

ZETINO CANTOS Y DESULOC, PETITIONER, VS. THE HONORABLE COURT OF APPEALS, THE REGIONAL TRIAL COURT OF PARAÑAQUE, M.M., AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 109644. July 21, 1994

Ponente: PADILLA, J.

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PADILLA, J.:

This is a petition for review on certiorari of the decision* of the Court of Appeals in CA-G.R. CR No. 12322, dated 10 March 1993, affirming the decision of the RTC of Parañaque, M.M. in Criminal Case Nos. 90-2560-63 as well as its resolution, dated 12 April 1993, denying the petitioner's motion for recon-sideration.

Acting upon the petition, the Court required respondents to comment thereon.[1] The Solicitor General, acting for and in behalf of the respondent People of the Philippines, filed his comment on 18 October 1993,[2] after which, the Court resolved to give due course to the petition and required the parties to file their respective memoranda.[3] The petitioner filed his memorandum of 10 January 1994.[4] In his Manifestation and Motion[5] dated 1 February 1994, and filed with this Court on 2 February 1994, the Solicitor General adopted his comment as his memorandum. Thereafter, the case was deemed submitted for deliberation. After deliberating on the case, the Court resolved to deny the petition. Hence, this decision.

In Criminal Case Nos. 90-2560 and 90-2561[6] the petitioner was charged with two (2) counts of homicide, while in Criminal Case Nos. 90-2562 and 90-2563[7] he was charged with two (2) counts of attempted homicide.

After trial, the court a quo rendered a decision,[8] finding the petitioner guilty as charged, the dispositive part of the decision reading as follows:

"UPON THESE PREMISES, the Court finds the accused GUILTY beyond reasonable doubt of two (2) counts of Homicide in Criminal Cases Nos. 90-2560 and 2561 and he is sentenced to suffer the indeterminate penalty of imprisonment ranging from Six (6) years and One (1) day of prision mayor as minimum to Fourteen (14) years and One (1) day of reclusion temporal as maximum for each count. Accused is ordered to pay actual damages to the legal heirs of Victims Venancio Propeta and Maximo Agapito the sum of P20,000.00 and P21,000.00, respectively as burial expenses. Accused is further ordered to indemnify the heirs of the victims the sum of P50,000.00 each.

The accused is also found GUILTY beyond reasonable doubt of the crimes of Attempted Homicide in Criminal Cases Nos. 90-2562 and 2563 and he is sentenced to suffer the indeterminate penalty of imprisonment ranging from Four (4) months and One (1) day of arresto mayor as minimum to Two (2) years and One (1) day of prision correccional as maximum for each count.

The time that the accused served in detention shall be considered in the service of his sentences. With costs against the accused.

IT IS SO ORDERED."[9]

Dissatisfied, petitioner appealed to the Court of Appeals, formulating for resolution the following assignments of error allegedly committed by the trial court, to wit:

- "1. In discrediting self-defense just because the opponents of the accused were five armed men, two of them were armed with knives and the other holding blunt instrument who could have easily subdued him but which turned otherwise as it was the accused who was able to grab the knife from one of his assailants and stabbed four of them and right then and there made an erroneous and sweeping conclusion as could be gleaned from the decision that self-defense was not real or possible;
2. In making a query or disbelief why the alleged victims would resent the words uttered by the accused which were meant to his children and instead pronounced that the accused made invectives [sic] against the alleged victims which resulted in the confrontation and the eventual stabbing which had been opined as provoked by the accused without considering the circumstances presented by the accused and the un rebutted fact that the alleged victims were drunk or had been drinking liquor;
3. In deciding the case by mere superiority of numbers of witnesses rather than the credibility of the testimony of every witness and also the fact that the alleged eye witnesses presented by the prosecution were actually the assailants upon the accused who has (sic) prompted to act in self-defense;
4. In failing to consider that indeed the prosecution witnesses were the ones telling a lie and mislead the Honorable Court because they presented the case as if it was all the accused who acted with violence and inflicted harm upon them and/or the alleged victims without anyone of them touching the accused. Yet it is undisputed that the accused had two stab wounds at the left back portion of his body evidenced by a picture of his wounds and the medico legal certificate and medical records presented by the doctor which even made the court to say that there was a weak link in the version of the prosecution but still refused to consider self-defense."

On 10 March 1993, the Court of Appeals promulgated the now questioned decision.^[11] In affirming the decision of the trial court, the appellate court held, among others, as follows:

"The essential elements of self-defense, which should concur, as provided in Art. 11 (par. 1) of the Revised Penal Code are, namely: (1) unlawful aggression, (2) reasonable necessity of the means employed to prevent or repel it, and (3) lack of sufficient provocation on the part of the person defending himself.

In support of his theory of self-defense, appellant contends that if he was able to kill Agapito and Propeta and injure Mabon and Hinto it was because appellant was lucky to have been able to wrest the knife from Agapito and used it in the stabbing despite the fact that his five opponents were all armed; that while it is true that appellant uttered in Visayan what is equivalent to the Tagalog 'Putang ina ninyo,' those cursed words were addressed to his children and were not directed at the victims to provoke them; that although only appellant testified in his own behalf with the corroborating testimony of his wife, while three of his opponents plus four other prosecution witnesses, testified for the prosecution, this circumstance does not by itself alone detract from the truth of his claim or entitle the prosecution to credibility; and that the fact that he sustained two stab wounds at the back, which were inflicted by Agapito and Propeta when he was washing his muddy hands by the water faucet near the barracks where his opponents were having their drinking spree earlier, is proof enough that he did not provoke the fight, but that the provocation came from the victims. All those circumstances, according to appellant, should be sufficient in law to consider the acts he is accused of as committed in self-defense.

The defense evidence, consisting of the testimonies of accused and his wife at the trial, to substantiate appellant's argument in this appeal, proposes to prove that on the day and time in question, appellant's wife awoke him in their house to tell him that a co-worker named Dante wanted to talk to him and left word that he was proceeding to the house of Inday, wife of another co-worker named Jose. While appellant was on his way to Inday's house, he noticed his two young children playing in the mud. He scolded the children by shouting at

them in Visayan 'Birat kamo han iyo iroy, uli kamo sa balay,' which literally means 'You are the breast of your mother, you go to the house,' and which in Tagalog means 'Putang ina ninyo, umuwi kayo sa bahay.' Appellant approached the children, picked up a stick from the ground, and whipped them with it. Then he proceeded to the water faucet near the barracks where he stooped to wash himself of the mud. While thus washing himself, Venancio Propeta, Maximo Agapito, Roberto Mabon, Orlando Hinto, and Napoleon Zarate came out of the barracks, where they had been drinking, and surrounded him. Propeta asked appellant 'Bakit ka nagmumura?' Appellant remained silent, thinking of what to answer. Suddenly Propeta stabbed him, which stab was followed by another stab from Agapito, inflicting on him two injuries at the left side of his back just below the shoulder. When he straightened up to face them, Agapito gave him another knife thrust which he evaded. From then onward, their scuffle began during which Mabon hit his left thigh with a meter-long lead pipe but he stabbed Mabon in the armpit; Hinto tried to strike him, but he stabbed Hinto's hand; Zarate was about to hit him, but desisted and ran away. It was as a result of the fight that appellant stabbed Agapito and Propeta to death, and injured Mabon and Hinto with the same knife. Appellant's wife saw him being stabbed and was so shocked that she did not know what ensued anymore.

On the other hand, the prosecution version, based on the testimonies of eyewitnesses Roberto Mabon, Orlando Hinto, and Napoleon Zarate (the first two being victims themselves), proposes to show these facts: On June 22, 1990, at around 4:30 P.M., Maximo Agapito, Venancio Propeta, Roberto Mabon, Orlando Hinto, and Napoleon Zarate were drinking beer inside the workers' barracks. Their barracks was near their workplace in the Country Homes construction site, which was located at Putatan, Muntinlupa, Metro Manila. While their drinking was in progress, accused-appellant Zetino Cantos arrived, walking zigzagly and uttering bad words in Visayan which, in Tagalog, means 'Putang ina ninyo.' When Maximo Agapito asked him what he meant by those words, appellant answered that that was nothing. However, when Venancio Propeta asked appellant what those words meant, the latter pulled out a knife, which was five inches long excluding the handle, from his waistline and immediately thrust it at Propeta and missed, but which caused Propeta to fall to the ground. Thereafter, appellant stabbed Agapito. Then appellant returned to Propeta and stabbed him in the right breast, on the lower part of the right breast, and in the left part of the stomach. Seeing what was happening, Roberto Mabon and Orlando Hinto stood up to pacify. But appellant stabbed Mabon near the left armpit. Seeing Mabon being stabbed, Hinto pushed him away from appellant. While Hinto approached appellant to stop him, appellant stabbed Hinto in the left arm and in the shoulder. As a result of the stabbing, Agapito and Propeta died. Mabon and Propeta (sic) were injured. Mabon was treated in the Philippine General Hospital.

"Thus, evidence in support of two conflicting versions was presented to the lower court. In discounting the theory of self-defense and convicting accused of all the offenses charged, the lower court reasoned thus:

'In the first place, if the version of the accused is to be believed, the five (5) men were armed, two (2) had knives, and the others holding blunt instruments to be used to bludgeon the accused. Being armed and already angry, having resented the abusive words thrown at them by the accused, they could have ganged up on the accused, with facility, who was then washing his hands before a faucet and whose back was turned towards them. Accused, under these circum-stances, could have been easily subdued. And the victims would have succeeded in killing him. Instead, according to the version of the accused, after he was stabbed twice, he was able to grab the knife from one of his four (4) assailants and was able to stab four (4) of them.

In the second place, why would the victims resent the invectives the accused uttered if the accused meant them for his children? It has been established that the scene of the crime is an open barracks. Surely, the victims would have noticed that the bad words uttered by the accused were not at them but at his children. It is for this reason that the Court believes the version of the prosecution that indeed the accused uttered these bad words at the victims and not at his children. And by way of reaction, the victims asked the accused for an explanation why [sic] uttered the same. Thus, it was the accused who provoked the fight. And having provoked the same, it was the accused who started stabbing the victims, having resented being challenged.

And finally, while the prosecution had three (3) eye-witnesses, it was only the accused and his wife who testified for the defense. Surely, if what really happened was according to the accused's version, there would certainly have been other corroborating witnesses. Even so, if the testimony of the wife of the accused is carefully studied, it will be noted that it does not actually corroborate the testimony of the accused because she fainted, according to her, after her husband was stabbed. A convenient excuse.

There is, however, a weak link in the version of the prosecution and that is the unexplained stab wounds of the accused. While it is possible but farfetched that the stab wounds were self-inflicted, the more probable explanation is that one or more of the victims must have stabbed the accused. As to who stabbed the accused and at what precise moment during the incident, the Court dare not speculate.

Of course, there is the testimony of the accused as to how his stab wounds were inflicted. As earlier stated, however, the Court does not believe his version of the stabbing incident. The reality is that two (2) persons were killed and two (2) others wounded, admittedly stabbed by the accused.

In fine, the accused has not established self-defense by sufficient, satisfactory and convincing evidence.' (RTC Record, pp. 170-171).

Clearly, the issue here is one of credibility. The lower court gave credence to the testimonies of the three eyewitnesses who were among the five opponents of appellant. And as ruled in *People vs. Villalobos* (G.R. No. 71526, 209 SCRA 304, 313-314 [1992]):

The oft-repeated aphorism that the appellate court will not disturb the factual findings of the trial court especially as to credibility of witnesses, as the latter is in a better position to decide said question, having heard the witnesses themselves and having observed their demeanor and manner of testifying during the trial, unless it has plainly overlooked certain facts of substance and value which, if considered, might affect the result of the case x x x deserves reiteration.'

It should be mentioned that although appellant sustained two stab wounds at the back, these were not inflicted by any of three eyewitnesses who testified for the prosecution. Appellant pointed to Agapito and Propeta, the two other opponents killed in the fight, as the ones who inflicted those wounds.

Thus, the lower court's findings having been substantiated by the evidence on record, and pursuant to the above ruling on witness credibility, We find no error committed by the lower court in convicting appellant of the two counts of Homicide and the two counts of attempted Homicide." [12]

His motion for reconsideration having been denied, [13] the petitioner filed the present petition.

Petitioner now assails the Court of Appeals --

"1. In failing to review the findings of the Paranaque RTC upon an erroneous notion that being the trial court it has a better position to observe the demeanor and manner of testifying of witnesses during the trial even if the record shows that the Paranaque RTC was not necessarily the trial court because it was the RTC of Makati presided over by Honorable Zosimo Angeles which practically tried the case and it was only the testimony of the PGH doctor, the last witness of the accused which the Paranaque court received;

2. In failing to consider that the evidence of self-defense is clear in this instance and the issue involves evidence in its general sense and not necessarily credibility in its limited sense and this matter is naturally a question of law;

3. In failing to consider that the Paranaque RTC itself had found the version of the Prosecution to be weak and had therefore entertained reasonable doubt, yet it rendered a judgment of conviction even in the presence of such doubt." [14]

The only issue to be resolved in the present case is whether or not the Court of Appeals erred in affirming the decision of the trial court convicting the petitioner of the crimes charged.

Petitioner claims that the Court of Appeals erred in affirming the trial court's judgment of conviction because it did not review the findings of fact of the trial court but merely based its decision on the doctrine that appellate courts will not disturb the factual findings of the trial court which had observed the demeanor and manner of testifying of the witnesses during the trial.

In view of the foregoing contention of petitioner, we examined the entire record of the case and after a thorough and careful review of the evidence, we find that the Court of Appeals did not commit any error in affirming the trial court's judgment of conviction.

To begin with, in all criminal prosecutions, the accused is presumed innocent until the contrary is proved beyond reasonable doubt.[15] Otherwise stated, the prosecution has the burden of proving the guilt of the accused beyond reasonable doubt. The accused does not have to prove his innocence because that is presumed.[16] However, when the accused claims that he acted in self-defense -- as in the present case -- the burden of proof is shifted to him and it becomes his duty to establish self-defense by clear and convincing evidence.[17] For, the well-settled rule is, that one who admits the infliction of injuries which caused the death of another has the burden of proving self-defense with sufficient and convincing evidence. If such evidence is of doubtful veracity, and is not clear and convincing, the defense must necessarily fail. For having admitted that he was the author of the death of the deceased, it was incumbent upon the appellant, in order to avoid criminal liability, to prove the justifying circumstance claimed by him, without relying on the weakness of the evidence of the prosecution but on the strength of his own evidence, for even if the evidence of the prosecution were weak, it could not be disbelieved after the accused had admitted the killing.[18]

In the present case, petitioner's evidence to prove his claim of self-defense is not clear and convincing but is of doubtful veracity. As held by the trial court --

"The accused Cantos tries to establish a factual backdrop where five (5) men who had been drinking liquor ganged up on him. And the only reason was because they thought that the invectives he shouted at his two (2) children whom he saw playing in the mud were hurled at them. So that while washing his hands in the faucet, he was confronted by these men, one of whom stabbed him; another also tried to stab him but failed; and another hit him on the leg with a lead pipe. However, he was able to grab the knife of one of them and stabbed his attackers, two (2) fatally. The other two (2) he only wounded.

The Court does not accept this version of the accused. It is out of the ordinary. It is a story often seen in Filipino movies where despite being outnumbered, the hero is able to kill or disable all of his assailants.

In the first place, if the version of the accused is to be believed, the five (5) men were armed, two (2) had knives, and the others holding blunt instruments to be used to bludgeon the accused. Being armed and already angry, having resented the abusive words thrown at them by the accused, they could have ganged up on the accused, with facility, who was then washing his hands before a faucet and whose back was turned towards them. Accused, under these circumstances, could have been easily subdued. And the victims would have succeeded in killing him. Instead, according to the version of the accused, after he was stabbed twice, he was able to grab the knife from one of his four (4) assailants and was able to stab four (4) of them.

In the second place, why would the victims resent the invectives the accused uttered if the accused meant them for his children? It has been established that the scene of the crime is an open barracks. Surely, the victims would have noticed that the bad words uttered by the accused were not at them but at his children. It is for this reason that the Court believes the version of the prosecution that indeed the accused uttered these bad words at the victims and not at his children. And by way of reaction, the victims asked the accused for an explanation

why uttered the same. Thus, it was the accused who provoked the fight. And having provoked the same, it was the accused who started stabbing the victims, having resented being challenged.”[19]

Moreover, there are other facts and circumstances which cast a serious doubt on the petitioner's claim of self-defense. After the stabbing incident, petitioner did not surrender to the authorities but, instead, ran away and went to the house of his brother Antigua Cantos at Putatan, Muntinlupa and requested the latter to accompany him to the hospital, Las Pinas General Hospital. After he was treated at the said hospital, petitioner went back to his brother's house but was followed by the police who arrested him.[20] Again, when he was arrested, he did not tell the police authorities that he acted in self-defense. This is not the usual behavior of one who has killed in self-defense.[21]

The petitioner further contends that the Court of Appeals erred in affirming the trial court's judgment of conviction because, according to him, even the latter court entertained serious doubt in the evidence of the prosecution when it said that there is a "weak link" in its version of the incident.

The petitioner's contention is untenable. As correctly pointed out by the Solicitor General in his comment --

"At the outset, it bares emphasizing that the judgment of conviction rendered by the court a quo was based on evidence presented by the prosecution which clearly and convincingly show petitioner's culpability for the crimes charged. It is not correct for petitioner to assert that the trial court doubts on the prosecution's evidence. The "weak link" in the version of the prosecution mentioned on Page 12 of the trial court's Decision merely refers to the 'unexplained stab wounds of the accused' which, according to the court a quo, were probably caused by one or more of the victims. Indeed, being the unlawful aggressor, it is not unconceivable that petitioner would likewise sustain stab wounds which, in all probability, have resulted from the acts of self-defense put up by his victims during the stabbing incident.

Thus, it is not accurate for petitioner to say that a doubt existed in the mind of the trial court on the version of the prosecution that would entitle him to an acquittal of the crimes charged.”[22]

WHEREFORE, the petition is DENIED. The decision of the Court of Appeals, affirming the judgment of the trial court convicting the petitioner of the offenses charged, is hereby AFFIRMED, with costs against petitioner.

SO ORDERED.

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

* Penned by Justice Jesus M. Elbinias with the concurrence of Justices Fidel P. Purisima and Angelina S. Gutierrez (Sixth Division)

[1] Rollo, p. 57

[2] Ibid., p. 66

[3] Ibid., p. 80

[4] Ibid., p. 86

[5] Ibid., p. 147

[6] The two (2) informations, except for the case numbers and victims' names, contain these identical allegations:

"That on or about the 22nd day of June, 1990, in the Municipality of Muntinglupa, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there willfully,

unlawfully and feloniously with intent to kill, and without any justifiable motive stab (Maximo Agapito y Marquez in Crim. Case No. 90-2560) (Venancio Propeta y Zulueta in Crim. Case No. 90-2561) on the vital portion of the latter's body, thereby inflicting upon said victim serious and mortal wound which directly caused his death, to the damage and prejudice of the heirs of the said (Maximo Agapito y Marquez) (Venancio Propeta y Zulueta) in such amount as maybe awarded to them under the provisions of the Civil Code of the Philippines." (Rollo, pp. 44-45)

[7] Also, except for the case numbers and the victims' names, identical allegations were contained in the two (2) informations for attempted homicide, to wit:

"That on or about the 22nd day of June, 1990, in the Municipality of Muntinlupa, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, did, then and there willfully, unlawfully and feloniously stab one (Roberto Mabon y Ambet on his left armpit in Crim. Case No. 90-2562) (Orland Hinto, Jr. on the left mid-forearm and left wrist in Crim. Case No. 90-2563), thereby commencing the commission of the crime of Homicide, directly by overt acts but nevertheless did not perform all the acts of execution, which should have produced the crime of Homicide, by reason of causes other than his own spontaneous desistance, that due to the fact that the injuries sustained by the offended party are not sufficient to cause the latter's death."

[8] Original Record, p. 160

[9] Ibid., p. 172

[10] Rollo, pp. 19-20; 46-47

[11] Ibid., p. 44

[12] Ibid, pp. 47-51

[13] Ibid., p. 53

[14] Ibid., pp. 21-22

[15] Sec. 14, par. (2), Article III, 1987 Constitution; Sec. 1, par. (a), 1985 Rules on Criminal Procedure, as amended.

[16] People vs. Omega, G.R. No. L-29091, 14 April 1977, 75 SCRA 262.

[17] People vs. Uribe, G.R. Nos. 76493-96, 26 February 1976, 182 SCRA 624.

[18] People vs. Padiernos, G.R. No. L-27386, 27 February 1976, 69 SCRA 454, citing People vs. Llamera, L-21604, L-21605, L--21606, 25 May 1973, 51 SCRA 48, 57 and cases cited therein.

[19] Original Records, pp. 169-170

[20] T.S.N., 7 March 1991, pp. 18-19, 20-21, 22

[21] People vs. Pelago, G.R. No. L-24884, 31 August 1968, 24 SCRA 1027, 1033; People vs. Delgado, G.R. No. 79672, 15 February 1990, 192 SCRA 343, 350.

[22] Rollo, pp. 76-77.

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