

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NONA SALAZAR PADIERNOS, DEFENDANT-APPELLANT.*G.R. No. L-37284. February 27, 1976*

Ponente: CONCEPCION, JR., J.

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Appeal from the decision of the Court of First Instance of Rizal, Branch XXII, in Criminal Case No. 5084, finding the accused Nona Salazar Padiernos guilty of the crime of parricide, and sentencing her to life imprisonment with the corresponding accessory penalties provided by law, and to indemnify the heirs of the deceased in the amount of P20,000.00 and the costs.[1]

The accused, Nona Salazar Padiernos, and the de-ceased, Rodolfo Padiernos, were husband and wife, having been married at Cainta, Rizal, on December 24, 1960.[2] Out of their marriage, they had four (4) children, namely: Ronald, Rommel, Raquel, and Rosemarie. At the time of the incident in question, they were living at 188 Montoya St., San Juan, Rizal.

During his lifetime, the deceased - a tall, big and robust man - was an agent of the Bureau of Customs, and as such was issued a gun, which he used to keep under the mattress of their bed.

On the night of October 22, 1968, the accused waited for the deceased, but the latter came home only at 4:00 o'clock in the morning of October 23, 1968 - drunk. The accused helped him change his clothes, after which he went to bed by himself. At about 6:30 in the morning of the same day, the accused brought her son Ronald to the Lourdes School in Mandaluyong, Rizal, using the family car driven by Roberto Valeriano, the family driver. Upon her return to the house half an hour later she went directly to their bedroom. A few minutes later, she came out of the room and asked Letty Basa, a cousin of the deceased: "Letty, nasaan ang gamit ng Kuya mo?" At that time, the deceased was already awake and was on the bed lying on his stomach, reading a newspaper. Having been informed that the things of the deceased were in their bedroom, the accused returned inside and closed the door.

Shortly, thereafter, the accused and the deceased came out of the room, at which instant the former called for help, shouting: "Vale, Vale". Vale (Roberto Valeriano), the family driver, responded to the call, and when he entered the house, he saw the accused holding with her right hand, a blood-stained knife, and the deceased sprawled in a bloody mess on the floor, groaning and moaning in pain. The accused was very angry and said: "Ganyan na lang ang pagmamahal ko sa iyo, niloloko mo pa ako."

Thereupon, Roberto Valeriano together with the other members of the household, including the accused, carried the deceased inside the car, and proceeded to the hospital (Waterous Clinic) at Mandaluyong, Rizal. On the way, the accused was still mad at the deceased and cursed him, saying: "Putang ina mo, iyan ang nababagay sa iyo, pag namatay ka, magpapakamatay na din ako." When they reached the hospital, the deceased was pronounced "dead on arrival". Roberto Valeriano then suggested to the accused that she surrender to the police authorities of San Juan, Rizal, but she refused. Instead, upon her request, Roberto Valeriano brought the accused to her uncle's

house at San Juan. He left her there, and did not see her anymore. Then he went to Fort Bonifacio, where he fetched Romeo Padiernos, brother of the deceased.

Meanwhile, the authorities of Waterous Clinic notified the San Juan Police Department. Immediately, thereafter, Capt. Enrique Aguinaldo and Pat. Arsenio Santos arrived, and then proceeded to the residence of the deceased at San Juan, Rizal, where they conducted an investigation. After interviewing Letty Basa, Pat. Arsenio Santos entered the bedroom where the stabbing took place - followed by Letty Basa - and searched the place. The room was well arranged, but the bedspread was "spilled with blood". When the police-man lifted the mattress of the bed, Letty saw thereunder the gun of the deceased, and gave it to the officer. The knife used by the accused in stabbing the deceased was likewise taken by Pat. Arsenio Santos. However, they were not able to investigate the accused as she could no longer be located. She had fled and gone into hiding.

In the meantime, Romeo Padiernos, brother of the deceased, who was fetched by Roberto Valeriano at Fort Bonifacio, arrived at the Waterous Clinic. He followed the funeral car carrying the body of his deceased brother to Funeraria Popular in Manila.

Dr. Enrique Jimenez, under the direct supervision of Dr. Ernesto Brion, both of the N.B.I., performed an autopsy on the cadaver of the deceased. The Necropsy Report^[3] shows that the deceased sustained one (1) lacerated wound and three (3) stab wounds, which caused his death.

The accused admitted that she killed the deceased. However, she claims that she did it in self-defense. According to her, after taking Ronald to school, she returned to their house at about 7:15 or 7:30 in the morning and went directly to their bedroom. Inside, she found that the deceased was already awake and was on the bed reading a newspaper. While she and the deceased were in the room, the latter accused her of stealing P1,000.00 from his brief case, which she allegedly gave to her brother Jose Salazar. After a heated argument, the deceased pulled her hair and slapped her on the face. She held the clothes of the deceased, and when the latter pushed her back, they fell on the floor together. The deceased stood up first, and then, kicked her on the stomach, saying: "Putang ina mo, papatayin kita." Then, he got his gun under the mattress and pointed it at her. Believing that the deceased would kill her, she grabbed, with her left hand, the knife under the bed. Then she stood up and with the deceased in front of her, covered her eyes with her right hand, and began swinging the knife from left to right and from right to left, to prevent the deceased from coming near her. After a while, she opened her eyes and seeing that the deceased was about two (2) meters away from her, she opened the door and ran out fast. The deceased followed her but he fell on the floor in a bloody mess.

The foregoing version of the accused was disbelieved by the trial court. The accused, now appellant, maintains and insists in this appeal that the trial court erred in rejecting her claim of self-defense, and, likewise, assails the trial court in admitting and in giving weight to the testimonies of the prosecution witnesses.

Appellant's plea of self-defense is untenable. If she really inflicted the wounds sustained by the deceased in the manner claimed and demonstrated by her during the trial, that is, by swinging the knife sidewise from left to right and from right to left, then the deceased would have sustained "slash wounds and not stab wounds". The autopsy report,^[4] however, shows that the deceased sustained three (3) stab wounds, one of which, the fatal wound, being located at the left part of the back of the deceased.^[5] Moreover, these stab wounds, specially the fatal wound at the back, could not have been sustained by the deceased if he had been facing the appellant. The nature and location of the stab wounds indicate that the appellant inflicted those wounds while she was behind or at the back of the deceased. These physical facts belie and negate the appellant's claim of self-defense.

Besides, appellant's version of the incident, is highly incredible and improbable. Thus, as aptly observed by the court below, if the appellant covered her eyes with her right hand when she began to swing the knife from left to

right and from right to left, how was she able to hit her husband without seeing him? Why did her husband remain standing in front of her, immobile like a post without avoiding the knife and allowed himself to be killed? If it were true that the deceased was standing in front of her with a gun pointed at her and angry enough to kill her, why didn't he shoot her?

Furthermore, after the stabbing incident, the appellant did not surrender to the authorities, but fled and went into hiding and surrendered only after almost four (4) years from the commission of the crime. Such conduct of the appellant is inconsistent with and casts doubt upon her claim of self-defense. On the contrary, it tends to establish her guilt.

"It is now a well-settled rule that one who admits the infliction of injuries which caused the death of another has the burden of proving self-defense with sufficient and convincing evidence. If such evidence is of doubtful veracity, and is not clear and convincing, the defense must necessarily fail, for having admitted that he was the author of the death of the deceased, it was incumbent upon appellant, in order to avoid criminal liability, to prove the justifying circumstance claimed by him without relying on the weakness of that 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." [6] Having failed to prove by clear and convincing evidence her plea of self-defense, the appellant must suffer the consequences of her unlawful act.

Coming now to the question of credibility, "the rule consistently adhered to by this Court is to give due respect to the finding of the trial court on the matter, the latter tribunal having had the opportunity to observe the demeanor and conduct of witnesses while testifying and, therefore, is in a better position to properly gauge their credibility. Thus, appellate tribunals will not disturb the findings of fact of the trial court unless there is proof that said court, in making the findings, had failed to appreciate some fact or circumstance of weight and substance that would have altered the results of the case." [7]

Upon a review of the records, We find no reason to reject the findings and conclusions of the trial court. To begin with, the appellant's contention that prosecution witness Letty Basa is biased because she is the cousin of the deceased, is without merit. While witnesses may be said to be interested by reason of their relationship with one of the parties, their declarations should not be disregarded or rejected capriciously on the ground of bias alone where - as in the present case - they are reasonable, consistent and supported by facts and circumstances. [8] Nor do We find merit in the contention that the non-presentation of the allegedly written statement of this witness to the police which she allegedly did not sign, gave rise to the presumption that it "contained declarations disastrous to the prosecution case". The presumption that suppressed evidence is unfavorable does not apply where the evidence was at the disposal of both the defense and the prosecution. [9] In the case at bar, the alleged statement of prosecution witness Letty Basa was in the possession of the police authorities. Hence, the defense could have requested the court below to issue a subpoena requiring the police to produce such statement, but as the defense failed to do that, they cannot now argue that said statement if produced would have been adverse to the prosecution.

Again, appellant would impugn the competency and credibility of prosecution witness Dr. Ernesto Brion, by arguing that it was Dr. Enrique Jimenez and not Dr. Brion, who conducted the autopsy examination on the body of the deceased. This contention is equally devoid of merit. As correctly pointed out in the appellee's brief, Dr. Ernesto Brion was presented as an expert witness, and his competency as such was admitted by the appellant's counsel. Besides, he testified that the autopsy examination of the body of the deceased was conducted under his direct supervision. Hence, he was competent to testify on the nature, extent, and location of the wounds sustained by the deceased, and on the basis thereof could, with some degree of certainty, deduce the possible relative positions of the appellant and the deceased during the stabbing incident. Our own perceptive review of the records

show that his testimony is, as held by the trial court, fully supported and corroborated by the testimonies of the prosecution witnesses.

Wherefore, finding no reversible error, the judgment of the court a quo is hereby affirmed in toto. With costs against the appellant.

Fernando, Barredo, Antonio, and Aquino, JJ., concur.

[1] The dispositive portion of the decision reads as follows:

"In view of the fact that the accused has admittedly killed her husband and that she tried to excuse herself from any criminal liability by alleging self-defense, and having failed to establish by positive evidence the elements of self-defense, and considering further that the evidence presented by the prosecution established beyond reasonable doubt the guilt of the accused, the Court finds the accused GUILTY of the crime of Parricide, and hereby sentences her to life imprisonment with the corresponding accessory penalties provided for by law, and to indemnify the heirs of the deceased in the amount of P20,000.00 with costs."

[2] Exhibit "B", p. 5, Record of Exhibits.

[3] Exh. E, p. 10, Record of Exhibits.

[4] Exh. E, p. 10, Rec. of Exhibits. The pertinent portion of which reads as follows:

"Stab wounds:

1. Chest, right lateral side, spindle in shape, 1.2 cms. in length along mid-axillary line, right side, 14.0 cms. to the right of anterior median, 12.0 cms. above right iliac crest, along axis oriented vertically, extremities sharp, posterior border bevelled anterior border shelved, edges cleancut and gaping, directed anteriorly and slightly downward and slightly medially, non-penetrating involving skin and subcutaneous tissues, with an approximately depth of 5.00 cms.

2. Chest, back, left side, roughly V-shaped, with base medially 2.3 cms. in total length, at the level of the 8th intercostal space, along left parascapular line, 5.00 cms. below inferior border of left scapula. 11.0 cms. to the left of posterior median line, long axis oriented downward and slightly lateral to the left, extremities sharp, lateral border bevelled, medial border shelved, edges clean-cut and gaping, directed forward, and medially involving skin and subcutaneous tissues incising the 8th intercostal space, left side, into the left thoracic cavity, perforating posteromedial part of lung, lower lobe, left side, incising thoracic aorta, with approximate depth of 13.00 cms.

3. Arm, postero-lateral aspect, upper third, left side, spindle shape, 2.00 cms. in length, 15.00 cms, below tip of left clavicle, 3.0 cms. behind left lateral line, long axis oriented downward and anteriorly, extremities sharp, anterior border shelved, posteriorly beveled, edges clean-cut & gaping, directed forward, downward slightly medially, in-volving skin and lateral musculature of the arm with an approximate depth of 6.0 cms."

[5] Exh. E-3, p. 13, Rec. of Exhibits; p. 56, t.s.n., August 15, 1972.

[6] People vs. Llamera, L-21604, L-21605, L-21606, May 25, 1973, 51 SCRA 48, 57 and cases cited therein.

[7] People vs. Yap, L-28664, December 22, 1971, 42 SCRA 567, 574, and cases cited therein.

[8] People vs. Tividad, L-21469, June 30, 1967, 20 SCRA 549; People vs. Miranda, L-18508, Feb. 29, 1964, 10 SCRA 385; People vs. Asmawil, 13 SCRA 497; People vs. Libed, 14 SCRA 410.

[9] People vs. Morado, L-16714, Jan. 31, 1962, 4 SCRA 292.

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