

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RENATO VALLADOR, ALIAS "MORITO"; AND CARLOS VALLADOR, ACCUSED, RENATO VALLADOR, ACCUSED-APPELLANT.

G.R. No. 116071. June 20, 1996

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REGALADO, J.:*

Accused-appellant Renato Vallador, alias "Morito", and his brother, accused Carlos Vallador, were charged before the Regional Trial Court, Branch 46, of San Jose, Occidental Mindoro^[1] with the crime of murder with frustrated murder. The particulars of the accusation for that complex crime are provided by the information filed therefor on July 28, 1986, which alleges:

That on or about the 27th day of November, 1985, at around 11:30 o'clock in the evening in Barangay Magbay, Municipality of San Jose, Province of Occidental Mindoro, Philippines, and within the jurisdiction of this Honorable Court, the accused, with intent to kill, conspiring and confederating together and helping one another by means of treachery and by taking advantage of their superior strength, did then and there willfully, unlawfully and feloniously attack, assault and shoot Henry Pelagio and Roy Montoya, thereby inflicting upon Henry Pelayo serious wound which had been the cause of his untimely death and upon Roy Montoya wounds which ordinarily would have caused his death, thus performing all the acts of execution which would have produced the crime of murder as a consequence, but nevertheless, did not produce it by reason of causes independent of their will, that is, persons were able to prevent them from committing further acts.

CONTRARY TO LAW.^[2]

Although the arraignment of appellant was held on September 30, 1986, with the said appellant entering a plea of not guilty,^[3] the case was ordered archived by the lower court on November 10, 1987 since appellant had escaped from the Philippine Constabulary (PC) stockade wherein he was temporarily detained.^[4] An alias order of arrest was then issued for the arrest of Renato Vallador, and also of Carlos Vallador who was then still at large.^[5] On February 3, 1992, the two brothers were arrested and subsequently detained at the provincial jail of Occidental Mindoro. Thereafter, accused Carlos Vallador was arraigned on February 24, 1992 and he pleaded not guilty to the charge lodged against him and his brother."^[6] Trial was, however, suspended again when the two accused escaped from detention on August 4, 1992.^[7]

After they were re-apprehended and the case set for hearing, appellant filed with the lower court on May 6, 1993 an omnibus motion praying that he be allowed to plead guilty to an information for homicide, with a reservation to present evidence on mitigating circumstances, or that leave be granted allowing him to file a motion for reinvestigation.^[8] Said motion was denied by the trial court on July 1, 1993.^[9]

At the conclusion of the presentation of evidence by the prosecution, a joint motion for leave to file a demurrer to evidence was filed by both accused on October 20, 1993.^[10] Resolving the motion, the court a quo denied appellant's motion, while it granted the motion of his co-accused and directed the latter to file a demurrer to evidence.^[11] The demurrer filed by accused Carlos Vallador was granted and a judgment of acquittal was

rendered in his favor by the court below on November 9, 1993, based on its finding that said accused took no part in the killing of Henry Pelayo and the infliction of injury upon Roy Montoya.[12]

After a continuous trial on the merits, the remaining accused in Criminal Case No. R-2055, herein appellant Renato Vallador, was found guilty as charged and sentenced to suffer the penalty of reclusion perpetua and to indemnify the heirs of Henry Pelayo and Roy Montoya.[13] Hence, it is only Renato Vallador's criminal liability which remains to be determined in the present appeal.

Before us, appellant questions the decision of the trial court in not acquitting him on the ground of self-defense and in concluding that treachery attended the commission of the crime.[14]

From the evidence adduced by the prosecution, it appears that a benefit dance party was held in the compound of Magbay Elementary School on the night of November 27, 1985 in honor of the candidates for the Miss Magbay beauty contest.[15] Among the people inside the makeshift dance hall situated in front of the school building were two friends, Henry Pelayo, a newcomer in the town, and Roy Montoya who was on vacation there. Outside the entrance of the dance hall stood appellant Renato Vallador, a member of the local Civilian Home Defense Force (CHDF), carrying an M-14 rifle. As Montoya wanted to buy something, he informed Pelayo that he was going to the store located within the compound. Unknown to Montoya, Pelayo followed him.

When Pelayo passed appellant by the doorway, the latter pounded the former on the chest with the butt of his rifle. Frightened by the sudden and unexpected assault, Pelayo ran towards Montoya and hid behind the latter. As his friend ran towards his back, Montoya turned around and faced appellant who was following the former. With the rifle leveled at them from a distance of about one arm's length, Montoya asked appellant the reason for his hostile acts. Without replying appellant fired in the direction of the two friends who both fell to the ground.[16]

The bullet that hit Montoya passed through his body and likewise hit Pelayo who was then hiding behind the former's back. That single projectile which came from appellant's rifle hit Montoya on his lateral umbilical area, perforating his cecum, and then exited at the right side of his posterior lumbar area.[17] From this point of exit, the same bullet continued towards Pelayo and hit him on his right lower quadrant,[18] subsequently causing his untimely death.[19] According to the testimony of the physician who diagnosed the wounds of Montoya, the injury suffered by him is ordinarily fatal as it involves an injury to an internal organ.[20]

When the two victims were already lying on the ground, appellant fired again at their prostrate bodies. Fortunately, neither of the victims was hit. After appellant had thus fired the second shot, he walked away from the scene of the crime and, upon reaching the gate of the school compound, he fired another shot in the air.[21]

Although appellant admitted the shooting,[22] he presented a different story which sought to lay the basis for a justified act of self-defense on his part.

According to him and the witnesses he presented, he was at the elementary school on that fateful night to maintain peace and order in the festivities, at the request of his uncle, Rogelio Vallador, who was in charge of organizing the dance party.[23] Arriving in the school compound, appellant smoked and consumed two sticks of cigarettes beside the school building and later went to the dance hall. Standing about three arms' length away from the dance floor, he slung his M-14 service rifle on his shoulder with its muzzle pointing to the ground.

After awhile, Henry Pelayo suddenly appeared at appellant's left side and immediately grabbed the latter's gun with both hands. Appellant reacted to this threat by stepping backwards away from his attacker and by successively firing two shots in the air to warn the charging Pelayo. However, Pelayo was firm in his intention and he jumped towards appellant to grab his rifle again. This left appellant with no choice but to shoot in the direction of Pelayo's stomach while the latter was still grappling for the rifle.

Pelayo fell down, together with the person embracing him from behind who was later identified as Roy Montoya.[24] At that time, Montoya apparently was trying to pull his friend away from appellant.[25] Since the fallen Pelayo tried to get up, appellant fired another warning shot in the air. Thereafter, his uncle Rogelio Vallador, arrived and told him to go home, which order he submissively obeyed.[26]

Appellant contends in his brief that he was able to prove all the elements of self-defense through his presentation of evidence in court. They are: (1) unlawful aggression on the part of Henry Pelayo; (2) reasonable necessity of the means employed by appellant to prevent or repel the attack; and (3) lack of sufficient provocation on his part. In support of his second assignment of error, he claims that treachery cannot be appreciated in this case because when he shot the two friends, he was only defending himself from possible harm that might be inflicted on him by Pelayo.

Evidently, what we have here are two different versions of the events leading to the death of Pelayo and the wounding of Montoya. To believe appellant's account of the incident will lead to his acquittal, while to accept the People's story will result in his conviction. The resolution of the issue revolves around the credibility of the witnesses upon which appellant's two assignments of error rest, vis-a-vis those presented by the prosecution.

The evaluation of testimony is a primary task of trial courts before whom conflicting versions of the same events come up day after day.[27] Accordingly, we now state again, as this Court has held in a long line of cases, that the trial court's determination on the issue of the credibility of witnesses and its consequent findings of fact must be given great weight and respect on appeal, unless certain facts of substance and value have been overlooked which, if considered, might affect the result of the case.[28] This is so because of the judicial experience that trial courts are in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial. It can thus more easily detect whether a witness is telling the truth or not.[29]

After extensively reviewing the entire records of the case and meticulously assessing the evidence, we find no cogent reason to deviate from this rule on credibility, or any error in the evaluation or findings of the lower court which would warrant a reversal or modification of its findings and conclusions.

From our careful scrutiny of the records, and as an unavoidable consequence thereof, we agree with the lower court's holding that:

The said accused's pretension of self-defense is not persuasive. It cannot prevail over the positive identification by and the clear and convincing testimonies of the prosecution's material witnesses, more particularly the complainant Roy Montoya himself, that the accused committed the crime so charged.[30]

There appears to be no reason to discredit the testimonies of the witnesses for the prosecution. They clearly and affirmatively gave a full account of what actually transpired on the night of November 27, 1985. They were consistent in their respective narrations on the witness stand, except for Freddie dela Cruz who testified that he heard four gunshots that night as against the testimony of the other prosecution witnesses that they only heard three gunshots.[31] But, the divergence of his perception can be explained by the shock that one may experience immediately after hearing the ostensible first two shots. Besides, we have held that inconsistencies in the testimonies of witnesses which refer to minor and insignificant details cannot destroy their credibility. Such minor inconsistencies even guarantee truthfulness and candor.[32]

Be that as it may, the prosecution witnesses have positively and directly shown that it was appellant who initiated the unlawful aggression, and not Pelayo as he claims. Their testimonies on this point were categorical and forthright, and appellant has not presented any evidence showing any evil or sinister motive on the part of the prosecution witnesses that could have led them to testify falsely against and to impute to him such a serious crime.

He even declared in court that no animosity existed between him and Pelayo prior to the shooting.[33] Neither has appellant offered any substantial reason why this Court should overturn the trial court's appreciation of the evidence presented against him. Instead, he merely reiterates in this appeal his discredited and rejected claim of self-defense.

It should be remembered that in cases where the accused admits committing the crime but invokes self-defense to escape criminal liability, the basic rule that the burden of proving the guilt of the accused lies on the prosecution is reversed and the burden of proof is shifted to the accused to prove the elements of his defense.[34] It then becomes incumbent upon him to rely on the strength of his own evidence and not on the weakness of that of the prosecution, for even if the latter were weak, it could not be disbelieved after he had admitted the killing.[35]

Self-defense, being an affirmative allegation, appellant must now sufficiently prove its elements to the satisfaction of the court, otherwise his conviction is imperative.[36] It is required in this jurisdiction that the accused establish his claim of self-defense by clear and convincing evidence in order to successfully justify his criminal act.[37] If he fails to discharge this burden of proof, his conviction shall of necessity follow, on the basis of his admission to the killing.[38]

Here appellant's invocation of self-defense cannot save him from the consequence of his felonious act because it is unworthy of belief as found by the trial court. Indeed, there are strong reasons to doubt the version of the defense. Neither appellant nor his witnesses made an exact account of how Montoya got involved in the scuffle for the gun. All of them claimed that after the third fatal shot was fired, Montoya was already on the ground lying beside Pelayo. None of them, however, testified at what point in time Montoya started pulling Pelayo away from appellant. It was as if Montoya was conveniently thrown into the scene of the crime from nowhere to provide basis for the claim of self-defense by appellant.

The submission of another medical certificate[39] by the defense increases disbelief in appellant's story. This medical certificate dated October 26, 1993, is almost identical to the other medical certificate[40] presented by the prosecution, dated April 22, 1993. Both documents were issued by Dr. Senen M. Zapanta, Jr. certifying to the location of the gunshot wound suffered by Henry Pelayo. The difference lies in the addition of points of entry and exit with measurements of the wound, in the medical certificate presented by the defense. In this later document, the point of entry of the slug measures approximately 7mm and the point exit about 9mm. There was no such data provided in the certificate earlier issued to the prosecution by Dr. Zapanta regarding the wound of Pelayo.

The later medical certificate appears to have been presented by appellant to show that Pelayo was closer to the rifle than Montoya when they were shot.[41] There was no explanation given why such an important information was not included in the first certificate. It should be noted that Montoya's gunshot wound had an entry point measuring about 9mm with an exit point of 2.5 cm.[42] It is hard to believe that Pelayo, granting that he was in front of Montoya, would suffer a gunshot wound with an opening of 7mm because the rifle used in the crime only loads .308 caliber bullets. Converting this size of the bullet to the metric system, a .308 inch slug will be 7.62 mm in diameter. Thus, we will have an unusual situation where a point of entry is smaller than the bullet that caused it. Instead of supporting the cause of appellant, therefore, the amended medical certificate submitted later opened his defense to grave suspicion.

Lastly, the conduct of appellant in escaping not only once but twice from detention during the hearing of the case negates his plea of self-defense. It is settled that the flight of an accused is an indication of his guilt or of a guilty mind.[43] There is flight when an accused evades the course of justice by voluntarily withdrawing one's self in order to avoid arrest or detention or the institution or continuance of criminal proceedings.[44] By reason of his escaping successively, the proceedings before the lower court were suspended twice.

Based on the foregoing, we hold that appellant failed to discharge the onus probandi which was shifted to him by his plea of self-defense. Ergo, his conviction necessarily follows from his admission that he shot the victim.

Further, upon the facts established by the prosecution, we agree with the trial court that the complex crime committed by appellant was accompanied by alevosia. Treachery can be appreciated when the following requisites are present: (1) the employment of means, method or manner of execution which would ensure the safety of the malefactor from defensive or retaliatory acts on the part of the victim, no opportunity being given to the latter to defend himself or to retaliate; and (2) the means, method, or manner of execution were deliberately or consciously adopted by the offender.[45] The essence of treachery is a swift and unexpected attack on an unarmed victim without the slightest provocation on his part.[46]

There is treachery in the instant case since the attack on the two unarmed victims was sudden and unexpected, rendering them defenseless in the hands of their assailant and ensuring the accomplishment of the latter's evil purpose. When appellant fired his gun, Pelayo was already hiding behind Montoya. It was thus ordinarily inconceivable that appellant would still fire at Pelayo considering that another person was already standing between them, yet that did not faze or deter appellant at all.

As in the killing of Pelayo, treachery qualified the mortal wounding of Montoya to frustrated murder because of the suddenness of the attack. Montoya was shot by appellant when he was still waiting for the latter's answer to his question as to why appellant was incensed at his friend Pelayo.

Obviously, the two victims were not given the chance to protect themselves or run away from the aggression of appellant who deliberately acted in such a way that his quarries were unaware of and helpless against his evil intention. Without waiting for the victims next move or reaction to his threatening posture, appellant quickly fired his gun at the two friends. The attack was so sudden and unexpected to the point of preventing the victims from repelling or escaping from it.

IN VIEW OF ALL THE FOREGOING, the judgment appealed from is hereby AFFIRMED in toto.

SO ORDERED.

Romero, Puno, Mendoza, and Torres, Jr., JJ., concur.

[*] Chairman, Second Division.

[1] Presided over by Judge Restituto C. Aguilar.

[2] Original Record, 1.

[3] Ibid., 29.

[4] Ibid., 75.

[5] Ibid., 76.

[6] Ibid, 88.

[7] Ibid, 120, 123.

[8] Ibid., 162-163.

[9] Ibid., 177.

[10] Ibid., 301.

- [11] Ibid., 308-309.
- [12] Ibid., 373.
- [13] Ibid., 394.
- [14] Appellant's Brief, 1-2; Rollo, 47-48.
- [15] TSN, October 11, 1993, 12.
- [16] Ibid, October 18, 1993, 4-6, 8, 11-17.
- [17] Exhibit A, Original Record, 278.
- [18] Exhibit C, *ibid.*, 280.
- [19] Exhibit B, *ibid.*, 279.
- [20] TSN, October 11, 1993, 7.
- [21] Ibid., October 18, 6 & 8.
- [22] Ibid., October 13, 1993, 17; October 28, 1993, 9; Appellant's Brief, 7.
- [23] Ibid., October 25, 1993, 5.
- [24] Ibid., October 28, 1993, 3-8.
- [25] Ibid., October 27, 1993, 7.
- [26] Ibid., October 28, 1993, 8-9.
- [27] *People vs. Machete, et al.*, G.R. Nos. 103287-88, March 14, 1994, 231 SCRA 272.
- [28] *People vs. Bigcas, et al.*, G.R. No. 94534, July 20, 1992, 211 SCRA 631; *People v. Deunida*, G.R. Nos. 105199-200, March 28, 1994, 231 SCRA 520, *People vs. Acuña, et al.*, G.R. No. 94702, October 2, 1995, 248 SCRA 668.
- [29] *People vs. Acuña, supra*; *People vs. Deunida, supra*.
- [30] Decision, 4; Original Record, 393.
- [31] TSN, October 13, 1993, 5.
- [32] *People vs. Belibet, et al.*, G.R. No. 91260, July 25, 1991, 199 SCRA 587.
- [33] Ibid., October 28, 1993, 12.
- [34] *People vs. Ganzagan, Jr.*, G.R. No. 113793, August 11, 1995, 247 SCRA 220.
- [35] *People vs. Quiño*, G.R. No. 105580, May 17, 1994, 232 SCRA 400; *People vs. Aliviado*, G.R. Nos. 113792-94, August 14, 1995, 247 SCRA 300.
- [36] *People vs. Picardal, et al.*, G.R. No. 72936, June 18, 1987, 151 SCRA 170.
- [37] *People vs. Aliviado, supra*; *People vs. Quiño, supra*; *People v. Bigcas, et al., supra*.
- [38] *People vs. Ganzagan, supra*.
- [39] Original Record, 360.

[40] Exhibit C; Ibid., 280.

[41] TSN, October 28, 1993, 13.

[42] Exhibit A, Original Record, 278.

[43] People vs. Martinado, et al., G.R. No. 92020, October 19, 1992, 214 SCRA 712.

[44] People vs. Alegado, 25 Phil. 510 (1913).

[45] People vs. Mendoza, G.R. No. 109783, September 22, 1994, 236 SCRA 666.

[46] People vs. Ponayo, G.R. No. 111523, August 10, 1994, 235 SCRA 226.

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