

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RENE NUESTRO Y JAGONASE, ACCUSED-APPELLANT.*G.R. No. 111288. January 18, 1995*

Ponente: REGALADO, J.

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A vagary of fate, often beyond the ken and comprehension of man, is why the divine gift of life can so easily be lost for the most trivial of mortal reasons. Consider a prosecution for unlawful killing, where each side offers what it professes was the cause and the court chooses the more plausible version in light of the evidence. Yet at the end of the trial and its day, the unease in the judicial mind gropes through the gloaming of wonder, as it would in the dusk of twilight, to fathom why that tragedy ever came to pass. This is a case in point.

In an information filed on May 28, 1991 before the Regional Trial Court, Branch 30, Iloilo City, herein accused-appellant Rene Nuestro y Jagonase was indicted for the murder of one Ludovico Dabi on May 24, 1991 in the City of Iloilo. [1] When arraigned on July 23, 1991, with the assistance of counsel, appellant entered a plea of not guilty. [2]

In a pre-trial conference on November 28, 1991, Nuestro admitted killing the victim but asked that he be allowed to plead to the lesser offense of homicide and that the mitigating circumstances of plea of guilty and voluntary surrender be appreciated in his favor. Opposing said motion, the public prosecutor countered that it would amount to a plea bargaining without the prior approval of the City Prosecutor of Iloilo. The pre-trial conference was reset to a later date [3] but the approval of the city prosecutor was never secured. Hence, in a pre-trial order dated December 10, 1991, the trial court just noted the admission of appellant that he was responsible for the death of the victim but without any qualifying circumstance. [4]

After trial on the merits, the lower court, in a decision dated May 28, 1993, found appellant guilty of the crime of murder and imposed on him the penalty of reclusion perpetua. He was also ordered to pay the heirs of victim Ludovico Dabi P50,000.00 as death indemnity, P31,340.00 as reimbursement for the wake, funeral and burial expenses, and to pay the costs. [5]

At the trial, thirteen-year old Lani Dabi, the victim's daughter, took the stand and narrated what she had witnessed. She recounted that on May 24, 1991, she and her father went to La Paz for the town fiesta. At about past 4:00 o'clock in the afternoon, they decided to go home to Barangay Kalubihan, Jaro, Iloilo City. Alighting from the passenger jeep which they had taken, they passed by a basketball court on their way home. [6]

After a short walk, they finally arrived at their residence. Her father then tried to open the lock of the gate. At this point, Lani was directly behind her father. Out of nowhere, appellant Rene Nuestro suddenly appeared and without any provocation, he stabbed Dabi, hitting the latter on his left side. Dabi turned around to face his attacker but Nuestro continued stabbing him. With his back against the fence, Dabi held Nuestro on the shoulder but the latter stabbed him several times. [7]

Meanwhile, Elias Franco was on his way home after watching a basketball game when he saw Nuestro stab Dabi several times. Although shocked by what he saw, he immediately got a piece of wood to prevent Nuestro from doing any further harm. When Nuestro saw this, he threw his knife away. The wounded Dabi uttered, "Elias, you take care of Rene Nuestro." Franco heard Nuestro saying, "I hold myself responsible and I'll go to jail for this." [8]

All the while, Lani was too stunned and petrified to move. It was only when Ludovico slumped to the ground that Lani was able to shout for help. The commotion attracted the attention of people nearby. Some wanted to beat up Nuestro but Franco prevailed upon them not to do so. Nuestro pleaded, "Don't harm me or beat me because I will just go to prison for this." [9]

At about the same time, Ernesto Pe Benito was having his afternoon snack. One of his children informed him that Nuestro stabbed Dabi. He immediately went out to investigate and saw Franco holding Nuestro by the shoulder. Franco then asked for his help in bringing Nuestro to the police station. In the meantime, Lani decided to bring her father to the hospital, but the latter expired before they could reach their destination. [10]

SPO3 Saturnino Vallar, Jr. undertook the post-incident investigation. He noticed that there were bloodstains on the fence of Dabi's house. After being informed that appellant ran to his house after the incident, Vallar went there and found a knife with bloodstains. [11]

Lolita Dabi, wife of the victim, testified that by reason of the death of her husband, the family incurred expenses in the amount of P31,340.00 during the wake and the burial. [12]

Not surprisingly, appellant Nuestro had a different account of what happened. His version of the incident was that at about 4:00 P.M. of that fateful day, he was talking to Mardioline Cariño and Jun Posadas. Mardioline was seated on a bamboo bench by the gate of the house of Punzalan, taking care of his two children. Dabi, together with his daughter, happened to pass by. Nuestro glanced at them but Dabi resented this and inquired what he was looking at. Nuestro retorted, "Why, is there anything wrong if I look at you?" Nothing else happened after this exchange of words as Dabi proceeded to his house. After a while, Nuestro himself decided to go home. Interestingly, Nuestro and Dabi were immediate neighbors, with a mere pathway separating their respective houses. Mardioline was left sitting on the bamboo bench. [13]

While Nuestro was inside his house, he suddenly heard Dabi shouting from the outside, "Rene, you get out of your house and we'll fight and I will kill you." He heard Lani pleading with him not to mind her father because the latter was drunk. After a while, to his consternation, Dabi again challenged him to a fight and dared him to go out of the house, yelling, "Because (sic) you are brave you come out of the house and we will fight each other to death." However, Lani restrained her father, pulling him inside their house. [14]

Appellant was exasperated when he heard Dabi challenge him again to a fight for the third time. After a few minutes, Nuestro went out to inquire what Dabi's problem was. Without any warning, Dabi accosted him, at the same time pulling a knife from his back. Dabi tried to stab him but he was able to parry the blow by holding Dabi's right hand. A struggle for the knife ensued. Nuestro was able to kick Dabi causing the latter to release his hold on the knife. Nuestro then got hold of the knife but Dabi started to stand and moved as if to rush towards him. Nuestro was then forced to stab Dabi four times. [15]

When Mardioline saw that the two were struggling for the knife, she was so frightened that she brought the children of Punzalan inside their house. Around twenty minutes thereafter, she decided to leave the children in the house and go home. She did not bother to see or ask anybody about what happened. It was only later in the night when she listened to the radio that she learned about the details of the incident. [16]

Realizing what he had done, Nuestro threw away the knife and proceeded to take a jeep to go to the Jaro Police Station to surrender himself. He noticed that Elias Franco was following him. When Franco learned that he was going to the police station, Franco decided to accompany him.

After a careful perusal and evaluation of the case, this Court is not inclined to disturb the decision of the court below, there being no cogent reason therefor. For, aside from the rule that the factual findings of the trial judge who had the opportunity to observe the demeanor of the witnesses and to assess their credibility is entitled to the highest degree of respect, [17] there are no countervailing reasons here against our adhering to that doctrine since the same find support in the evidence of record.

The Court, in previous cases, has always been guided by the jurisprudential principle that when an accused invokes the justifying circumstance of self-defense, the burden of proof is shifted to him to prove the elements of that claim; otherwise, having admitted the killing, conviction is inescapable. [18] In the case at bar, appellant having admitted the killing of Dabi, he has consequently to prove that the elements of self-defense were present.

In any event, even if we are to consider the scenario presented to us by appellant, still his claim of self-defense must necessarily fail. For one, the physical evidence tells a different tale. The certificate of death shows that the cause of death was hemorrhage due to multiple stab wounds. [19] Dr. Tito D. Doromal, a medico-legal officer, attested to the fact that the victim sustained eight wounds, two on the left side of the body and the rest in front. [20] If Nuestro stabbed Dabi merely to defend himself, it defies reason why he had to stab the victim eight times. The location, number and gravity of the wounds inflicted on the victim belie appellant's pretension that he acted in self-defense. [21] Several wounds inflicted on a victim negate a claim of self-defense. [22]

As earlier stated, Nuestro and Dabi are neighbors. Nuestro's house is located next to Dabi's, separated by an alley, and both houses have their own separate fences. Nuestro testified that after hearing Dabi challenge him to a fight for the third time, he went out to investigate. When prodded as to where he actually went, he said he "went outside where the fence of our (Nuestro's) house was." [23] If we are then to believe Nuestro's story, the killing supposedly happened right in front of his own house because immediately after he went out of his fence, Dabi allegedly tried to stab him.

If this were so, then he completely contradicted himself when, under cross-examination, he stated that the incident happened in front of Dabi's house, thus:

"Q:

Was he facing with (sic) you when you stab(bed) him?

A:

Yes, your Honor.

Q:

And the back of Ludovico Dabi was against (sic) the middle of the road?

A:

Yes, in front of their house." [24] (Corrections in parentheses and emphasis supplied.)

However, when counsel for the prosecution tried to elicit from him a more detailed picture as to where exactly the incident allegedly took place, Nuestro, instead of clarifying his previous statements, completely muddled his own story. This time, he went on to insist that the incident happened "in the middle of the road in front of his (Dabi's) house and in front also of my (Nuestro's) house." [25]

Curiously, none of the aforementioned claims of Nuestro could explain away the physical evidence found by the police investigators at the crime scene. Photographs were presented by the prosecution showing bloodstains on the gate of the victim's house and none near the fence of appellant. [26] Such physical evidence further lends credence to the prosecution's theory that Dabi was stabbed by appellant when the former was trying to open the gate on his (Dabi's) fence. Indeed, a photograph speaks more than a thousand words. [27]

Again, the futility of invoking self-defense is revealed in the very testimony of Nuestro. Allegedly disturbed and annoyed that Dabi was shouting outside his house and challenging him to a fight, Nuestro went out to determine what the uproar was all about. Immediately after he came out of the house, Dabi unexpectedly tried to stab him with a knife. Under these circumstances, Nuestro would indeed be justified in using all possible means to defend himself because of the unlawful aggression on the part of Dabi. After all, the law recognizes a man's natural instinct to protect himself from impending danger.

However, Nuestro's story does not end there. Allegedly, he was able to kick Dabi, causing the latter to let go of the knife. This is supposedly what happened afterwards:

Q:

Is not that what you said, that Ludovico Dabi fell down when you kicked him and he was still on the ground when you picked up the knife?

A:

Yes, sir, because the knife was about one meter away from me.

Q:

And the knife fell one meter away from Ludovico Dabi, is that what you are telling us?

A:

From me, not from Ludovico Dabi.

Q:

How far was it?

A:

About one armslength, (sic) more or less.

Q:

Now, with that distance to where you picked up the knife away from Ludovico Dabi, you still ha(d) a chance to run away to avoid Ludovico Dabi?

A:

Yes, sir.

Q:

All right, as a matter of fact, you did not run away but you stab(bed) him, hitting (him) on the chest for the first time?

A:

Yes, sir. [28] (Corrections and italics ours.)

Clearly, after Nuestro took the control of the knife away from Dabi, he was no longer in danger. The danger of an imminent peril coming from Dabi had already ceased. As admitted by him in his above-quoted testimony, and even assuming the truth thereof, Nuestro had all the chances to run away but he did not. Their roles had clearly changed from the alleged initial confrontation, Nuestro now being the one armed with the knife. Hence, when Nuestro stabbed Dabi, he became the unlawful aggressor. In self-defense, there should be a necessity in both the action taken as well as the means used, and the latter depends on whether or not the aggressor himself was armed, the nature and quality of the weapon used, and the physical conditions and sizes of both the aggressor and the person defending himself. [29]

Nuestro, in a futile attempt to extricate himself from the foregoing significant inconsistencies of his own making, attempted to justify one of them by stating that he failed to run away because "he (Dabi) was able to hug me when he rushed at me." [30] We cannot accept this lame explanation because Nuestro had earlier made completely contradictory statements, in this wise:

"Q:

So when the knife fell on the ground, what did you do?

A:

I picked up the knife.

Q:

And at that precise moment, what was Ludovico doing?

A:

He was about to stand and jump as if to rush at me.

Q:

And what happened after that?

A:

I did not do anything but to stab him because he will be the one who will kill me if I would not hit him." [31]
(Italics supplied.)

We are in a quandary as to how Dabi could then rush towards appellant and hug him when, as aforequoted, Dabi was just about to stand up when Nuestro attacked him. It appears then, if we are to accept Nuestro's version, that even before Dabi could fully stand up, Nuestro already started stabbing him. Furthermore, even if Dabi had already gotten to his feet before Nuestro inflicted the first blow, it is highly unlikely for Dabi to suddenly rush towards him. It is illogical for an unarmed person to lunge at another whom he knows is armed with a lethal weapon.

Defense witness Mardioline Cariño, in an inutile effort to corroborate the testimony of Nuestro, asserted that indeed it was Dabi who provoked the attack. The credibility of her testimony, however, is decidedly questionable. According to Cariño, while Nuestro and Dabi were struggling for the control of the knife, she went inside Punzalan's house out of fear. After several minutes, she went home without bothering at all to find out or ask anybody about what happened afterwards. Although this Court has held in a number of cases that different persons react differently in similar situations, [32] still her reported actuations were highly unusual, if not

apocryphal.

Consider the fact that she personally knew Dabi and Nuestro, they being her neighbors. Then, she allegedly saw the initial stages of the fight between them. While her reluctance to go near the fight scene is understandable, still her indifference and failure to even inquire about what happened afterwards is unbelievable. For sure, someone would have asked her or told her about the incident, provincial folks being close to each other.

A killing is a very unusual happening even in the city and would have certainly alarmed a lot of people and caused them to talk about it. Hence, Cariño's claim that she only heard of what happened afterwards over the radio is a source of wonderment. After all, the test to measure the value of the testimony of a witness is its conformity to the knowledge and consistency with the experience of mankind. [33]

On the other hand, the prosecution has successfully established its case against Nuestro. For one, the testimony of Lani Dabi pointing to Nuestro as the assailant was amply corroborated by Elias Franco. The People undoubtedly had a credible witness in Franco who, in a straightforward manner, testified that Nuestro stabbed Dabi for no apparent reason. The defense failed to attribute any ill motive on his part to falsely accuse Nuestro.

Clearly, Franco merely testified on what happened as he actually saw it. The weight to be given to the testimony of witnesses possessing integrity and intelligence, who have no motive to fabricate facts and foist a very serious crime against the accused, depends chiefly upon their observations and means of knowing the facts testified to by them. [34] A witness who testifies in a categorical, straightforward, spontaneous and frank manner and remains consistent is a credible witness. [35]

Franco also declared that immediately after the killing, Nuestro uttered, "Don't harm me or beat me because I will just go to prison for this." That statement is very revealing because it shows that appellant knew of the criminal implication of his actions and he thereby acknowledged his guilt. In fact, this statement may be regarded as part of the *res gestae* as it was made right after an alarming event, without the opportunity for fabrication or concoction. [36] Spontaneous statements made by a person while a startling occurrence is taking place or immediately prior or subsequent thereto, with respect to the circumstances thereof, may be given in evidence as part of the *res gestae*. [37]

Appellant's asseverations that he voluntarily surrendered, and that Franco merely accompanied him to the police station after a chance meeting, were rendered worthless by the testimony of SPO Pedro Contreras. This policeman stated that a civilian, [38] obviously referring to Franco, brought appellant to the police station and did not merely accompany the latter.

Credence is generally accorded to the testimonies of prosecution witnesses who are enforcers of the law as they are presumed to have performed their duties in a regular manner. [39] In addition, the police blotter clearly shows that Nuestro was placed under citizen's arrest by Elias Franco and Ernesto Pe Benito and was turned over to the officers of the Jaro Police Station. [40] Obviously, we cannot grant appellant the mitigating circumstance of voluntary surrender which he claims.

ON THE FOREGOING CONSIDERATIONS, the appealed judgment of Branch 30 of the Regional Trial Court of Iloilo City in Criminal Case No. 36139, finding accused-appellant Rene Nuestro y Jagonase guilty of murder and imposing the corresponding criminal and civil sanctions therefor, is hereby **AFFIRMED** in toto.

SO ORDERED.

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

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- [1] Original Record. 1.
- [2] Ibid., 14.
- [3] Ibid., 53.
- [4] Ibid., 73.
- [5] Ibid., 247; penned by Judge Jesus G. Alonsagay.
- [6] TSN, February 25, 1992, 3,8.
- [7] Ibid., id., 3, 5.
- [8] Ibid., id., 3-4; February 18, 1992, 14-19.
- [9] Ibid., February 18, 1992, 22-24.
- [10] Ibid., id., 19; June 2, 1992, 4.
- [11] Ibid., id., 6-7.
- [12] Ibid., February 25, 1992, 13.
- [13] Ibid., May 7, 1992, 3,6; April 28, 1992, 5-6.
- [14] Ibid., April 28, 1992, 5-9.
- [15] Ibid., id., 10-12.
- [16] Ibid., May 7, 1992, 11, 16-17.
- [17] People vs. Castillon, et al., G.R. No. 100586, January 5, 1993, 217 SCRA 76.
- [18] People vs. Salazar, et al., G.R. No. 84391, April 7, 1993, 221 SCRA 170.
- [19] Exhibit I; Original Record, 144.
- [20] TSN, February 20, 1992, 4-6, 9.
- [21] People vs. Boniao, G.R. No. 100800, January 27, 1992, 217 SCRA 653.
- [22] People vs. Amania, et al., G.R. No. 97612, March 23, 1993, 220 SCRA 347.
- [23] TSN, April 28, 1992, 10.
- [24] Ibid., id., 27.
- [25] Loc. cit.
- [26] Exhibits, D-F, Original Records, 141-143.
- [27] Heirs of Juan Dacasin, etc. vs. Court of Appeals, et al., G.R. No. 84308, July 2, 1990, 187 SCRA 86.
- [28] TSN, April 28, 1992, 26.
- [29] People vs. Amania, et al., supra.
- [30] TSN, April 28, 1992, 26.

[31] Ibid., id., 11-12.

[32] People vs. Dupali, G.R. No. 97474, February 14, 1994, 230 SCRA 62, and cases therein cited.

[33] People vs. Morre, G.R. No. 102978, January 18, 1993, 217 SCRA 219.

[34] People vs. Lago, G.R. No. 96090, March 30, 1993, 220 SCRA 578.

[35] People vs. Arnan, G.R. No. 72608, June 30, 1993, 224 SCRA 37.

[36] People vs. Bravo, G.R. No. 101191, October 18, 1993, 227 SCRA 285.

[37] People vs. Ducay, G.R. No. 86939, August 2, 1993, 225 SCRA 1; Sec. 42, Rule 130, Rules of Court.

[38] TSN, February 18, 1992, 9.

[39] People vs. Pacleb, G.R. No. 90602, January 18, 1992, 217 SCRA 92; People vs. Gonzales, G.R. No. 93722, May 28, 1993, 222 SCRA 697.

[40] Original Record, 139.

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