946); *People vs. Clemente*, L-23463, Sept. 28, 1967, 21 SCRA 261; *People vs. Diva*, L-22946, April 29, 1968, 23 SCRA 332; *People vs. Talaboc*, L-25004, Oct. 31, 1969, 30 SCRA 87.

[7] Cf. *United States vs. Gonzalez*, 8 Phil. 442 (1907); *United States vs. Brello*, 9 Phil. 424 (1907); *United States vs. Carrero*, 9 Phil. 544 (1908); *United States vs. Bunsalan*, 9 Phil. 571 (1908); *United States vs. Guy-Sayco*, 13 Phil. 292 (1909); *United States vs. Bumanglag*, 14 Phil. 644 (1909); *United States vs. Bardelas*, 16 Phil. 46 (1910); *United States vs. Molina*, 19 Phil. 227 (1911); *United States vs. Paz*, 20 Phil. 128 (1911); *United States vs. Federizo*, 20 Phil. 151 (1911); *United States vs. Potestas*, 23 Phil. 466 (1912); *United States vs. Mallari*, 29 Phil. 14 (1914); *United States vs. Banzuela*, 31 Phil. 564 (1915); *United States vs. Guendia*, 37 Phil. 337 (1917); *United States vs. Batungbacal*, 37 Phil. 382 (1918); *United States vs. Rivera*, 41 Phil. 472 (1921); *People vs. Nanquil*, 43 Phil. 232 (1922); *People vs. Roxas*, 58 Phil. 733 (1933); *People vs. Ignacio*, 58 Phil. 858 (1933); *People vs. Berio*, 59 Phil. 533 (1934); *People vs. Diaz*, 59 Phil. 768 (1934); *People vs. Reyes*, 60 Phil. 858 (1934); *People vs. Gabay*, 61 Phil. 203 (1935); *People vs. Yap*, 61 Phil. 390 (1935); *People vs. De la Cruz*, 61 Phil. 422 (1935); *People vs. Kerba*, 61 Phil. 476 (1935); *People vs. Borbano*, 76 Phil. 702 (1946); *People vs. Miranda*, 90 Phil. 91 (1951); *People vs. Merenio*, 90 Phil. 735 (1952); *People vs. Visagar*, 93 Phil. 319 (1953); *People vs. Elumba*, 106 Phil. 581 (1959); *People vs. Aragon*, 107 Phil. 707 (1960); *People vs. Davis*, L-13337, Feb. 16, 1961, 1 SCRA 473; *People vs. Solana*, L-13967, Sept. 29, 1962, 6 SCRA 60; *People vs. Mendoza*, L-16392, Jan. 30, 1965, 13 SCRA 11; *People vs. Libed*, L-20431, June 23, 1965, 14 SCRA 410; *People vs. Ordiales*, L-30956, Nov. 23, 1971, 42 SCRA 238; *People vs. Flores*, L-24526, Feb. 29, 1972, 43 SCRA 342; *People vs. Tingson*, L-31228, Oct. 24, 1972, 47 SCRA 243; *People vs. Llamera*, L-21604, May 25, 1973, 51 SCRA 48.

[8] *People vs. Miranda*, 90 Phil. 91, 96 (1951). Citing *People vs. Ramos*, 77 Phil. 4 (1946); *People vs. Bauden*, 77 Phil. 105 (1946); *People vs. Paras*, 80 Phil. 149 (1948); *People vs. Tandag*, 83 Phil. 683 (1949); *People vs. Llenarizas*, 85 Phil. 809 (1950); *People vs. Tenorio*, 86 Phil. 427 (1950).

[9] Cf. *People vs. Visagar*, 93 Phil. 319 (1953).

[10] T.s.n., Session of October 17, 1966, 117.

[11] Cf. *People vs. Yuman*, 61 Phil. 786 (1935).

[12] Cf. *People vs. Aragon*, 107 Phil. 706 (1960).

[13] Exhibit "1-1".

[14] 105 Phil. 238 (1959).

[15] *Ibid*, 242-243. Citing *United States vs. Ambrosio*, 17 Phil. 295 (1910); *United States vs. Tan Teng*, 23 Phil. 145 (1912); *United States vs. Buncad*, 25 Phil. 530 (1913); *People vs. Sasota*, 51 Phil. 281 (1928); *People vs. Tumayao*, 56 Phil. 587 (1932).

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