

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PABLO RELOJ ALIAS AMBOY, DEFENDANT-APPELLANT.*G.R. No. L-31335. February 29, 1972*

Ponente: CONCEPCION, C.J.

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Appeal by Pablo Reloj from a decision of the Court of First Instance of Aklan convicting him of the crime of murder and sentencing him to life imprisonment, with the corresponding accessory penalties, to indemnify the heirs of Justiniano Isagan, Sr., in the sum of P12,000, without subsidiary imprisonment in case of insolvency, and "without costs."

It is not disputed that, on July 7, 1963, at about 3:00 p.m., Justiniano Isagan, Sr., was stabbed by appellant Pablo Reloj, with an ice pick wrapped in a piece of paper, outside the cockpit in Libtong, barrio of Estancia, municipality of Kalibo, province of Aklan; that, soon thereafter, Justiniano Sr. was brought to the Aklan Provincial Hospital, where a surgical operation was performed upon him; and that, although the operation was successful and Justiniano Sr. seemed to be in the process of recovery, he developed, five (5) days later, a paralytic ileum – which takes place, sometimes, in consequence of the exposure of the internal organs during the operation – and then died. The corresponding information for murder having been filed, the Court of First Instance of Aklan rendered, after appropriate proceedings, the aforementioned judgment of conviction.

Hence, this appeal by the defendant, who maintains that the lower court has erred: a) in giving full credence to the testimony of the main witnesses for the prosecution; b) in not finding that he had no intent to kill; c) in holding him responsible for the death of Justiniano Sr.; d) in holding that the crime committed by him is murder qualified by treachery; e) in not considering in his favor the special mitigating circumstance of incomplete self-defense; f) in not considering in his favor the mitigating circumstance of lack of intent to commit so grave a wrong as that committed; g) in not considering in his favor the mitigating circumstance of voluntary surrender to the authorities; and h) in sentencing him to life imprisonment.

The main evidence for the prosecution consisted of the testimony of Justiniano Isagan, Jr., and Hermie Zante and the ante-mortem declaration, Exhibit E, of the deceased. Justiniano Jr. testified that his father and he went to the cockpit in Libtong on July 7, 1963, at about 3:00 p.m.; that, while his father was standing, under a mango tree, outside the cockpit, watching Hermie Zante as he was tying a gaff on a fighting cock, defendant approached him (Justiniano Sr.) from behind and, placing his (defendant's) right hand on the left shoulder of Justiniano Sr., stabbed him, with the left hand, on the left side of the abdomen, with an ice pick wrapped in a piece of paper; that, as Justiniano Jr. — who was several steps away from his father — tried to approach him, appellant rushed at him (Justiniano Jr.) saying, "And you also"; that, accordingly, he (Justiniano Jr.) ran away pursued by appellant; that the latter soon gave up the chase, and, throwing away the ice pick, went to a store nearby, where a policeman later arrested him; that Justiniano Jr. then went back to where his father was wounded; and that, on the way thereto, he picked up appellant's ice pick.

This testimony was corroborated by Hermie Zante who stated that, while he was arming the aforementioned fighting cock, and Justiniano Sr. was watching it about 1-1/2 brazas (fathoms) away, for he wanted to bet on said cock, he (Zante) heard Justiniano Sr. groan; that, as he (Zante) looked at him (Justiniano Sr.), he (Zante) noticed the latter holding appellant's left hand, which, in turn, held an ice pick pointed at the belly of Justiniano Sr.; that, wresting himself from the latter's hold, appellant chased Justiniano Jr., with the ice pick still in his (appellant's) hand, saying, "And you also"; and that Justiniano Jr. ran away, but came back, soon later, and then picked up the ice pick thrown away by appellant, who had, meanwhile, gone to the aforesaid store nearby, where Patrolman Nacion arrested him.

Apart from the foregoing, the prosecution introduced the ante-mortem declaration, Exhibit E, taken by Police Sergeant Angelo Villanueva in the Aklan Provincial Hospital, in the presence of Police Sergeant N. Cordova and Dr. Ciriaco Icamina, soon after Justiniano Sr. had been brought to said institution on July 7, 1963, at about 4:00 p.m. Justiniano Sr. stated in Exhibit E that appellant had stabbed him suddenly in the abdomen, with a weapon covered by a paper, which turned out to be an ice pick, with which appellant, likewise, tried to attack Justiniano Jr.

The prosecution, likewise, introduced the testimony of Rogelio Ibardolaza and Angel de la Cruz. The former testified that, on July 7, 1963, at about 10:00 a.m., he was in the store of one Ricamonte, in Daguitan, Madalag, Aklan; that appellant was then in the store drinking beer with two companions; and that Ibardolaza then heard appellant say that he would first kill Justiniano Sr. and then go to Muntinglupa. Upon the other hand, Angel de la Cruz affirmed that, on said date, at noontime, he boarded a truck headed for the cockpit at Libtong; that appellant was then in the seat in front of him (De la Cruz); that he heard appellant tell his companion that he (appellant) was going to kill Justiniano Sr.; that appellant's companion advised him to "cool off"; that appellant replied: "Ah, linti, this Isagan; they interfere with what is not theirs"; that appellant alighted in front of the cockpit, whereas De la Cruz proceeded to the house of Justiniano Sr. to warn him, but he (De la Cruz) was informed that he (Justiniano Sr.) was already in the cockpit; and that, when he (De la Cruz) went to the cockpit, at about 3:00 p.m., Justiniano Sr. had already been wounded and taken to the Aklan Provincial Hospital.

Testifying in his own behalf, appellant contradicted the testimony of Ibardolaza, De la Cruz and Justiniano Jr., and stated that, on July 7, 1963, from 5:00 a.m. to 1:00 p.m., he was in his store, in the market of Kalibo, Aklan; that he left the same and headed for the cockpit, around 1:00 p.m.; that, at about 2:30 p.m., Justiniano Sr. and he bet against each other the sum of P 10; that he, likewise, had bets against three other persons, whose names he did not remember; that he won the bets, whereupon he collected what was due from his opponents; that, noticing that Justiniano Sr. was not around, he (appellant) looked for him and found him outside the cockpit; that, when he demanded payment of the P10 due from Justiniano Sr., the latter got mad and gave him several fist blows, but he did not retaliate; that, when he was almost groggy, he drew out the ice pick in his pocket and stabbed Justiniano Sr. in the belly; and that, thereupon, he threw the ice pick away and proceeded to a nearby store where he waited for a policeman and voluntarily surrendered to him.

The first assignment of error is untenable. Indeed, appellant's version — that his demand for payment of the bet he had won from Justiniano Sr. sufficed to so enrage the latter that he boxed appellant to the extent of causing two (2) contusions and two (2) abrasions in his face and one (1) contusion in the small finger of his right hand — is inherently incredible. Besides, appellant's testimony to this effect is not only uncorroborated. It is, also, contradicted by no less than Dr. Luvismina Kapunan, who examined him on July 8, 1963, and asserted that said injuries had been caused over 48 hours before, or prior to July 7, 1963, thus belying appellant's story, as well as underscoring his lack of veracity.

Besides, Justiniano Jr. and Hermie Zante, who were a few paces away from Justiniano Sr., would have noticed the

attack allegedly made by the latter upon appellant, had it really taken place. Neither Zante nor Justiniano Jr., however, had seen it. What is more, both stated that appellant was not there; and that he forthwith stabbed Justiniano Sr. as he (appellant) appeared thereat so suddenly that Zante did not notice his arrival. Being a son of the deceased, Justiniano Jr. may not be a disinterested witness, but, certainly, Zante had no possible reason to falsely incriminate appellant herein. What is more, his testimony, was corroborated by that of Justiniano Sr. Then, too, it appears that the latter was one of the witnesses against appellant in a criminal action and a civil case filed by Crisanta Ureta and Edecio Venturanza, although the criminal case was dismissed before July 7, 1963, and the hearing of the civil case did not take place until later and was eventually dismissed.

The theory of the prosecution was further corroborated by the fact that, five (5) hours before the occurrence, appellant had told his two (2) companions, in the store of one Ricamonte in Daguitan, Madalag, Aklan, that he would first kill Justiniano Sr. and then go to prison, and that two (2) hours later, appellant told his seatmate, in a truck headed for the cockpit at Libtong, that he (appellant) would kill Justiniano Sr., in view of which his aforementioned seatmate advised him to cool off. Although manifestly imprudent, We do not regard these statements as improbable, considering that appellant had apparently been drinking in said store. Then, again, the fact that appellant brought with him the ice pick — which he could have and would have left in his store in the market, whence he allegedly came — and that he had it wrapped in a piece of paper, strongly suggests that he took it with him for the purpose of making use of it.

As regards the second assignment of error, the manifestly deadly nature of appellant's ice pick — with a blade almost five (5) inches long — with which he stabbed a vital part of the victim's body (the abdomen), and the statements made by him in the store of Ricamonte — "I will first kill him and then go to Muntinglupa" — and then in the truck on the way to the cockpit — reiterating his intent to kill Justiniano Sr. — as well as the manner in which appellant proceeded in attacking his victim, leave no room for doubt about his intent to slay the latter.

The third assignment of error is predicated upon the fact that the immediate cause of the death of Justiniano Sr. was a paralysis of the ileum that supervened five (5) days after the occurrence, when he appeared to be on the way to full recovery. It has been established, however, that the exposure of the internal organs in consequence of a surgical operation in the abdomen sometimes results in a paralysis of the ileum and that said operation had to be performed on account of the abdominal injury inflicted by appellant. It is well settled that:

"* * * every person is to be held to contemplate and to be responsible for the natural consequences of his own acts. If a person inflicts a wound with a deadly weapon in such a manner as to put life in jeopardy, and death follows as a consequence of this felonious and wicked act, it does not alter its nature or diminish its criminality to prove that other causes cooperated in producing the fatal result. Indeed, it may be said that neglect of the wound or its unskillful and improper treatment, which are of themselves consequences of the criminal act, which might naturally follow in any case, must in law be deemed to have been among those which were in contemplation of the guilty party, and for which he is to be held responsible. But, however, this may be, the rule surely seems to have its foundation in a wise and practical policy. A different doctrine would tend to give immunity to crime and to take away from human life a salutary and essential safeguard. Amid the conflicting theories of medical men, and the uncertainties attendant upon the treatment of bodily ailments and injuries, it would be easy in many cases of homicide to raise a doubt as to the immediate cause of death, and thereby to open a wide door by which persons guilty of the highest crime might escape conviction and punishment." [1]

Considering that appellant's attack upon Justiniano Sr. was made suddenly from behind, so that the victim had no opportunity to defend himself, it is clear that the lower court did not err in finding that the offense was qualified by treachery and that the fourth assignment of error is untenable.

Equally devoid of merit is the incomplete self-defense invoked by appellant, under his fifth assignment of error,

the same being based upon his uncorroborated testimony, which, as above indicated, is unworthy of credence and inconsistent with the treachery with which he had attacked Justiniano Sr.

Then, again, the circumstances adverted to above, evincing appellant's intent to kill Justiniano Sr., suffice to show that there is no merit in the sixth assignment of error.

It has been established, however, that appellant had voluntarily surrendered to the authorities and that his seventh assignment of error is, accordingly, well taken.

And so is his last assignment of error, for there being no aggravating circumstance to offset the mitigating circumstance of voluntary surrender to the authorities, the penalty prescribed by law for the crime of murder committed by appellant should be meted out in its minimum period and he should, accordingly, be sentenced to an indeterminate penalty ranging from 10 years and 1 day of prision mayor to 17 years, 4 months and 1 day of reclusion temporal, with the corresponding accessory penalties, and the costs, apart from the indemnity imposed in the lower court's decision.

THUS MODIFIED AS TO THE PENALTY , the decision appealed from should be as it is hereby affirmed, therefore, in all other respects, with costs against appellant Pablo Reloj.

SO ORDERED.

Reyes, J.B.L., Makalintal, Zaldivar, Castro, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

[1] People vs. Quianzon, 62 Phil. 162, 170. See, also: People vs. Piamonte, 94 Phil 293; People vs. Buyco, 80 Phil. 58; People vs. Cornel, 78 Phil. 458; People vs. Rellin, 77 Phil. 1038; People vs. Moldes, 61 Phil. 1; People vs. Reyes, 61 Phil. 341; People vs. Cagoco, 58 Phil. 524; People vs. Almonte, 56 Phil. 54; U.S. vs. Diaz, 15 Phil. 123; U.S. vs. Escalona, 12 Phil. 4; U.S. vs. Luciano, 2 Phil. 96; People vs. Demiar, L-15130, May 31, 1960; People vs. Martin, L-3002, May 23, 1951.

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