

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DANIEL QUIÑO, ACCUSED-APPELLANT.

G.R. No. 105580. May 17, 1994

Ponente: ROMERO, J.

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ROMERO, J.:

This case is another instance of how alcoholism can blur a person's reason and judgment, fill him with blind rage and spur a demented attack against his own flesh and blood.

At around half past eight in the evening of December 20, 1989, fifty-three year old Dioscoro Quiño sprawled dead amidst rice paddies some fifteen meters from his house in Poblacion, Danao, Bohol, leaving behind his wife and a brood of seven sons and nine daughters. He had two stab wounds in his body - one fatal, penetrating his left chest and the other piercing his left buttock.

With the shocking revelation that he had wounded his own father, Daniel Quiño fled the scene of the incident. Straightaway, he surrendered to the police authorities and was incarcerated. He was informed later that his father had expired.

There is no dispute that Dioscoro Quiño was killed by his own twenty-four year old son Daniel, herein accused-appellant, who now admits having done so with remorse and despair.

The accused was charged with parricide before the Regional Trial Court Branch 4, Tagbilaran, Bohol, in an Information which reads as follows:

"That on or about the 29th day of December, 1989 at barangay Poblacion, municipality of Davao, province of Bohol, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being the legitimate son of Dioscoro Quiño and Lucia Ando, with intent to kill and without justifiable motive, did then and there wilfully, unlawfully and feloniously attack, assault and stab with a sharp-pointed weapon his father Dioscoro Quiño, thereby inflicting mortal wounds on the vital parts of the victim's body which directly caused the instantaneous death of the victim, to the damage and prejudice of the heirs of the victim.

Acts committed contrary to the provision of Art. 246 of the Revised Penal Code.

City of Tagbilaran, February 12, 1990."

Upon arraignment, the accused, assisted by counsel, pleaded not guilty to the crime charged, invoking self-defense.

When the court heard the case, the prosecution presented only one witness in the person of Dra. Benita Mar y Tan, municipal health officer of Dagohoy, Bohol, who conducted the post-mortem examination on the cadaver of Dioscoro Quiño. She issued a Post Mortem Examination Report which in part reads:

"Findings:

x x x 1. Stab wound, 5.5 cm. run away from the sternum, 3.0 cm. from the left nipple, located below the 5th

rib, left, deep, penetrating, measuring 1.0 cm. in width, 2.5 cm. in length and 144.0 cm. in depth.

2. Stab wound at the left buttock, measuring 1.0 cm. in length and 5.0 cm. in depth. x x x."

The other witnesses for the prosecution - the victim's widow and mother of the accused, Lucia Ando, and their neighbor Nestor Alajid, who earlier issued written statements derogatory to the accused Daniel Quiño during preliminary investigation before the Danao Municipal Trial Court judge, suddenly left for Mindanao and could not be presented in court.

The defense presented three witnesses: the accused himself, Paterno Melecio y Betinol and Zenon Acaba.

Appellant testified that on December 29, 1989 which was the vesper day of the town fiesta, he travelled the six-kilometer stretch from where he lived in Magtangtang, Danao, passing by friends' houses to Poblacion, Danao where his father lived; that he reached his father's house at around 8:00 o'clock in the evening and allegedly found the latter drunk, entertaining a guest, Paping Melecio, in the frontyard; that his brothers and sisters were around at the time; that when he informed his father that he wanted to borrow their carabao, his father, while refusing to lend the work animal, got a piece of wood measuring 2 x 2 x 24 inches and beat him with it. He was hit once at the back near the nape and to avoid trouble, he allegedly ran to the rice paddies. His father pursued him, still holding the piece of wood. When he had traversed some fifteen (15) meters, his father caught up with him and hit him again, this time hitting him at the back shoulder near his neck, causing him to fall to the ground. While in that position, his father beat him again hitting the upper part of his nape. The accused quickly pulled out his hunting knife and swung it from side to side to fend off his father's attacks. When, as a result of his moves, his father fell to the ground, he got scared, then drew the knife and ran away.

On cross-examination, the accused declared that he did not see Nestor Alajid in his father's house on the night of the incident; that he did not submit himself to an examination; and that none of those then present pacified or prevented his father from using the piece of wood on him because they allegedly knew that their father would not recognize anyone, as he had beaten everyone, including his own mother, many times in the past, when drunk.

Defense witness Paterno Melecio partly corroborated the testimony of the accused, declaring that on the night of the crime, he arrived at the house of the deceased ahead of the accused; that Dioscoro's children were around so there were no other visitors; that when the accused arrived and expressed his desire to borrow Dioscoro's carabao, the deceased got a piece of wood and struck the accused; that he did not know what transpired after the deceased chased his son as he was old and could not follow them to the paddies; that the wife of the deceased later told him that her husband was stabbed by their son Daniel.

Zenon Acaba, son-in-law of the deceased, testified that no one in the family was interested in pursuing the case and that his mother-in-law Lucia had executed an affidavit of desistance because she pitied her own son who also has a family to support.

On March 9, 1992, the court a quo rendered a decision finding the accused guilty beyond reasonable doubt of the crime of parricide as defined and penalized under Art. 246 of the Revised Penal Code, sentencing him to suffer the penalty of reclusion perpetua with all its accessory penalties and to indemnify the victim's heirs in the sum of P50,000.00 plus costs. Hence, this recourse.

We find no merit in the appeal.

When the accused invokes the justifying circumstance of self-defense, he assumes the burden of proving with clear and convincing evidence, the justification of his act. Having admitted the killing, he must then establish his claim by clear and convincing proof, relying on the strength of his own evidence and not on the weakness of the prosecution, for even if it were weak, it could not be disbelieved after the accused admitted the killing.[1]

The essential elements of self-defense are: (a) unlawful aggression; (b) reasonable necessity of the means employed to prevent or repel it; and (c) lack of sufficient provocation on the part of the person defending himself.[2]

We agree with the lower court's finding that there was no unlawful aggression on account of the fact that appellant did not sustain a single minor injury despite the alleged "repeated blows" with a piece of wood by the victim. He was not even bruised or dazed despite alleged hard blows on his neck and shoulder. Furthermore, it would have been the accused, and not the victim, who would be irked or angered by the father's refusal to lend the carabao. Even then, if it were also true that the accused was simply brandishing his hunting knife by swinging it from side to side, the knife would not have caused a deep and penetrating wound which had to be drawn out from his father's chest, as shown by his testimony in open court as follows:

"Q : Was there any other way to prevent him from hitting you except that getting your knife by brandishing?

A : No other way.

Q : Why did you say so?

A : No more, he was already fallen and I drew the knife and went away."[3]

The Court will no longer discuss the other elements of self-defense, it having been convincingly established that there was lack of unlawful aggression and, therefore, there cannot be any self-defense, complete or incomplete.

We are perplexed why the accused, who claimed that "he did not wish to have any further encounter with his father," ran away from the house "in an ordinary way just like jogging exercise." [4] If his father were really as drunk as he pictured him to be at the time, he could have easily thrown his father out of balance, drew him aside, or sped away beyond reach.

There are also other material inconsistencies in appellant's testimony, placing his candor and credibility in question. For one, he stated on direct examination that when he threatened his father with his hunting knife, he had already fallen on the ground, having been beaten by his father, but on cross-examination he testified that he was not lying down but was instead standing up, even demonstrating his action. The lower court, in its decision, categorically stated that "the scenario depicted by the accused is of doubtful veracity." [5]

The autopsy report reveals that the victim sustained two (2) stab wounds - one penetrating deeply on the left chest and the other, five cm. deep on the left buttock. Both could not have been sustained by the mere swinging of appellant's knife from side to side. Moreover, there is no evidence as to when the second wound was inflicted.

In the case of *People v. Rivera*, G.R No. 101798, May 10, 1993, 221 SCRA 647, citing *People v. Bigkas, et al.*, 211 SCRA 631, G.R. No. 94524, July 20, 1992, we held that:

"In the present case, the number of wounds, the point of entry of the second wound, the position of the victim in relation to the assailant when the second wound was inflicted, as well as the fact that appellant did not sustain any injury, jointly belie any pretension of self-defense. The nature and the number of wounds inflicted by an assailant are constantly and unremittingly considered important incidents which disprove a plea of self-defense."

Evidence to be believed must, not only proceed from the mouth of a credible witness (which alone is already doubtful in the case at bench), but must be credible in itself, such that the common experience and observation of man can approve as probable under the circumstances.[6]

Indeed, appellant not only failed to prove unlawful aggression for his testimony lacked credibility but the

evidence decidedly shows the absence thereof.

WHEREFORE, the appealed decision is hereby AFFIRMED in toto.

SO ORDERED.

Feliciano, (Chairman), Bidin, Melo, and Vitug, JJ., concur.

[1] People v. Molina, G.R. No. 59436, August 28, 1992, 213 SCRA 52.

[2] Art. 11 (1), Revised Penal Code.

[3] TSN of March 22, 1991, p. 5.

[4] TSN of March 27, 1991, p. 15.

[5] Rollo, p. 4 of decision on p. 49.

[6] People v Lim. G.R. No. 86454, 190 SCRA 706, G.R. No. 86454, October 18, 1990; People v. Yabut, G.R. No. 82263, June 26, 1992, 210 SCRA 394.

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