

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLANDO A. ALAPIDE, ACCUSED-APPELLANT.*G.R. No. 104276. September 20, 1994*

Ponente: REGALADO, J.

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Accused-appellant Rolando A. Alapide was charged with murder on April 12, 1991 in Criminal Case No. 1794 of the Regional Trial Court of Virac, Catanduanes, Branch 42; and, on a plea of not guilty,[1] was tried therefor upon an information alleging that he treacherously stabbed to death Jose Abejo y Subion with a sharp bladed weapon.[2]

As is to be expected, especially in cases of this nature, the contending parties invariably submit conflicting versions which are necessarily addressed to judicial evaluation. After a careful and thorough review of the records, we agree with the findings and conclusions in the decision of the trial court.[3]

We start with the case for the People. It is the presentation of the prosecution that at around 9:30 P.M. on January 28, 1991 in Mayngaway, San Andres, Catanduanes, there were some people playing mahjong inside the cottage of Ceferino Mendoza. The players were (1) Napoleon Arcilla, who occupied a bench attached to the cottage on the western side; across him on the eastern side was (2) Expedito Arcilla, likewise sitting on a bench attached to the cottage; on the northern side was (3) Jose Abejo, who was seated on a chair; and on the southern side was (4) Norma Mendoza, who was sitting on a stool with her back facing the door of the cottage. Appellant Rolando Alapide, the lone spectator of the mahjong game and who had arrived much later, was seated on the left side of Expedito Arcilla, near the door of the cottage.[4]

After a while, Oscar Monjardin, a fisherman and a business partner of Abejo came to the cottage. The former stood at the door and informed Abejo that he brought some fish for the latter to sell. These two had a prior arrangement that it will be Abejo who would sell the fish that may be caught by Monjardin. Abejo asked Monjardin to wait for a while until Ceferino Mendoza shall have taken over his place in the mahjong game.

Accordingly, when Mendoza arrived, Abejo stood up to leave but, to do so, he had to pass behind Expedito Arcilla and in front of appellant. While Abejo was passing in front of appellant, the latter suddenly thrust a bolo, locally known as "palas," on the chest of Abejo, hitting him near the left nipple, and as appellant tried to pull out the "palas" from the victim's chest, his effort caused him to stumble to the ground. Abejo said in the vernacular, "May tamo aco" (I was hit) and ran towards the national road leading to his house, but he died on the way.

Meanwhile, appellant stood up and pointed his "palas" at Monjardin who parried it with a bamboo split, at the same time asking appellant, "Ano бага an Dolan?" (What is this about, Dolan?). Appellant's reply was: "Putang ina binonotan aco caan caso bago" (He drew something against me a while ago), adding in the dialect, "He was hit, Oscar, he will be dead." Thereafter, appellant ran towards the gate leading to the house of Constancio Popa, the husband of his aunt.

The incident was immediately reported to the barangay captain. Later, police officers came to the house of Popa, arrested appellant and brought him to their station. Only then did appellant know that Abejo died. Popa turned over the "palas" used in the killing to the authorities.[5]

While admitting the killing of Abejo, appellant nonetheless invokes the justifying circumstance of self-defense.[6] The version of appellant is that on January 22, 1991, from around 6:00 to 8:30 P.M., he was in the seashore of Mayngaway, San Andres, Catanduanes, cleaning fish with the use of a "palas." Thereafter, he stored the fish at the back of the house of his uncle, Constancio Popa. Since it was still early, he thought of waiting for another boat to dock, so he decided to spend the time at the cottage of Ceferino Mendoza where a mahjong game was going on. There, he found the four people earlier mentioned playing mahjong. He sat beside Expedito Arcilla near the door of the cottage.

A few minutes after his arrival, Oscar Monjardin came and signalled something to Abejo. Later, Mendoza came to replace Abejo in the game, so the latter stood up to leave the cottage. Appellant shifted himself into a slanted position to give way to Abejo as the latter had to pass in front of him. After Abejo had passed by, appellant resumed his seat.[7]

Appellant insisted that after Abejo had passed by him and while he was looking at the table where the players were shuffling the mahjong tiles, he was hit on his temple. He stood up and saw Abejo who simultaneously held him by his neck and dragged him outside the cottage towards the back thereof. Abejo hit him on the stomach, causing him to stoop down. Using his fist, Abejo then pounded appellant repeatedly on his back just below the nape. When he was about to fall, he reached out for his "palas" at the right back pocket of his short pants and swung the same towards Abejo. Appellant then fell with his forehead hitting the ground, causing him to roll over, and when he stood up he did not see Abejo anymore.

Exasperated that the incident happened inside his cottage, Mendoza angrily asked: "Why you did that here?" (sic). Appellant was very ashamed of what had happened and he slowly went out of the place still holding the weapon in his hand. He proceeded to the house of Popa to whom he reported the incident, as well as his speculation that Abejo might have been hit. Popa told him to rest and not to leave the house anymore. Before going to bed, appellant gave the weapon to Popa. Around midnight, he was awakened by his aunt as there were policemen inviting him to their headquarters for questioning. There he found out that Abejo was already dead.

The only incident which appellant claimed might have caused Abejo's anger towards him was that, two days before the fatal incident, appellant and Abejo played several games of chess with bets. Appellant won and spent all his winnings drinking with their mutual friends who, while drinking, kept on teasing Abejo about his losses.[8]

After trial, the court below rendered judgment on October 31, 1991 finding appellant guilty of murder beyond reasonable doubt, sentencing him to suffer the penalty of reclusion perpetua and ordering him to compensate the heirs of Abejo in the amount of P50,000.00 and to pay the burial expenses for the victim in the amount of P3,000.00.[9]

Appellant now seeks the reversal of the aforementioned judgment, faulting the trial court with reversible error (1) for lending credence to the biased and incredible testimonies of the prosecution's witnesses; and (2) for finding the accused guilty of the crime of murder despite the presence of reasonable doubt which served to preserve the constitutional presumption of innocence in his favor.[10]

Of unbroken consistency in this jurisdiction is the rule that when the accused had admitted that he is the author of the death of the victim and his defense is anchored on self-defense, it is incumbent upon him to prove this justifying circumstance to the satisfaction of the court. This circumstance he has to establish by clear and

convincing evidence, the onus probandi having shifted to him. He must rely on the strength of his own evidence and not on the weakness of that of the prosecution for, even if the prosecution evidence is weak, it could not be disbelieved after the accused himself admitted the killing.[11]

Whether or not appellant acted in self-defense is essentially a question of fact. We have consequently taken pains to review the transcripts of the stenographic notes of the testimonies of the witnesses and to conscientiously evaluate the same with great care. We find nothing in the trial court's exposition which is unsupported by the evidence or which may raise disturbing thoughts on the culpability of appellant. Its findings of fact merit our full accord and the acceptance of its conclusions can rest easy on the conscience of the Court.

Evidently, the core issue in this case is decidedly factual and essentially involves the credibility of the testimonies of the witnesses. That issue of credibility is to be resolved primarily by the court below because it is in a better position to decide the question, having heard the witnesses and observed their deportment and manner of testifying during the trial. Accordingly, the unbending jurisprudence is that the trial court's findings on the matter of credibility of witnesses are entitled to the highest degree of respect and will not be disturbed on appeal in the absence of any showing that it had overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which would have affected the result of the case.[12]

Also, it is basic and elementary that for a plea of self-defense to prosper and thus relieve the accused from criminal liability, he is obliged to establish the presence of the following requisites as statutorily required and jurisprudentially explained, that is, unlawful aggression, reasonable necessity of the means employed to prevent or repel it, and lack of sufficient provocation on the part of the person defending himself.[13]

The initial and crucial point of inquiry in this case is whether there was unlawful aggression on the part of the victim for absent this essential element, no claim of self-defense can be successfully interposed. If there is no unlawful aggression, there is nothing to prevent or to repel and, the second and third requisites of self-defense would have no basis.[14]

On the evidential aspect, as against the positive testimonies of the witnesses we only have appellant's uncorroborated and self-exculpatory contention that "no less than four successive acts of inflicting bodily harm by the victim on the accused clearly falls within the concept of unlawful aggression." [15] Ergo, so he contends, he was justified in swinging his "palas" towards the victim resulting in the fatal wound that caused the death of the latter. Appellant's postulation and argument are far from being the sufficient, satisfactory and convincing evidence required by law that would exclude any vestige of criminal aggression on the part of the person invoking it.

It is indeed an affront to credulity, if not an impossibility, that in or from a small four-walled cottage with persons positioned at all sides, all of them failed to see the commotion that allegedly preceded and accompanied a mauling incident that took place before their very eyes. The assertions of appellant that he was hit on his temple by something unspecified, then he was dragged outside the cottage in the presence of its occupants, which was followed thereafter by his being given a blow on the stomach, and capped by his being repeatedly pounded on the back, must have taken at least several minutes and could not but have caught the attention of the people there present. Yet, from his account, the whole episode incredibly appears to have passed unnoticed.

Moreover, defense witness Expedito Arcilla himself declared that, when Abejo was leaving the cottage after Mendoza came to replace him in the game of mahjong, he stood up to give way. About ten seconds after Abejo passed at his side and while he was still standing and shuffling the mahjong tiles, he turned his head backwards because of a commotion and saw Abejo and the appellant grappling with each other, and then appellant tumbled to the floor while Abejo walked away. Expedito Arcilla failed to notice anything that preceded that commotion. Fully corroborating this observation was Napoleon Arcilla, another player who was then present and likewise a

defense witness, who claimed that all he saw was that appellant fell face down all of a sudden, but he likewise did not notice anything out of the ordinary prior thereto.[16]

On the other hand, the prosecution's theory was clearly established by the testimony of Oscar Monjardin, the person situated closest to appellant and Abejo during the moment in question, who positively saw appellant suddenly thrust the "palas" into the chest of the victim hitting the latter below the left nipple while the victim was passing in front of appellant. Nobody contradicted this fact, not even the witnesses presented by the defense; contrarily, nobody affirmed nor corroborated appellant's claim or said anything regarding the supposed mauling incident, not even his witnesses who were supposed to strengthen his testimony.

As correctly noted by the trial court, "(i)f Jose Abejo was stabbed by the accused according to the latter's testimony, not only Oscar Monjardin but also those then inside the cottage playing mahjong could have seen it because it happened after the accused was hit on his left temple, held on his neck, pulled outside the cottage, hit on his stomach and pounded on his back by Jose Abejo, and these could have aroused their attention".[17]

The fact that Monjardin was a business partner of the deceased does not make him a biased witness nor an incredible one. There is absolutely nothing in our law to disqualify a person from testifying in a criminal case wherein the said person's relative is involved, much less if he is only a business partner as in the case at bar, if the former was really at the scene of the crime and was a witness to the execution of the criminal act.[18] Here, Monjardin was able to narrate the incident in a natural, straightforward and categorical manner with convincing details consistent with human nature and the normal course of things. Those circumstances were obviously not lost on the trial court which accordingly gave him full credence.

We hold that the killing was attended by treachery and, consequently, the lower court did not err in handing down a conviction for murder. We find no reason whatsoever to even assume, much less believe, that the assault was just a spontaneous physical translation of a criminal intent conceived on the spur of the moment.

It is significant that appellant admitted that he brought the "palas" with him to Mendoza's cottage that particular night when he could have conveniently and safely put that weapon, together with the fish he had earlier brought and left, at the back of the house of Popa. This is surprising since that house is much nearer to the seashore where he claimed he intended to go back to the moment another boat came to dock. Despite the fact that the "palas" was sharp and pointed and had no scabbard, appellant nonetheless stuck it into the back of the pocket of his pants, at the risk of cutting himself with the exposed blade so dangerously located. Peculiarly, appellant even admitted that it was never his habit to carry around with him a bladed weapon.[19] That he did so in such an unusual manner is highly indicative of a purpose for which he deliberately armed himself, with the blade of the weapon unsheathed for instant use.

The prosecution's evidence proved beyond cavil that appellant suddenly and unexpectedly stabbed the victim on his left chest at the precise time that the victim was unsuspectingly passing in front of him. There was no prior act or conduct on the part of appellant which could have put the victim on notice that something untoward would befall him. The victim was unarmed and, without any warning, was deliberately and suddenly set upon by appellant. The deceased was totally unaware of the impending attack and was in no position to defend himself against it or escape therefrom.

It is, therefore, extremely difficult to assume that appellant did not deliberately and consciously adopt the method or form of attack, which he was proven to have launched, in order to insure the accomplishment of his criminal purpose without risk to himself arising from any defense which the victim might offer. The strategic position he took by seating himself near the door of the cottage, the careful preparation of carrying the "palas" with its uncovered blade concealed in the back pocket of his pants, and the direction and stealthy speed of the thrust with

that blade towards a vital part of the victim's anatomy -- all these were unequivocal indicia of a deliberate plan consciously adopted, and appellant's concomitant intent, to thereby inflict a fatal injury on and with complete absence of resistance from the victim. Thus, undeniably, all the elements of treachery are present.[20]

WHEREFORE, finding no reversible error committed by the court a quo in its judgment of conviction rendered against accused-appellant Rolando A. Alapide, the same is hereby **AFFIRMED** in all respects.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Puno, and Mendoza, JJ., concur.

[1] Certificate of Arraignment; Original Record, 54.

[2] Information; *ibid.*, 50-51.

[3] Original Record, 97-104.

[4] Exhibits D and 3; Original Record, 71, 85; TSN, July 16, 1991, 26.

[5] TSN, July 16, 1991, 16-21, 24.

[6] Appellant's Brief, 13; Rollo, 57.

[7] TSN, September 3, 1991, 4-7.

[8] TSN, September 3, 1991, 8-15, 19.

[9] Original Record, 104.

[10] Appellant's Brief, 1-2; Rollo, 46-47.

[11] *People vs. Mindac, et al.*, G.R. No. 83030, December 14, 1992, 216 SCRA 558, and cases cited therein.

[12] *People vs. Florida*, G.R. No. 90254, September 24, 1992, 214 SCRA 227, and cases cited therein.

[13] Paragraph 1, Article 11, Revised Penal Code.

[14] *People vs. Morato*, G.R. Nos. 95335-59, July 5, 1993, 224 SCRA 361.

[15] Appellant's Brief, 16; Rollo, 60.

[16] TSN, September 3, 1991, 25, 28.

[17] Decision, October 31, 1991, 8-9; per Judge Silvestre S. Felix.

[18] *People vs. Dela Cruz*, G.R. No. 68319, March 31, 1992, 207 SCRA 632.

[19] TSN, September 3, 1991, 17-18.

[20] *People vs. Ybeas*, G.R. No. 98062, September 11, 1991, 213 SCRA 793; Paragraph 16, Article 14, Revised Penal Code.

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