

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODRIGO MARTIJA Y MACEDA, ACCUSED-APPELLANT.

G.R. No. L-44972. March 15, 1982

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is an automatic review of the death penalty imposed upon the accused, Rodrigo Martija y Maceda, by the Circuit Criminal Court, Seventh Judicial District, Pasig, Metro Manila, for the crime of murder.

In July, 1976, Rodrigo Martija y Maceda was charged before the said court with the crime of murder in an information which reads:

"That on or about the 25th of July, 1976, in Quezon City, Philipines, the above-named accused, without any justifiable cause, qualified by evident premeditation and treachery with intent to kill, did, then and there wilfully and feloniously attack and employ personal violence upon the person of one Josefino Cruz y Flores, by then and there hacking him with a bolo on the different parts of the body, thereby inflicting upon him serious and mortal wounds which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of the said Josefino Cruz y Flores, in such amount as may be awarded to them under the provisions of the Civil Code." [1]

The accused entered a plea of "not guilty" upon being arraigned. [2]

According to the evidence for the prosecution, Josefino Cruz and a companion, the prosecution witness, Leonardo Angeles, at about 2:30 o'clock in the after-noon of July 25, 1976 were in the sari-sari store of Rosario Salvador at Tupas Street, Doña Rosario Subdivision, Novaliches, Quezon City; that Josefino Cruz was standing at the bar grills of the store in the act of buying cigarettes when the accused came from behind and delivered a bolo blow which hit the former at the neck; that Josefino Cruz turned towards the accused who in a fit of rage continued hacking the former on different parts of the body until he fell; and that the accused left and Leonardo Angeles and the father of Josefino Cruz placed the wounded victim in a taxi-cab to take him to the hospital, but Josefino Cruz died before reaching the hospital.

There was no argument or confrontation between the deceased and the accused before the attack, but the accused, in an unbridled fury, hacked the deceased many times, inflicting ten (10) wounds on different parts of his body, six of which according to the Medi-co-Legal Officer, Dr. Maximo Reyes, who conducted the post-mortem examination of the body of the deceased, were fatal as each cut an artery, stopped blood circulation and caused hemorrhage for which there was no replacement. [3]

The accused claimed that he acted in self-defense and testified that when he was going to the store of Rosario Salvador, the victim, Josefino Cruz, and Leonardo Angeles, who both belonged to the Bahala Na Gang, chased him and he had to run away as Josefino Cruz was armed with a bolo; that when Josefino Cruz tried to attack the accused with his bolo, the accused grabbed the bolo and hacked the deceased until he fell down; that the accused did not suffer from any injury when he left the scene of the encounter; and that he surrendered at 9:00 o'clock in

the evening of the same day to Captain Arco of the Quezon City Police Department, so as to save the authorities from the trouble and effort of looking for him to effect his arrest.[4]

The trial court rejected the theory of self-defense of the accused in view of his failure to establish all the elements of self-defense, his story being unnatural, illogical, unconvincing and a pure concoction and held that to successfully invoke self-defense, it is necessary that the same be proven by clear, convincing and satisfactory evidence to erase any doubt of aggression on the part of the person defendant himself.[5] The trial court convicted the accused of murder and imposed upon him the penalty of death.

The accused tried to establish self-defense by his lone testimony. The trial court found that the testimony of the accused is not credible at all because (1) if he really acted in self-defense, he could have inflicted only one or two wounds but the fact that the victim suffered ten wounds is indicative that the act of the accused is no longer an act of self-defense but a determined effort in pursuance of an evil design to kill the victim; (2) the presence of wounds at the back of the victim connotes treachery, and the accused has not sufficiently established the circumstances of how the victim was hacked at such place.

The trial court correctly rejected the theory of self-defense. The accused declared that he was pursued by the victim. The incident having happened in the daytime, it is strange that he failed to present a corroborating witness. He pictured the victim as a notorious hoodlum. If this were true, then the natural reaction of the neighborhood would be to rejoice over the death of the victim. The accused could have easily collected a dozen witnesses in his behalf to establish his plea of self-defense.

The accused declared that the victim consumed three bottles of hard liquor with a companion. This is belied by the Necropsy Report of the Medico-Legal Officer to the effect that there is no finding of alcohol contents in the body of the victim.

One who rests his case on self-defense must prove the same by clear and convincing evidence and in so doing, he must rely on the strength of his own evidence and not on the weakness of that of the prosecution. Even if the evidence of the prosecution is weak, it could not be disbelieved after the accused himself had admitted the killing.[6]

With the exception of the penalty imposed upon the accused, this Court is in full accord with the findings of the trial court that he did not act in self-defense. First, the element of unlawful aggression was not satisfactorily established. According to the testimony of the accused, when Josefino Cruz was about to hack him, the victim fell, face down. The accused then grabbed the bolo, while Leonardo Angeles, the companion of the deceased ran away. At this point, it cannot be claimed that aggression still existed. There is no unlawful aggression when there is no peril to one's life and limb. There can be no self-defense when there is no unlawful aggression. Second, the nature and the number of wounds belie self-defense. The victim suffered ten wounds, six of which were fatal. Not only that, the evidence for the prosecution also proved the presence of wounds at the back of the victim which connotes treachery. Third, the plea of self-defense, which was extremely doubtful, was not corroborated. In *People v. Flores*,^[7] the Supreme Court held that the plea of self-defense cannot be entertained where it is not only uncorroborated by any separate evidence, but in itself extremely doubtful.

The accused assigned the following errors:

"I

"THE LOWER COURT ERRED IN FAILING TO CONSIDER IN FAVOR OF THE ACCUSED THE MITIGATING CIRCUMSTANCE OF VOLUNTARY SURRENDER TO THE POLICE AUTHORITIES OF QUEZON CITY.

"II

"THE LOWER COURT ERRED IN IMPOSING UPON THE ACCUSED THE MAXIMUM PENALTY OF DEATH WHEN THE CORRECT PENALTY SHOULD HAVE BEEN THE MINIMUM PENALTY OF RECLUSION TEMPORAL IN ITS MAXIMUM PERIOD BY CONSIDERING THE SAID MITI-GATING CIRCUMSTANCE OF VOLUNTARY SURRENDER." [8]

The appellant's counsel agrees with the finding of the trial court that the accused, Rodrigo Martija, did not act in self-defense. He has found nothing in the evidence of record to overthrow or weaken the finding of the trial court that the accused did not act in self-defense, the version of the accused being uncorroborated by any witness or any other kind of proof. [9]

However, the mitigating circumstance of voluntary surrender should be considered. The accused surrendered to the police authorities in the evening of the same day he committed the crime.

Considering the mitigating circumstance of voluntary surrender without any aggravating circumstance, the lower court should not have imposed the maximum penalty of death but the minimum penalty of reclusion temporal in its maximum period.

Under Art. 64, paragraph 2 of the Revised Penal Code, when only a mitigating circumstance attended the commission of the act, the penalty to be imposed shall be its minimum period. The penalty for murder is reclusion temporal in its maximum period to death. The minimum of this penalty is reclusion temporal in its maximum period.

The accused is entitled to the Indeterminate Sentence Law. [10]

WHEREFORE, the decision sought to be reviewed is hereby affirmed with the modification that the accused is sentenced to the indeterminate penalty of from ten (10) years and one (1) day of prision mayor as minimum to twenty (20) years of reclusion temporal, as maximum.

SO ORDERED.

Fernando, C.J., Teehankee, Barredo, Makasiar, Aquino, Concepcion, Jr., Guerrero, Abad Santos, De Castro, Melencio-Herrera, Ericta, Plana, and Escolin, JJ., concur.

[1] Rollo, p. 3.

[2] Original Records of CCC-VII-1632-Q.C., p. 13.

[3] Brief for the Accused, p. 2, Rollo, p. 59.

[4] Ibid., p. 3.

[5] Decision, pp. 14-16, Rollo, pp. 73-75.

[6] People v. Bunsol, 63 SCRA 248.

[7] 43 SCRA 342.

[8] Brief for the Accused, p. 1, Rollo, p. 59.

[9] Ibid., p. 3; Rollo, p. 59.

[10] People vs. Pantoja, 25 SCRA 468.

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