

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EFREN RIVERO, ACCUSED-APPELLANT.

G.R. No. 112721. March 15, 1995

Ponente: DAVIDE, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-112721/>

DAVIDE, JR., J.:

Accused-appellant Efren Rivero appeals from the decision of 31 August 1993 of the Regional Trial Court (RTC), Branch 32, at Pili, Camarines Sur, [1] finding him guilty beyond reasonable doubt of the crime of murder and sentencing him to:

suffer the penalty of Reclusion Perpetua, with all the accessories of the law, to indemnify the heirs of Leon Gutierrez the sum of P50,000.00 and the further sum of P5,000.00, as and for funeral expenses, with costs.

He was tried under an information [2] which was filed on 12 April 1983 and whose accusatory portion reads as follows:

That on or about the 18th day of March, 1982 at Barangay San Ramon, Municipality of Lagonoy, Province of Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill, with treachery and evident premeditation, armed with a bolo, did then and there wilfully, unlawfully and feloniously assault, attack and hack with said bolo, one Leon Gutierrez, who as a result thereof suffered several fatal hack wounds on his head and other vital parts of his body which directly caused his death.

The facts of the case duly established by the evidence for the prosecution are correctly summarized by the trial court in the challenged decision as follows:

Efren Rivero is the son-in-law of the deceased Leon Gutierrez; on March 18, 1982 at about 11:30 o'clock in the morning, in San Ramon, Lagonoy, Camarines Sur, while Leon Gutierrez was walking along a path, with Demetrio San Juan ahead of him, Efren Rivero, from behind Leon Gutierrez, attacked the latter with a bolo, the first bolo attack hitting the right shoulder of Leon, and the latter, on facing his assailant, received numerous hack wounds from Efren, totalling 13 incised wounds in all, detailed in Exh. "A", the autopsy report of Dr. Galan; Leon fell dead on the site where he was attacked by Efren Rivero; while the attack on Leon was taking place, Demetrio San Juan moved back and for fear of being attacked by Efren, fled from the scene of the incident, and immediately reported the matter to Eufemia Gutierrez, the wife of Leon, who thereupon went to the place of the incident, finding Leon dead on the path, some 30 meters away from the house of Efren Rivero, and with the help of relatives and friends, brought the dead Leon to their house; the next day, Leon was autopsied by Dr. Galan, whose findings are detailed in Exh. "A"; the first bolo wound administered by Efren on Leon's right shoulder immediately disabled Leon, preventing him from offering any resistance at all. [3]

The accused-appellant, on the other hand, claimed self--defense. According to him, at or about 8:00 a.m. of 18 March 1982 he went to the house of the barangay captain of Lojo, Lagonoy, to settle his case with his wife Myrna Gutierrez, a daughter of Leon Gutierrez, whom he caught in flagrante with her paramour, Danilo Delfino, in their

conjugal home. Myrna did not come, but Leon did. The accused-appellant told Leon that he will not live anymore with his daughter because she committed adultery. Leon reacted by warning him to be careful because he would kill him before the end of the day. The accused-appellant was frightened, and he returned home, arriving at about 9:00 a.m.. At about 11:00 a.m., while he was inside his house, Leon Gutierrez, who was then armed with a bolo, challenged him to get out because he was going to kill him; as a result, he was struck with fear. Then, Leon forced open the door and entered his house. Due to his fear, the accused-appellant also got a bolo and told Leon not to come any nearer, but the latter cornered him against the wall and hacked him. Leon was not able to hit him. He then hacked Leon hitting the latter on the right shoulder thereby immediately disabling him. He could not recall how many more times he hacked the victim because at that time he had already lost control of his mental faculties. He thereafter surrendered to the police authorities. [4]

The trial court accepted the version of the prosecution. It discredited the version of the accused-appellant thus:

Upon the other hand, this Court cannot believe the version of Efren Rivero that he killed Leon Gutierrez in self defense, having been attacked first by Leon in his own house, which is preposterous, first: because nothing could have been easier than to have established this fact BY SHOWING TO THE POLICE at the time he surrendered, THE BLOOD STAINS THAT WOULD HAVE BEEN VISIBLE INSIDE HIS HOUSE, were it true that the wounding of Leon occurred inside Efren's house; second, Demetrio San Juan testified that the attack occurred at the pathway, and the deceased was found near the pathway, and 30 meters away from Efren's house.

The accused-appellant now pleads that we acquit him because the trial court committed the following errors:

- ... IN FINDING THE ACCUSED-APPELLANT EFREN RIVERO GUILTY BEYOND REASONABLE DOUBT FOR THE CRIME OF MURDER.
- ... IN NOT APPRECIATING THE CLAIM OF THE ACCUSED-APPELLANT THAT HE ACTED IN SELF DEFENSE WHEN THE INCIDENT HAPPENED.
- ... IN GIVING FULL CREDENCE TO THE TESTIMONY OF THE LONE EYE WITNESS FOR THE PROSECUTION. [5]

and submits that the lone issue to be resolved is whether he acted in complete self-defense.

Having admitted that he killed his father-in-law, Leon Gutierrez, the burden of the evidence that he acted in self-defense was shifted to the accused-appellant. It is hornbook doctrine that when self-defense is invoked, the burden of evidence shifts to the appellant to show that the killing was justified and that he incurred no criminal liability therefor. He must rely on the strength of his own evidence and not on the weakness of the prosecution's evidence, for, even if the latter were weak, it could not be disbelieved after his open admission of responsibility for the killing. He must prove the essential requisites of self-defense, to wit: (a) unlawful aggression on the part of the victim, (b) reasonable necessity of the means employed to repel the aggression, and (c) lack of sufficient provocation on the part of the accused. [6]

The accused-appellant maintains that he was able to prove all these requisites. The victim, armed with a bolo, came to his house and challenged him to a fight and, receiving no positive response from him, the victim thereafter forced himself into his house. [7] The use of a bolo against a bolo-wielding aggressor was a reasonable means to repel the aggression. Finally, he insists that there was absolutely no provocation on his part; he was attacked inside his house and the killing took place therein.

We are not persuaded.

The accused-appellant has spun an incredible tale. The victim was found dead some thirty meters away from the

house of the accused-appellant. [8] This place corresponds to that indicated by prosecution witness Demetrio San Juan as the spot where the victim was attacked by the accused-appellant. There is no credible evidence that the victim was able to run away from the house; besides, with the thirteen wounds inflicted on him, it was physically impossible for the victim to have done so. Then too, the accused-appellant presented no evidence that bloodstains were found in his house although, as correctly observed by the trial court, if indeed there were bloodstains, he could have pointed them out to the police authorities immediately after he surrendered to them since they immediately came to the scene of the incident and were even able to recover the fatal bolo. Moreover, the alleged bolo of the victim was not recovered. It is indubitable to us that the victim was unarmed and was not killed inside the accused-appellant's house.

Dr. Wilfredo Galan declared that the victim's wound at the back may have been inflicted without his being forewarned of the attack. Thus:

Q

So far, the wound that was directed at the back, can it be possible that the deceased is about to face or backtrack?

A

The first theory is that, the victim is already on his turning back of the body and the victim does not know anything. That is why there was a striking area at the back, and he had to face the assailant.

Q

But the victim could have avoid or still defend the attack by running away if he do it if he is not also intending to face the assailant?

A

The victim is already out of his senses. That is why I have made that theory. [9]

This wound at the back strengthens the testimony of prosecution witness Demetrio San Juan that the victim was hacked from behind with a sharp bladed long bolo called "ginogon" by the accused-appellant who was following the victim while the latter was walking. [10] The victim sustained thirteen hack wounds while the accused-appellant suffered no harm or injury despite the fact that the former was bigger than him. [11] It is an oft-repeated rule that the presence of a large number of wounds on the part of the victim negates self-defense; instead, it indicates a determined effort to kill the victim. [12]

On the basis of the evidence established by the prosecution and the nature of the injuries inflicted on the victim and considering that the accused-appellant sustained no harm or injury, we are convinced that the victim was attacked from behind, suddenly, unexpectedly, and without warning. There was, therefore, treachery in the commission of the crime because the accused-appellant employed means, method, or form in its execution which tended directly and especially to insure its execution without risk to himself arising from the defense which the victim might make. [13]

Treachery and evident premeditation are alleged in the information as qualifying circumstances; however, only treachery, which is sufficient to qualify the killing to murder as defined and penalized in Article 248 of the Revised Penal Code, has been duly established.

On the other hand, we appreciate in the accused-appellant's favor the mitigating circumstances of voluntary

surrender and of sufficient threat on the part of the victim which immediately preceded the killing. [14] It was duly established that immediately after the incident the accused-appellant surrendered to the police authorities at the Lagonoy Police Station. [15] And, as could be inferred from his testimony, he killed his father-in-law because at the house of the barangay captain of Lojo at 8:00 a.m. of 18 March 1982 after he told the victim that he cannot live anymore with his adulterous wife whom he caught in flagrante with her paramour in their conjugal home, the victim warned him to be careful because he would kill the latter before the end of the day. The accused-appellant could have interpreted this warning as a serious threat and may have prompted him to decide to eliminate his father-in-law before he could carry out such threat.

Nonetheless, any of the two mitigating circumstances was offset by the alternative circumstance of relationship. [16] The remaining mitigating circumstance would then authorize the imposition of the minimum period of the prescribed penalty. Under Article 248 of the Revised Penal Code, the penalty for murder is reclusion temporal in its maximum period to death, a penalty which is comprised of three distinct penalties, viz., a divisible penalty and two indivisible penalties, each of which, pursuant to Article 77 of the Revised Penal Code, shall form a period. Conformably with Article 64 of the said Code, the proper imposable penalty in this case would thus be reclusion temporal in its maximum period. Since the accused-appellant is entitled to the benefits of the Indeterminate Sentence Law, he could be sentenced to an indeterminate penalty whose minimum shall be within the range of the penalty next degree lower to that prescribed for the offense proved and whose maximum shall be within that so prescribed, taking into account the modifying circumstances. This penalty next degree lower is prision mayor in its maximum period to reclusion temporal in its medium period. The accused-appellant could thus be sentenced to an indeterminate penalty ranging from ten (10) years and one (1) day of prision mayor maximum as minimum to seventeen (17) years, four (4) months, and one (1) day of reclusion temporal maximum as maximum.

IN VIEW OF ALL THE FOREGOING, judgment is hereby rendered AFFIRMING the challenged decision of Branch 32 of the Regional Trial Court of Camarines Surin Criminal Case No. P-2100 (formerly T-198) subject to the modification of the penalty which is hereby reduced from reclusion perpetua to an indeterminate penalty of imprisonment ranging from Ten (10) years and One (1) day of prision mayor maximum as minimum to Seventeen (17) years, Four (4) months, and One (1) day of reclusion temporal maximum as maximum.

Costs against the accused-appellant.

SO ORDERED.

Padilla, (Chairman), Bellosillo, Quiason, and Kapunan, JJ., concur.

[1] Original Records (OR), 456-457; Rollo , 51-52. Per Judge Nilo A. Malanyaon.

[2] OR, 43.

[3] OR, 456-457; Rollo , 51-52.

[4] TSN, 22 July 1987, 3-7, 10, 13-14.

[5] Rollo , 42.

[6] People vs. Gomez, G.R. No. 109146, 17 August 1994.

[7] Rollo , 43.

[8] TSN, 15 July 1985, 7.

[9] TSN, 9 October 1984, 18-19.

[10] TSN, 1 April 1985, 5-6.

[11] TSN, 22 July 1987, 15.

[12] *People vs. Maceda*, 197 SCRA 499 [1991]; *People vs. Sagadsad*, 215 SCRA 641 [1992]. See also *People vs. Arroyo*, 201 SCRA 616 [1991]; *People vs. Nabayra*, 203 SCRA 75 [1991]; *People vs. Amania*, 220 SCRA 347 [1993]; *People vs. Rivera*, 221 SCRA 647 [1993]; *People vs. Morato*, 224 SCRA 361 [1993]; *People vs. Singson*, G.R. No. 92502, 4 August 1994.

[13] Article 14(16), Revised Penal Code; See *People vs. Boniao*, 217 SCRA 653 [1993].

[14] Article 13(7) and (4), respectively, Revised Penal Code.

[15] TSN, 6 January 1986, 5.

[16] Article 15, Revised Penal Code.

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.