

RAMON INGLES @ “MONCHING,” PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 117161. March 03, 1997

Ponente: ROMERO, J.

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ROMERO, J.:

This is another case of a gamble lost in a plea of self-defense.

Petitioner was charged before the Regional Trial Court of Calauag, Quezon, Branch 63, with frustrated homicide for the stabbing of a certain Celso Barreno. One says it was a surprise attack; the other insists it was self-defense. The conflicting versions of the incident follow.

At around 5 o'clock in the afternoon of February 13, 1987, while at the Lopez Sports Center cockpit located at Barangay Bebito, Lopez, Quezon Province, Barreno was suddenly stabbed by somebody in the back. Upon turning around, he saw petitioner who was about to stab him again. Barreno released the fighting cock he was carrying and tried to parry the attack. With his back and right arm bleeding, he fled towards the ulutan, where fighting cocks are paired, but fell facedown along the way.[1] Petitioner also left amid the commotion that ensued. In the meantime, Barreno was taken to the Magsaysay Memorial Hospital by a certain Officer Mañas.[2] The attending physician, Dr. Romeo Tapales, treated him for two stab wounds, one that went through the right arm and another at the back, as well as for abrasions on the right shin.[3] The doctor opined that without timely medical assistance, profuse bleeding of the arm wound could have led to severe blood loss and possibly death.[4]

Petitioner admitted the stabbing but claimed he acted in self-defense.[5] According to him, it was Barreno who first tried to stab him after an altercation over a parcel of coconut land which was registered in the name of his wife Eden (Barreno's first cousin), but which Barreno wanted to harvest by himself. The latter allegedly challenged him to a fight by cursing "Putang ina mo, magnanakaw ka! " ("Son of a whore, you're a thief!"), but he answered that they should not fight inside the cockpit. When a soltada (match) was about to begin, the people in the cockpit began to crowd the balcony. On their way up Barreno walked ahead of him, occasionally looking back, then suddenly pulled a fan knife and lunged at him, but he was able to evade the thrust. Being the bigger man, he was able to wrest possession of the knife and used it against his supposed attacker, who was hit in the right arm in attempting to ward off the blow. He was so furious that when Barreno began to retreat, he gave chase and succeeded in hitting his mark again, this time in the back.[6] He left amid the confusion that ensued, threw the knife into a well,[7] and surrendered himself to a certain Lt. Garcia apparently because no policeman was present in the cockpit.[8] Yet upon cross-examination, he admitted that he left the cockpit when he saw "the authorities" fetching Barreno.[9] Lt. Garcia escorted him to the police detachment at the municipal building where he owned up to the stabbing but refused to answer any other questions without his lawyer.[10]

Petitioner's testimony was corroborated by a certain Lorenzo Escleto, one of the men in the cockpit who allegedly saw the incident and was asked by petitioner to testify in his defense.[11]

On December 5, 1990, Judge Enrico A. Lanzas[12] rendered judgment finding petitioner guilty of mere attempted homicide after concluding that the latter was not able to perform all the acts of execution which would have caused the death of Barreno, thus:

WHEREFORE and considering the foregoing, the Court finds the accused Ramon Ingles, guilty beyond reasonable doubt of the crime of Attempted Homicide defined and penalized under Art. 249 in relation to Art. 6 and Art. 51 of the Revised Penal Code and hereby sentences him to suffer the penalty of Four (4) Months of arresto mayor to Four (4) Years, Two (2) Months of prision correccional, reimburse the offended party in the amount of P278.00, the amount he spent for his medication, indemnify the offended party in the amount of P5,000.00 as moral damages and pay the costs of the suit.

SO ORDERED. "

On appeal, said judgment was affirmed in toto by the Court of Appeals. Petitioner now comes before this Court trumpeting the same excuses he maintained before the trial and appellate courts. He will again be disappointed.

Petitioner does not, and never did, deny that he stabbed Barreno. He claims immunity from responsibility, however, by alleging that he acted in self-defense and was, therefore, not criminally liable under Article 11, paragraph 1 of the Revised Penal Code (the Code), viz.:

"ART. 11. Justifying circumstances. -- The following do not incur any criminal liability:

1. Anyone who acts in defense of his person or rights, provided that the following circumstances concur:

First. Unlawful aggression.

Second. Reasonable necessity of the means employed to prevent or repel it.

Third. Lack of sufficient provocation on the part of the person defending himself."

Having admitted his role in the stabbing, it became incumbent upon petitioner to prove the presence of all the elements necessary to justify his act.[13] Was there unlawful aggression on the part of the victim? Were the means employed by petitioner reasonably necessary to repel the attack? Was there lack of sufficient provocation on the part of petitioner prior to the alleged attack?

If we were to believe petitioner's version of the incident, all the above elements were present. It was Barreno who challenged him to a fight, then swore at him, and finally tried to stab him as they were going to the cockpit's balcony. His act of dodging the initial thrust and grappling for possession of the knife was a fairly reasonable reaction to the surprise attack. And he never provoked Barreno; in fact, he refused to fight the latter even when challenged and slandered in front of other men.

Petitioner, however, did not stop there but went beyond what may be considered a fairly reasonable reaction. After getting hold of the knife, he was still "very angry" so he stabbed Barreno. When the latter fled, he gave chase and stabbed him again, this time at the back. As correctly found by the trial and appellate courts, the unlawful aggression, if any, ceased the moment petitioner disarmed Barreno and grabbed the knife himself. When he stabbed his supposed attacker, not just once but twice, he became the aggressor. The reasonableness of the means by which he sought to deflect harm from himself also ceased. By no stretch of the imagination can he now be said to be acting merely in self-defense.

To compound matters, his subsequent actions belie his plea of innocence. Thus, the court a quo asked: Why did he leave the cockpit? Why did he throw away the knife and withhold this information from everybody? Why did he surrender to an army officer when there were, by his own account, policemen in the cockpit, some of whom even went to Barreno's assistance? Upon questioning, why did he refuse to cooperate with the investigators unless he

had a lawyer present?

The answer is simply that petitioner was lying and Barreno was telling the truth.

Going by Barreno's account, petitioner was the aggressor from the start. He denied having any special interest in the land of petitioner's wife which supposedly sparked the argument between them. He also disowned the knife and insisted that petitioner had it on his person all along before stabbing him.[14] The physical evidence, composed of the medical report and the actual wounds of the victim, confirms these claims. Even the evidence for the defense corroborates in part his testimony.

This Court has, over the years, established badges of guilt or circumstances which serve as indicia of a man's guilt. Several of these are present in the case at bar. First, petitioner admittedly fled at the first sight of policemen confirming that "the guilty fleeth even when no man pursueth." Certainly, flight is hardly the natural reaction of an innocent man who wishes to, and in fact did, surrender to another person in authority, in this case, Lt. Garcia.[15] Second, while Barreno suffered two possibly fatal stab wounds and abrasions on the leg, petitioner was unable to exhibit even the slightest scratch on himself, totally negating his plea of self-defense.[16] Next, he discarded the knife and concealed such fact from the investigators, which can only mean that he naturally did not want to produce the evidence that could convict him.[17] Finally, his failure to inform the police upon his surrender that he acted in self-defense was fatal to his defense.[18]

The Court notes, however, that petitioner was found guilty of the lesser crime of attempted homicide instead of frustrated homicide, the crime for which he was charged. According to the court a quo and affirmed by the Court of Appeals, petitioner was not able to perform all the acts of execution which would have caused the death of Barreno because the latter was able to run away. With due respect to the trial and appellate courts, we have to disagree with this conclusion.

"A felony is . . . frustrated when the offender performs all the acts of execution which would produce the felony as a consequence but which, nevertheless, do not produce it by reason of causes independent of the will of the perpetrator. There is an attempt when the offender commences the commission of a felony directly by overt acts, and does not perform all the acts of execution which should produce the felony by reason of some cause or accident other than his own spontaneous desistance.[19] Undoubtedly, no further act was needed to complete the fact of stabbing, not once but twice. Prosecution witness Dr. Tapales testified that without timely medical attention, one of the wounds could have led to severe blood loss which could have killed Barreno. If the inevitable result, which is the death of the victim, did not materialize, it was not because he was able to elude his attacker, but because he was treated in the hospital on time.

The Court also observes that the trial and appellate courts ignored the treachery that so glaringly attended the commission of the felony. It is not disputed that Barreno was stabbed on the back by petitioner. The only variance lies in the statement of the former that the attack was sudden, which we accepted at its face value, and in the latter's averment that it was done in a fit of uncontrollable rage, which we found rather contrived. When a person is unexpectedly attacked from behind, depriving him of any opportunity to defend himself, undeniably, there is *alevosia*. [20] Since treachery was not, however, alleged in the information, it did not qualify the felony to murder but may, nevertheless, be appreciated as a generic aggravating circumstance for the purpose of imposing the proper penalty.

Petitioner should, therefore, have been found guilty as charged of the crime of frustrated homicide which carries with it the penalty of prision mayor under Article 249 in relation to Article 50 and Article 6 of the Code. After taking into account the presence of the aggravating circumstance of treachery, as well as the mitigating circumstance of voluntary surrender of petitioner, and by virtue of Article 64 of the Code, the imposable penalty

is prision mayor in its medium period.

WHEREFORE, the instant petition for review is DENIED. The appealed judgments of the trial and appellate courts in Criminal Case No. 1472-C (CA-G.R. CR No. 11758) entitled *People of the Philippines v. Ramon Ingles alias "Monching,"* is hereby AFFIRMED WITH the MODIFICATION that the penalty of imprisonment shall be the indeterminate sentence of four (4) years and two (2) months of prision correccional, as minimum, to eight (8) years and one (1) day of prision mayor, as maximum.

SO ORDERED.

Regalado, (Chairman), Puno, Mendoza, and Torres, Jr., JJ., concur.

[1] TSN, February 9, 1988, pp. 5-11.

[2] TSN, June 6, 1988, p. 13.

[3] Exhibit "B," Medical Certificate dated February 14, 1987.

[4] TSN, April 11, 1988, p. 9.

[5] TSN, June 13, 1990, pp. 6-31.

[6] *Ibid.*, pp. 7, 22-24.

[7] *Id.*, p. 26.

[8] *Id.*, p. 29.

[9] *Id.*, p. 28.

[10] *Id.*, p. 12.

[11] TSN, March 27, 1990, pp. 13-30.

[12] Judge Ricardo O. Rosales, Jr. heard most of the testimonial evidence for the prosecution. Judge Lanzanas only took over the case in 1990.

[13] *People v. Hubilla, Jr.*, 252 SCRA 471 (1996), citing *People v. De la Cruz*, 207 SCRA 632 (1992); *People v. Ybeas*, 213 SCRA 793 (1992), *People v. Boniao*, 217 SCRA 653 (1993); *People v. Gomez*, 235 SCRA 444 (1994).

[14] TSN, September 5, 1990, pp. 5-8.

[15] *People v. Gregorio*, 255 SCRA 380 (1996), citing *People v. Manuhan*, 133 SCRA 11 (1984); *Anciro v. People*, 228 SCRA 629 (1993); *People v. Martinado*, 214 SCRA 712 (1992); *People v. Garcia*, 209 SCRA 164 (1992).

[16] *People v. Binondo*, 214 SCRA 764 (1992).

[17] *People v. Solis*, 195 SCRA 405 (1991).

[18] *People v. Sarol*, 139 SCRA 125 (1985).

[19] Article 6, Revised Penal Code.

[20] *People v. Canuzo*, 255 SCRA 497 (1996).

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