

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AS VERJANON RABANAL, ACCUSED-APPELLANT.

G.R. No. 119542. January 19, 2001

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Accused-appellant AS Verjanon Rabanal was charged with murder in an Information[1] which reads:

"That on or about April 19, 1992, in the City of Cavite, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being then armed with Armalite rifle, with intent to kill and with treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously assault, attack and shoot with the said rifle one FN2 ROLLY ATENDIDO Y ALILING, hitting and inflicting upon the latter mortal gunshot wounds which ultimately caused his death.

Contrary to law."

On arraignment, accused-appellant pleaded "not guilty" to the charge. Trial on the merits ensued.

The following facts, as found by the trial court, are undisputed:

At around 1:00 in the early morning of April 19, 1992, accused-appellant Rabanal and his victim Atendido, both members of the Philippine Navy, were aboard the navy ship "BRP Quezon" docked at Sangley Point Naval Base for repairs. Rabanal was then assigned as the Roving Guard of the ship. He had an altercation with Atendido which resulted in Rabanal shooting Atendido twice with his M-16 armalite rifle, one shot grazing the latter's forehead and the other piercing his back. Medical findings disclosed the following:

"1) Grazed gunshot wound frontal region, measuring 3.4 x 0.5 cm. along the anterior midline.

2) Gunshot wound, point of entry, right costal region, measuring 0.5 x 0.4 cm., 0.5 cm. from the posterior midline, with contusion collar, measuring 0.2 cm. laterally and 0.1 cm. medially, superiorly and inferiorly, 116 cm. from the right heel, directed anteriorwards, medialwards and slightly upwards, fracturing the 11th right thoracic ribs, lacerating the right lobe of the liver, transverse colon and the pancreas, 2 metallic fragments are recovered embedded at the greater omentum at the epigastric region."[2]

Rabanal claimed that he acted in self-defense. He alleged that Atendido and a companion were drunk when they boarded the ship after coming from Cavite City where they spent their off-duty hours. Once aboard the ship, Atendido allegedly dared Rabanal to a fistfight and thereupon punched him four times, but Rabanal did not return Atendido's blows. Thereafter, Atendido supposedly attacked him with a knife but he tried to avoid him by stepping back until he reached the edge of the ship at the fantail. Sensing that Atendido would stab him, he fired a warning shot but when Atendido still kept coming at him, he shot him twice. Rabanal immediately fled after the incident by jumping overboard and swimming towards the shore. He thereafter went in hiding in Pangasinan.

The Regional Trial Court of Cavite City, Branch 16, thereafter rendered a decision[3] the dispositive portion of which reads as follows:

"IN VIEW OF ALL THE FOREGOING CONSIDERATIONS, this court finds accused VERJANON RABANAL GUILTY beyond reasonable doubt of the crime of Murder and sentences him to suffer the penalty of reclusion perpetua with all the accessories provided by law, to indemnify the heirs of Rolly Atendido the amount of P50,000.00 and the further amount of P50,180.00 as funeral expenses."

Aggrieved by the decision, accused-appellant interposes the instant appeal assigning the following errors:

I

THE HONORABLE TRIAL COURT COMMITTED GRAVE ERROR IN NOT APPRECIATING THE PLEA OF SELF DEFENSE OF THE ACCUSED.

II

THE HONORABLE TRIAL COURT COMMITTED GRAVE ERROR IN FINDING APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF MURDER.

Rabanal avers that he was not the unlawful aggressor but Atendido, who, while drunk, confronted him saying, "You are on duty. Bakit hindi mo ginagampanan ang duty mo?" When he told Atendido to stop, the latter replied, "Isa ka pa," and thereafter punched him four times. As a result, Rabanal hit his head on "a 3 inch part located at the fantail". After regaining consciousness, he attempted to stop Atendido from making further trouble with the other crewmembers but Atendido instead turned to him, pulled a knife and attempted to stab him. He pleaded for Atendido to stop as he was already at the edge of the ship but the latter continued to approach him, prompting him to fire a warning shot. When Atendido did not heed his advice as well as the first warning shot, he fired a second warning shot at the same time telling him that he has one last chance to stop. Undeterred, Atendido dared him to fire his rifle at him. Honestly believing that he was in danger as Atendido was seemingly aiming his knife at vital parts of his body, Rabanal shot Atendido twice.

The appeal is without merit.

To prove self-defense, the accused must show with clear and convincing evidence, that: [1] he is not the unlawful aggressor; [2] there was lack of sufficient provocation on his part; and [3] he employed reasonable means to prevent or repel the aggression. Self-defense, like alibi, is a defense which can easily be concocted. It is well-settled in this jurisdiction that once an accused had admitted that he inflicted the fatal injuries on the deceased, it was incumbent upon him, in order to avoid criminal liability, to prove the justifying circumstance claimed by him with clear, satisfactory and convincing evidence. He cannot rely on the weakness 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 himself had admitted the killing." [4]

In the case at bar, at least three persons categorically testified that Atendido was lying down on a table when Rabanal shot him. The defense failed to sufficiently discredit the testimonies of said witnesses. Atendido cannot, therefore, be the unlawful aggressor but accused-appellant Rabanal. Unlawful aggression contemplates an actual, sudden and unexpected attack, or imminent danger thereof, and not merely a threatening or intimidating attitude; there has to exist a real danger to the life or personal safety of the person claiming self-defense. [5]

There no longer existed a real danger to the life or personal safety of accused-appellant Rabanal inasmuch as a significant length of time has passed between the perceived danger to his life or personal safety and the shooting of Atendido. At the time of the shooting, Rabanal was no longer confronted with any unlawful aggression on the part of Atendido. When Rabanal shot Atendido, the unlawful aggression of the latter has long ceased as in fact he was already lying down preparing to sleep. Unlawful aggression on the part of the victim is a condition sine qua non for the successful invocation of self-defense. [6] It is a doctrinal rule that when an unlawful aggression which

has begun no longer exists, the one making a defense has no right to kill or even to wound the former aggressor.[7]

Significantly, accused-appellant Rabanal's claim of self-defense was belied by the medical findings. The trial court found that two shots were fired by Rabanal. The first shot grazed the head of the victim Atendido. Assuming there was unlawful aggression on the part of the victim, the grazed wound inflicted on his head would have been sufficient to incapacitate him. As it is, the second shot to the back of the victim Atendido was unnecessary if Rabanal merely wanted to stop the victim's aggression towards him. The nature and number of wounds are constantly and unremittingly considered important indicia to disprove a plea of self-defense.[8]

In addition, the fact that Atendido was in a reclining, hence defenseless, position when he was shot as well as the wound on his back indicates the treacherous manner of the shooting. The medical finding corroborates the testimony of witnesses that Atendido was shot while lying down. When the act is attended by treachery on the part of the offender, it could not be said that there was unlawful aggression on the part of the offended party, because the facts constituting the treachery would be inconsistent not only with the offended party's alleged unlawful aggression but also irreconcilable with the offender's claim that he was merely acting in self-defense.[9]

Besides, the trial court found:

"The demeanor of the accused at the witness stand and his manner of testifying do not speak well of his credibility. The Court observed that the accused took time to answer simple questions from both the prosecution and the Court. In addition, his uncorroborated and unreliable claim of self-defense is full of inconsistencies." [10]

Plainly, the plea of self-defense, as in this case, cannot be justifiably entertained where it is not only uncorroborated by any separate competent evidence but is also extremely doubtful in itself.[11]

Lastly, the trial court found from the records that accused-appellant Rabanal disappeared for more than a month after the shooting incident until he was captured. As oft-repeated, flight evidences guilt and a guilty conscience; the same strongly indicates a guilty mind and betrays the existence of a guilty conscience.[12]

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court of Cavite City, Branch 16, finding accused-appellant Verjanon Rabanal guilty of murder and sentencing him to suffer the penalty of reclusion perpetua and to indemnify the heirs of Rolly Atendido P50,000.00 as civil indemnity and P50,180.00 as actual damages, is AFFIRMED.

Costs against accused-appellant.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Pardo, JJ., concur.

[1] Rollo, p. 2; Criminal Case No. 160-92.

[2] Exhibit "E", Records, p. 92.

[3] Penned by Judge Proceso P. Silangcruz.

[4] *People v. Patrolman Domingo Belbes*, G.R. No. 124670, June 21, 2000.

[5] *People v. Galapin*, 293 SCRA 474 [1998].

[6] *People v. Cawaling*, 293 SCRA 267 [1998].

[7] People v. Arturo Caverte, et al., G.R. No. 123112, March 30, 2000.

[8] People v. Canete, 287 SCRA 490 [1998].

[9] People v. Baniel, 275 SCRA 472 [1997].

[10] Decision, Rollo, pp. 20-21.

[11] Jacobo v. Court of Appeals, 270 SCRA 270 [1997].

[12] People v. Gregorio, 255 SCRA 380 [1996].

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