

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE CAPOQUIAN Y DUREN, DEFENDANT-APPELLANT.*G.R. No. 109145. September 22, 1994*

Ponente: REGALADO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-109145/>**REGALADO, J.:**

Moderate imbibition of liquor can be medicinal, but excessive intake can be hazardous. As thus accepted in internal medicine, it is likewise so in criminal law. This case illustrates the deplorable pastime of drinking bouts in this country, starting with conviviality but ending in animosity. The tragedy is that such a diversion sometimes results in one terminated existence consigned to the cemetery and another suspended life lodged in the penitentiary.

Accused-appellant Jose Capoquian was indicted for murder in Criminal Case No. 5274 of the Regional Trial Court, Branch 4, Batangas City under an information which alleges that on May 22, 1991, at Barangay Pinagtung-ulan, San Jose, Batangas, he treacherously and with evident premeditation inflicted a hacked wound on the neck of one Bienvenido Sales y Guevarra which resulted in the horrible death of the latter.[1]

At his arraignment, appellant pleaded not guilty.[2] After trial, he was convicted on December 21, 1992 and sentenced to serve the penalty of reclusion perpetua, to indemnify the heirs of the late Bienvenido Sales in the amount of P50,000.00, and to pay the costs.[3]

The People's evidence was to the effect that on May 22, 1991, at about 3:45 P.M., prosecution witness Cesar Remo passed by the house of appellant at Barangay Pinagtung-ulan, San Jose, Batangas on his way to a store to buy some nails. He saw appellant and the victim, Bienvenido Sales, having a drinking spree inside the house. Returning from the store, he saw appellant hack the victim with a large bolo, hitting the latter on the nape.[4] Remo specified that Sales was then urinating near a lanzones tree with his back towards appellant.[5] As a consequence, Sales fell to the ground and died instantaneously, while appellant immediately fled from the scene of the crime.[6] Thereafter, Remo reported the incident and the grisly death of Sales to the police.

Police investigator Anacito Lingal testified that he received a radio message about the hacking incident while he was at the police headquarters. Together with the chief of police, he promptly went to the scene of the crime to investigate and verify the report. Upon their arrival, they saw the body of the victim lying on the ground. After questioning some persons in the area, according to Lingal "almost all people who were present" identified appellant as the author of the crime.[7]

Meanwhile, Cpl. Ceferino Lunar and two other police officers were driving through said barangay on their way to the town of Cuenca. When they reached and were proceeding along the national highway, they were stopped by people milling around the dead body of the victim. Cesar Remo and a certain Jose Manongsong accompanied Cpl. Lunar and his companions to arrest Capoquian. They proceeded to the Lipa City bus station and saw appellant with his family boarding a Biñan Express bus bound for Manila. Appellant was immediately apprehended and the policemen recovered from him the bolo used in killing Sales.[8]

The prosecution also presented Dr. Rufo Luna who conducted the postmortem examination of the victim. Dr. Luna declared that "the cause of death was the decapitation of his (Sales') head." [9]

The defense did not refute the aforestated facts established by the prosecution. Capoquian readily admitted his participation in the killing but he contended that his act was justified. [10] He asserted that he acted in defense of a relative since he was just trying to save his child from being attacked by the victim. According to him, Sales came to his house already drunk and he allegedly forced appellant to serve him gin and to also drink with him inside the house. While they were drinking, Sales went out and saw the 10-year old son of appellant playing in front of the house. For no apparent reason, the victim suddenly lifted the boy, Fernando, and then dropped him to the ground, as a result of which the latter sustained injuries on his eyebrow. After appellant saw his son fall to the ground, he asked the victim why he did that to the boy but the victim did not answer. Instead, Sales chased the frightened Fernando who ran away towards the backyard. [11]

To corroborate appellant's story, the defense presented the young Fernando who testified as follows:

x x x

"Q Your father is accused in this case of having hacked one Bienvenido Sales allegedly at the premises of your house in Brgy. Pinagtung-ulan, San Jose, Batangas on May 22, 1991 at around 3:45 in the afternoon. (W)here were you at that time?

A At our house, sir.

Q At Brgy. Pinagtung-ulan, San Jose, Batangas?

A Yes, sir.

Q And (at) that precise moment when your father allegedly hack(ed) Bienvenido Sales, what were you doing?

A That man who was hacked by my father lifted me and then let go (of) me and I fell to the ground which caused an injury on my right eyebrow. I ran (to) the back of our house and then I climb(ed) up on the tree. That man with a piece of wood poked that wood on my left cheek.

INTERPRETER:

Witness pointing to a scar on his left cheek.

Q What else happened after you ha(d) been poked by a piece of wood?

A My father saw what that man was doing to me and my father went inside our house to get a piece of cloth to wipe the blood oozing (out) on my cheek. When my father tr(ied) to stop that man from what he was doing to me and after my father went inside the house to get a piece of cloth to wipe off the blood from my face, I fe(lt) that man was going to harm me more and so I shouted for help. That man with a piece of wood tr(ied) to climb up after me, pulling my leg and (at) that moment my father hacked Bienvenido Sales.

Q And so when your father hacked Bienvenido you (were) still up on the tree?

A Yes, sir." [12] (Corrections in parenthe-ses supplied.)

x x x

The trial court did not believe the presentation of the supposed facts by the defense witnesses and made this observation in its decision:

"Carefully and meticulously examining the evidenc(e) adduced by both parties, the Court finds the version of the prosecution more credible considering the following:

- 1) That when the victim, Bienvenido Sales, went to the house of the accused he was already heavily (sic) drunk as testified to by the accused. It is therefore obviously doubtful that the victim can still chase the son of the accused and climb up a tree to hurt the child;
- 2) The discrepancies in the testimonies of the father and the son as to the manner of hurting the child and the part of the body which was injured by the victim. The father testified that it was the left eyebrow of the child that was hurt, and the child testifying that it was his right eyebrow that was hurt and his left cheek was poked by a piece of wood leaving a scar, which was absent in the testimony of the father;
- 3) Lastly, the behaviour of the accused after the victim was hacked by him to death from behind, while the victim was urinating, in that he and his family immediately left the place where they lived with the intention of not even reporting the incident to the police."[13]

In the present appellate recourse, the arguments center on the issue of the credibility of the witnesses presented by the contending parties.

We are, therefore, constrained to once again reiterate that the findings and conclusions of the trial court on the credibility of the witnesses are matters that are left mainly to its discretion because it is the trial court which observed the demeanor and the manner of testimony of the witnesses and, therefore, the trial court is in a better position to assess the same than the appellate court. As a matter of established jurisprudence, the findings of the trial court on credibility of a witness are not disturbed on appeal unless there is a showing that it failed to consider certain facts and circumstances which would change the same.[14]

In the case at bar, witness Remo positively identified Capoquian and categorically declared that the victim was in truth in the act of urinating at the time when he was hacked on the neck.[15] Nowhere in his testimony did he mention a frightened young Fernando on top of the tree when appellant attacked the victim. We have no basis to doubt the credibility of this witness, there being no apparent reason on his part to impute such a serious offense to appellant; nor can we entertain any doubt on the correctness of his observations since he had full opportunity for accurate perception of what transpired in the locus criminis.

Remo's testimony was even affirmed by Fernando himself during the re-direct examination, thus:

X X X

"ATTY. CHAVEZ:

Q But when that man was hacked by your father he was urinating when he was hacked?

A Yes, sir.

Q And that man didn't even know that he will be hacked because your father was behind him when he was hacked, is it not?

A Yes, sir."[16]

X X X

To repeat, we find Remo's testimony credible since not an iota of evidence has been presented to even suggest that there existed any evil motive on the part of this witness to implicate the appellant. In fact, the records of the testimonies of the prosecution witnesses disclose frankness, cohesiveness, and absence of dissemblance and inconsistency which have come to be recognized as features of truthfulness. In the absence of any evidence that a witness was actuated by improper motive, his testimony must be accorded full credence.[17]

Moreover, Remo's behaviour after witnessing the crime, such as immediately reporting the incident to the police and even accompanying the responding authorities to locate appellant, only reinforced his avowed intention of seeking justice for the victim and his desire for the punishment of the one criminally responsible for the latter's death.

Appellant Capouian invokes the defense of a relative, thereby admitting the fact that he did hack the deceased on that fatal day. Correspondingly, a person who seeks justification for his act must prove by clear and convincing evidence the presence of the necessary justifying circumstance. Having admitted the slaying of the victim, he is criminally liable unless he is able to convince the Court that he acted in legitimate defense.

In his brief, appellant melodramatically claims that he "was merely acting on instinct to save his own flesh and blood." [18] Yet, even assuming arguendo the truth of the testimony of appellant's son, Fernando, that there was unlawful aggression on the part of the victim as the defense would have the Court believe, the means employed by appellant to prevent or repel that aggression was nonetheless indisputably unreasonable.

When an unlawful aggression which has begun no longer exists, the one making the defense has no more right to kill or even wound the former aggressor. In the instant case, the supposed unlawful aggression had ceased from the moment the victim stopped chasing Fernando and had started to micturate. There was no need for appellant to attack the victim with a bolo, much less to the extent of hacking the victim on the neck itself to the extent of virtual decapitation. He could have simply boxed him with his fists or hit him with a less lethal weapon on a non-vital part of the body.

We consequently agree with the submission of the Solicitor General that:

"In the present case, the means employed was grossly uncalled for. There was no necessity for appellant to use a bolo to defend his son, more so, to decapitate the victim. Fistic blows may well suffice as the victim then was not armed. Neither was there any showing that the victim was larger and stronger than appellant, which circumstance could have impelled him to take hold of (a) superior weapon." [19]

As we have heretofore explained in the case of *People vs. Callao, et al.*, [20] which involved similar factual features:

"Finally, Fructuoso claimed that Vicente had no more weapon after he lost his knife and yet he still stabbed Vicente with the knife hitting the latter on the left breast, and his reason for doing so was in 'retaliation' for the injury inflicted by Vicente on Jovito. When the knife fell off the hand of Vicente, following the line of the evidence of the defense, and there was no showing that Vicente had another weapon other than said knife, he was no longer a threat nor a danger to the lives and limbs of the two accused. There was nothing more to repel or prevent by means of a knife. It is precisely the helpless condition of Vicente that Fructuoso took advantage of by stabbing the former on the 'breast in retaliation' and therefore, no longer in legitimate defense of his son."

As early as the case of *People vs. Guy-Sayco*, [21] we likewise held that "when no necessity existed for killing the deceased because less violent means could have been resorted to, the plea of self-defense must fail." The cogency of that dictum is as true now as it was then.

Another consideration which belies the claim of appellant that he merely acted in defense of his son, is the nature, character and location of the wound sustained by the deceased. The postmortem examination showed that the victim died due to a "hack(ed) wound on the neck resulting to decapitation." [22] Definitely, under any mode of rationalization, that gruesome wound inflicted on the victim was no longer an act of defense but a deliberate effort to kill him. Additionally, the fact that appellant failed to tell the authorities that he killed the deceased in defense of his son, but even sought to elude them, only shows that the justifying circumstance invoked by him is a mere afterthought and a futile desperate attempt at exculpation.

Appellant further argued that the trial court erred in concluding that he had the intention of fleeing as can be gleaned from his act of leaving the place of the incident together with his family. Appellant claimed that a "parent's instinct to have the injury be (sic) attended by a doctor was the very reason why the accused-appellant, together with his family, decided to go to Manila." [23] This is too lame an excuse for his attempt to avoid his arrest, which ploy warrants outright rejection.

On the contrary, we need merely reiterate the well-established doctrine that flight is indicative of guilt. [24] Appellant's failure to surrender to the police authorities and his act of immediately leaving with his family, even bringing along the bolo he used in the killing, are indubitable indications of his guilt which consequently negate the veracity of his plea of defense of a relative.

Finally, the crime committed is ineluctably murder qualified by treachery, as the onslaught was suddenly made when the unarmed victim had no expectation whatsoever that he would be attacked. The deceased was relieving himself when appellant suddenly boloed his nape from behind. The essence of treachery is swift and unexpected assault on an unarmed victim, [25] which renders him unable to defend himself by reason of the suddenness and severity of the aggression. [26] Here, the weapon used, the nature of the injury inflicted, and the defenseless stance of the victim when attacked confluent lead to the inevitable conclusion that appellant deliberately adopted the murderous mode of commission to ensure the consummation of the offense with impunity.

WHEREFORE, finding the instant appeal of accused-appellant Jose Capoquian y Duren devoid of merit, the same is DISMISSED and the assailed judgment of the court a quo is hereby AFFIRMED in toto.

SO ORDERED.

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

[1] Original Record, 28.

[2] Ibid., 48.

[3] Ibid., 162; per Judge Conrado R. Antona.

[4] TSN, November 13, 1991, 6-7.

[5] Ibid., id., 17.

[6] Ibid., id., 8.

[7] Ibid., March 10, 1992, 3-4.

[8] Ibid., November 13, 1991, 19-20.

[9] Ibid., id., 3-5.

[10] Ibid., July 7, 1992, 3.

[11] Ibid., id., 4.

[12] Ibid., August 5, 1992, 3-4.

[13] Original Record, 162.

[14] People vs. Pascual, G.R. No. 88282, May 6, 1992, 208 SCRA 393.

[15] TSN, November 13, 1991, 17.

[16] Ibid., August 5, 1992, 13.

[17] People vs. Umali, et al., G.R. No. 84450, February 4, 1991, 193 SCRA 493.

[18] Appellant's Brief, 9; Rollo, 36.

[19] Brief for Plaintiff-Appellee, 8; Rollo, 58.

[20] G.R. No. 94643, February 21, 1992; 206 SCRA 420.

[21] 13 Phil. 292, 295 (1909).

[22] Original Record, 115; Exhibit "A".

[23] Appellant's Brief, 10; Rollo, 37.

[24] People vs. Lorenzo, et al., G.R. No. 89376, August 5, 1991, 200 SCRA 207.

[25] People vs. Gonzales, G.R. No. 96928, June 16, 1992, 210 SCRA 44.

[26] People vs. Molina, et al., G.R. No. 59436, August 28, 1992, 213 SCRA 52.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.