

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LUPO RIDUCA, DEFENDANT-APPELLANT.

G.R. No. L-26729. January 21, 1974

Ponente: BARREDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/97dfdaa4c3cd/>

BARREDO, J.:

Appeal from the decision of the Court of First Instance of Ilocos Sur, in its Criminal Case No. 2971, finding the accused-appellant Lupo Riduca guilty beyond reasonable doubt of the crime of murder charged in the information and sentencing him to suffer Reclusion Perpetua, together with all the accessory penalties provided by law, to indemnify the heirs of the deceased Carlos Rillamas in the amount of P6,000 and to pay one-half of the costs, his co-accused Petronio Rigunay having been acquitted.

At the trial, appellant admitted having fired the two shots that caused the death of the offended party but tried to prove that he did so in self-defense.

As related by the trial court in its decision, the theory of the prosecution as to how the incident in question happened is as follows:

"The prosecution witnesses, namely, Gaspar Advincula, Silvestre Advincula, and Teodulo Rival, were presented as eye-witnesses to the commission of the offense.

"In substance they all declared that on the afternoon of March 25, 1957, together with the victim, Carlos Rillamas, Felipe Baltazar and Florencio Rubianes, they passed barrio Bantaoay, San Vicente, while riding in a calesa. Gaspar Advincula seated in front, was the driver, and seated near him on the front at his left was Teodulo Rival. On the back seat was seated Felipe Baltazar on the eastern part of the calesa, next to him seated also was the victim, Carlos Rillamas; next to the victim was Silvestre Advincula and after him was Florencio Rubianes. Four were on the back seat with all reclining on the back of the seat; except the victim who was stooping a little down, with his body a little away from the back of the seat. In other words, the victim was the only one not reclining on the back of the seat. This was so because not all could take the same reclining position, considering the area of the back seat. While on the road at that barrio, the accused Lupo Riduca stopped the calesa and asked if he could ride in the calesa up to his house. Riduca came from the house of policeman Alejandro Riglos when he stopped the calesa. Upon reaching the calesa, Riduca pointed the gun, Exhibit "C", a Springfield rifle, about a meter long, to the victim, Carlos Rillamas, and fired it after hearing the word "tiraemon" coming from the accused Petronio Rigunay who was about thirty meters away in the tobacco field. This caused the victim to slump inside the calesa, and while in that position, he was again shot by Riduca. All the survivors jumped from the calesa after the last shot was fired by the said accused. Some of them went to the municipal building, while the other passengers went to their respective houses.

"After the lapse of a few hours, Dr. Catalino Lazo with the Chief of Police arrived at the scene and found the dead body of the victim slumped inside the calesa. Later in the evening after the body was brought to the municipal building, Dr. Catalino Lazo performed the autopsy.

"The accused did not deny that he shot and killed the victim, Carlos Rillamas. And neither did he deny that he

was in police uniform, armed with a rifle, Exhibit "C", when he killed the victim. His justification was self-defense." (Pp. 3-4, Decision).

In this appeal, counsel de officio assigns three errors allegedly committed by the trial court thus:

"ASSIGNMENT OF ERRORS

I.

THAT THE LOWER COURT ERRED IN CONSIDERING THAT THE APPELLANT DID NOT ACT IN SELF-DEFENSE;

II.

THAT THE TRIAL COURT ERRED IN FINDING THAT IT WAS INCREDIBLE FOR THE DECEASED CARLOS RILLAMAS TO MAKE A GRAB FOR THE RIFLE IN THE HANDS OF THE APPELLANT; AND

III.

THAT THE TRIAL COURT ERRED IN FINDING THE APPELLANT GUILTY OF MURDER AND NOT ACQUITTING HIM; OR IN THE ALTERNATIVE, OF NOT CONVICTING HIM ONLY TO A PENALTY ONE DEGREE LOWER THAN THE PENALTY FOR HOMICIDE OR PRISION MAYOR, IN THE DEGREE THAT THIS COURT MAY DEEM PROPER."

(p. 165, Record)

We have carefully reviewed the whole evidence on record, and We are sufficiently convinced that counsel's contentions do not have support in any credible and reliable portion thereof. We find prosecution's theory, insofar as appellant is concerned,[1] to be fully supported by the testimonies of the witnesses of the People. On the other hand, it is not difficult to see that appellant has failed to prove his claim of self-defense, which he is supposed to show by clear and convincing evidence, considering he does not deny having caused the death of his victim. (Peo. vs. Berio, 59 Phil. 533; Peo. vs. Gimena, 59 Phil. 509; Peo. vs. Cruz, 53 Phil. 635).

Testifying for the defense, Witness Alejandro Riglos, who at the time of the incident was a policeman, like appellant was, in the town of San Vicente, Ilocos Sur, where it happened, declared:

"Q

When you heard that horse drawn bicycle that was approaching, what did Lupo Riduca and you do?

A

As the calesa was approaching our yard we went out from the gate and as we step out from our gate the calesa reached opposite our house and Lupo Riduca said to the rig driver, 'Tata, may I ride in your calesa?' As the horse was somewhat fast the calesa was not able to stop immediately so that it passed by the house for some meters. So Lupo Reduca had to walk and go to the calesa.

Q

By the way who was the rig driver if you remember?

A

Gaspar Advincola, sir.

Q

On what side of the calesa did Lupo Reduca go?

A

On the right side, sir.

Q

To what direction was the calesa going then?

A

Northward, sir.

Q

Going to the direction of San Sebastian?

A

Yes, sir.

Q

When the calesa stopped and Lupo Reduca reached the right side of the calesa, what happened next?

A

When Lupo Reduca has reached the right side of the calesa and was in the act of placing his feet on the ascending step of the calesa, Carlos Rillamas said, 'So leche, after all you want something from us' and Lupo Reduca replied, 'What a fool are you to say that, '. At that instant Carlos Rillamas grabbed or took hold of the muzzle of the gun or rifle held by the accused Reduca and all of a sudden the gun went off and it fired.

Q

And after the first gun report, what transpired next?

A

The passengers of the calesa jumped down from the calesa, sir.

Q

And while the other passengers were jumping out from the calesa, what was Lupo Reduca and Carlos Rillamas doing?

A

After the first gun report Carlos Rillamas was still holding the muzzle of the gun of Lupo Reduca and Rillamas pulled the gun to his side reclining and again the gun went off.

Q

Where were you when the two firings occurred in relation to the calesa?

A

I was at the back of the calesa somewhere east, sir.

Q

How far?

A

Around 3 meters, sir.

Q

After the second fire of the gun, what did Lupo Reduca do, if any?

A

After the second firing, I went to Lupo Reduca and said, 'What is it that happened, pari,' and 'this is what has happened pari and I am surrendering to you', he said. So I brought Lupo Reduca to our municipal mayor then. " (Pp. 31-34, t.s.n., Feb. 11, 1964)

This version was corroborated by no other witness except appellant who testified thus:

"ATTY. TAGAYUNA:

Q

Before Carlos Rillamas took hold of the barrel of your rifle, what happened, if any?

A

When he took hold of the barrel of my rifle, Carlos Rillamas said: 'After all you want something from us —Liche!

Q

And when Carlos Rillamas uttered those words and at the same time took hold of the barrel of your gun, what did he do, if any?

A

He said: 'You are really a fool—Loco', and then, I removed the safety lock of my gun, and then I fired.

Q

What was Carlos Rillamas doing at the time you were removing the safety lock of your rifle, and when you fired the gun?

A

He grabbed the gun with a strong force and I was afraid if he might grab the gun from me and I will be in danger.

Q

When the gun fired, what was Carlos Rillamas doing?

A

He was still grabbing the gun from me, sir.

Q

And, because Carlos Rillamas was still grabbing the gun from you, what did you do?

A

As he was grabbing the gun, sir, I load my gun again and fired.

Q

After having fired the second time, what happened to Carlos Rillamas?

A

After the second shot, sir, Carlos Rillamas was no longer holding the gun and he was lying frustrate in the calesa, sir.

Q

And what did you do after that?

A

After the incident, sir, I went to surrender myself to Alejandro Riglos." (Pp. 9--11, t.s.n., Feb. 24, 1964)

x x x x x x x x

"COURT:

Q

In all, how many passengers were there in the calesa?

A

If I am not mistaken, sir, they were five (5) or six (6) including the rig driver.

Q

So, the rig was already filled-up with passengers when you stopped it, is it not?

A

There were already passengers, sir, but the rig was not yet fully loaded, sir.

Q

Now, when you stopped the calesa, and when you wanted to board it, you know at that precise moment that Silvestre Advincula and Teodulo Riberal were passengers, and these two persons — Silvestre Advincula and Teodulo Riberal — were the ambushers of Petronio Rigunay?

A

I know them long time ago that they were the ambushers because they were on trial before the Court, sir, and they had been sentenced already.

Q

Where was Carlos Rillamas seated while the calesa was proceeding northward?

A

He was at the center, sir.

Q

So, he was at the center of some passengers, is that what you mean?

A

Yes, sir.

Q

And you were on the right side when you wanted to board the rig, or the calesa, is that correct?

A

Yes, sir.

Q

You were at the right side of the rig?

A

Yes, sir.

Q

So, there was a passenger between you and Carlos Rillamas?

A

What I mean to say, Your Honor, is that Carlos Rillamas was seated between two (2) passengers at the back and the rig driver, sir.

Q

So, Carlos Rillamas was at the back of the calesa seated between two passengers?

A

Carlos Rillamas was seated between the passengers at the back and the rig driver, sir.

Q

And who were beside Carlos Rillamas?

A

There were no persons seated beside him, sir.

Q

How many passengers were at the back of the calesa?

A

There were three (3) passengers at the back, sir.

Q

And in front of them was occupied by Carlos Rillamas alone?

A

Yes, sir.

Q

And the rig driver was at the front seat, just behind the horse?

A

Yes, sir.

Q

Was there any passenger beside the rig driver?

A

There was, sir.

Q

Who?

A

I cannot remember the name, sir.

Q

Now, when you approached the calesa, where was your rifle?

A

My rifle was on my right shoulder, sir.

Q

You mean to say that the rifle has a belt — sling belt?

A

Yes, sir.

Q

And then the rifle was on your shoulder stock to your shoulder?

A

I was on my right shoulder arm. It was not sling, but I was on a right shoulder arm, sir.

Q

So, when you stopped the calesa, you were holding the rifle parallel to the ground, is that what you mean?

COURT INTERPRETER: (Describing the position of the witness)

The witness stood up and indicating with his right forearm parallel to the ground, showing that the rifle was held parallel to the ground.

Q

Where was that rifle pointed, to the north or towards the calesa?

A

When I was walking, the direction of the rifle was southward, sir.

Q

And then when you stopped the calesa, where was the rifle pointed? To what direction? To the direction of the calesa, to the north, or to the south direction?

A

When I attempted to board the calesa, sir, my left hand took hold of the muzzle of the gun and my right arm took hold of the calesa.

Q

Now, how far was the distance between you and Carlos Rillamas when you first boarded the calesa, can you estimate?

A

It was very near already, sir.

Q

The question of the Court is the distance between you and Carlos Rillamas when you were boarding the calesa?

A

It was near, sir.

Q

How far? Can you not calculate?

A

From here up to there, sir.

COURT INTERPRETER:

The witness indicating a distance of a foot.

Q

That was when one of your feet was already on the stirrup of the calesa?

A

Yes, sir.

Q

And at what precise moment, you were holding the rifle with your left hand?

A

Yes, sir.

Q

And the sling of the rifle was around your shoulder?

A

No, sir, I was holding the rifle.

Q

Was there any passenger directly in front of Carlos Rillamas?

A

Yes, sir. The rig driver and one passenger.

Q

And the stirrup of the calesa was located on the side, below the side of the front seat of the calesa where the rig driver was sitting?

A

Yes, sir.

COURT: (To the Fiscal)

All right, proceed, Fiscal.

FISCAL BRILLANTES:

Q

Now, with that position that you had described as you were boarding the calesa, Carlos Rillamas was seated beside the rig driver, isn't it?

A

No, sir. Carlos Rillamas was seated behind the rig driver.

Q

So that the rig driver was very near you already at that very moment that you were boarding the calesa?

A

The one beside the rig driver was the one near to me, sir.

Q

So that the one beside the rig driver, which according to you, you cannot remember his name was already side by side with you at that moment?

A

No, sir, because of the incident that happened.

Q

The question is: Before any firing occurred, that person beside the rig driver was side by side with you at the time you were in the act of boarding the calesa?

A

I cannot remember anymore, sir.

Q

You cannot also remember that one of those passengers was seated in front to the left side of the rig driver, isn't it?

A

I cannot remember anymore, sir, where they were seated but I know those persons who rode the calesa." (Pp. 27-34, t.s.n., Feb. 24, 1964)

COURT:

Just a moment. The Court will ask questions.

Q

When you removed the safety lock of your rifle, what was your intention, or why did you do it?

A

Because I was afraid he might grab the rifle from me, sir.

Q

So, when you removed the safety lock of the rifle, he was not holding yet the rifle, that is, Carlos Rillamas did not yet hold the rifle when you removed its safety lock because you were afraid that he might grab the rifle, is that what you mean?

A

He was in the act of grabbing, sir.

Q

Precisely, Carlos Rillamas was only in the act of Grabbing the rifle?

A

Yes, sir.

Q

Now, after you have removed the safety what period of time intervened between the removal of the safety and the first shot?

A

The gun fired right away after the safety was removed.

Q

And that first shot hit Carlos Rillamas?

A

I cannot confirm if he was shot or not, sir.

Q

Now, you said that there was a second shot, what was the interval of time between the first shot and the second shot?

A

That was a matter of moment, sir, because I loaded the rifle so fast, and he did not free his grip from the rifle.

Q

When the first fire was shot, how far were you from the calesa?

A

I was near the wheel of the calesa, sir, and my body was embracing the wheel of the calesa because Carlos Rillamas was pulling the rifle from me.

Q

How long is that rifle?

A

Like this, sir.

COURT INTERPRETER:

The witness indicated the length of the rifle from his feet to his waist.

WITNESS:

Springfield rifle, sir.

COURT:

Q

Is it your habit when riding in a calesa you point the muzzle of your gun inside the calesa, and not at the back?

A

While I was holding the calesa, my left hand took hold of the muzzle of the gun, and the barrel was pointed upward, sir." (Pp. 46-48, t.s.n., Feb. 24, 1964)

Such evidence, even if conceded to be true, does not make out a case of self-defense. Neither the words nor the acts attributed to the deceased in the foregoing testimonies indicate that there was any imminent and real threat or danger to the life or limb of appellant. The statement, "So leche, after all you want something from us," is far from being perilously offensive. And if, indeed, Rillamas did take hold of the barrel of appellant's rifle or even tried to grab it, We do not believe it was justified for appellant "to remove the safety lock and fire" his weapon.

In their relative positions, appellant had more freedom of action than the deceased who was sandwiched among the three other passengers, Felipe Baltazar, Silvestre Advincula and Florencio Rubianes, within the small area of the calesa in which they were apart from the fact that directly between them, sitting beside the driver, Gaspar Advincula, was the fifth passenger, Teodulo Riveral, whose position would have made it difficult for the deceased to try to snatch appellant's rifle. In other words, between the two of them, appellant had the better chance to win in the struggle for the rifle. In fact, Rillamas might have taken hold of its barrel precisely to ward off danger to himself or he could have meant to help appellant go up the calesa by pulling his rifle upward.

Under these circumstances, it is not legally possible to hold that there was aggression on the part of the deceased, not even any provocation. For self-defense to be appreciated, it must appear very clearly that the accused is so situated that there is reasonable probability of real danger to his life or limb because of the aggressive acts or menacing attitude of the offended party. Here there is insufficient showing of this element. The most liberal view We can take of appellant's case is that he pulled the trigger a little too early or before it was warranted for his protection.

The trial court dubbed as incredible the version of the defense. We need not go that far, for even conceding already that the incident did happen in the way appellant and his witness had related, We cannot perceive the peril which allegedly impelled appellant to fire his weapon with the intent of hitting the deceased.

In the premises, We need not perhaps consider anymore the testimony of the widow of Rillamas, Juanita Reclusado, who declared that twice before that fatal day, appellant had told her to warn her husband not to testify in the injunction case against the Vice-Mayor, the other accused here, Petronio Rigunay, who was acquitted, and other officials of the town, which warning the deceased seemingly did not heed, for he and his companions in the

calesa had just attended the hearing of said injunction case and were on their way home when the incident in question took place. Nor do We need perchance to take into account the political animosities between those who were riding in the calesa and the faction of the Vice-Mayor, with whom appellant seemed to be identified, and thereby probably see the actual motive of appellant.

In brief, We are fully satisfied that the guilt of appellant has been shown beyond reasonable doubt. The trial judge before whom appellant demonstrated how he was holding his rifle as he was allegedly going up the calesa did not believe his theory of self-defense. Understandably, His Honor is in a better position than this Court to appreciate this important point. Withal, the defense has not successfully shown any reason for Us to hold differently from His Honor. And in Our own review of the evidence We have not also found any cause to do so.

The killing is clearly qualified by alevosia, the attack upon Rillamas having been done suddenly and unexpectedly with a deadly weapon, making it impossible for said victim to flee or to make defense (*People vs. Pengzon*, 44 Phil. 224). Therefore, the offense committed is murder. Since the appellant voluntarily surrendered, the aggravating circumstance of his having taken advantage of his position as a policeman is off-set thereby.

We find, however, that the indemnity of P6,000 adjudged by the trial court is not in accordance with existing jurisprudence which ordinarily fixes the same to be P12,000 (*People vs. Pantoja*, 25 SCRA 468).

WHEREFORE, the judgment appealed from is affirmed, with the modification that the indemnity to the heirs of the deceased is increased to P12,000. Costs against appellant.

Zaldivar, (Chairman), Fernando, Fernandez, and Aquino, JJ., concur.
Antonio, J., took no part.

[1] His co-accused was acquitted.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.