

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NORMAN AMPARADO, DEFENDANT-APPELLANT.

G.R. No. L-48656. October 03, 1985

Ponente: AQUINO, J.

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AQUINO, J.:

Norman Amparado appealed from the decision of the Court of First Instance of Zamboanga del Norte, Branch I in Dipolog City, convicting him of murder, sentencing him to reclusion perpetua and ordering him to pay the heirs of Manuel Maghanoy an indemnity of P12,000 (Criminal Case No. 5279).

Norman Amparado admits that he stabbed Manuel Maghanoy, 19. The only issue is whether he acted in self-defense. Amparado's version is that at around nine-thirty in the evening of April 1, 1969, someone knocked at the door of Alma Dagpin's house in Dipolog City and inquired if Amparado was there. She allegedly saw Maghanoy with four or five companions. She told the group that Amparado was boarding in the house of Agatonica Gahum five meters away.

Maghanoy, with his companions, went to Gahum's house and knocked at the door, saying at the same time that he was a policeman. Gahum and Amparado opened the door and saw Maghanoy standing outside holding a knife about six to eight inches long.

Instinctively, they shut the door but they were unable to lock it because Maghanoy was pushing it. There ensued allegedly a struggle to prevent Maghanoy from opening the door.

He was able to insert his left foot through the opening. Amparado got his penknife and "thrust it at" Maghanoy three times. Maghanoy retreated and rejoined his companions (pp. 11-15, Brief).

On the other hand, the version of the prosecution is that at about nine-thirty in the evening of April 1, 1969, while Maghanoy, who used to be a student of St. Vincent College, was going home and while passing in front of Gahum's house, Norman Amparado, 19, another college student, suddenly emerged from Gahum's house and stabbed Maghanoy with a knife three times on the left side of his body. Amparado told Maghanoy that the stabbing was his revenge. It was an ambushade.

The stabbing was witnessed by Rogelio Patangan, 15, Maghanoy's companion. It took place three meters from an electric post with a lighted bulb. After the stabbing, Amparado took refuge in Gahum's house across the street where he was a boarder.

It should be noted that about three hours before that stabbing or at around six o'clock, Maghanoy and Amparado had a fist fight in the public plaza after Amparado had stepped on Maghanoy's foot (19 tsn, March 4, 1976). Roseller Ladera pacified them. That incident was the motive for the assault.

Two patrolmen arrested Amparado in Gahum's house. He admitted the stabbing. He told them where he had hidden the knife used in the stabbing. They found it under the stove in Gahum's house. It was like a Japanese

samurai blade (Exh. C).

The physician certified that Maghanoy sustained three stab wounds in the chest which penetrated the thoracic and abdominal cavities (Exh. A). He died eleven days later or on April 12, 1969 (Exh. B).

Judge Simplicio M. Apalisok believed the prosecution's version which is supported by the affidavits taken during the preliminary examination. It should be noted that Amparado waived the preliminary investigation. He should have invoked self-defense at the outset if he really acted to save his own life. But he did not make any written statement to the police (29 tsn March 4, 1976).

In his appeal, Amparado contends in his twenty assignments of error involving factual matters that the lower court erred in convicting him of murder. The Solicitor General, who did not bother to answer all the arguments in support of his assignments of error, rightly observed that the case is a matter of credibility.

We hold that there is no reason to doubt the testimony of the eyewitness, Patangan, which is consistent with his statements during the preliminary examination.

The version of the defense is so elaborate and improbable as to generate the impression that it is fabricated.

The crime committed was murder in view of the presence of alevosia. Evident premeditation is offset by the mitigating circumstance of voluntary surrender to the authorities. The proper penalty is reclusion perpetua.

WHEREFORE, the trial court's judgment is affirmed with the modification that the civil liability should be increased to P30,000. No costs.

SO ORDERED.

Concepcion, Jr., Abad Santos, Escolin, Cuevas, and Alampay, JJ., concur.

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