

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO CAHINDO, ACCUSED-APPELLANT.

G.R. No. 121178. January 22, 1997

Ponente: MELO, J.

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MELO, J.:

For the killing of one Milton Lagilles, Romeo Cahindo was charged with murder, thusly:

That on or about the 23rd day of September, 1989, in the City of Tacloban, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent to kill, with treachery and evident premeditation, did, then and there wilfully, unlawfully, and feloniously attack and wound MILITON LAGILLES, with the use of a deadly weapon known as "sarad" which the accused had provided himself for the purpose thereby inflicting upon him hack wounds on his head and deltoid area near shoulder joint of his body which caused his death.SPPED-CALR

Contrary to law.

(p. 5, Rollo.)

After trial, Cahindo was found guilty as charged in a decision dated September 20, 1993, and he was accordingly meted out the penalty of reclusion perpetua, aside from being ordered to indemnify the heirs of the victim in the amount of P50,000.00, without subsidiary imprisonment in case of insolvency (p. 18, Rollo).

Dissatisfied, accused-appellant has interposed the instant appeal, claiming that the trial court erred in giving more weight to the prosecution's evidence instead of believing his protestations of self-defense.

The facts of the case, as found by the trial court and as borne out by the evidence, are as follows:

The evidence for the prosecution consists of the testimonies of Dr. Rogelio Daya, Lucila Lagilles, Cristilyn Lagilles and Anatolio Bohol. The evidence for the people seeks to establish that at about 7 o'clock in the evening of September 23, 1989 at Baybay District, San Jose, Tacloban City, while the deceased victim Milton Lagilles was urinating at the yard of his house the accused Romeo Cahindo approached the victim from behind and with a scythe locally known as "sarad" held in his (accused) right hand delivered hacking blows upon said victim hitting the latter at his right shoulder and on top of the head, after which the deceased victim fell down on the ground and died.

The post mortem examination (Exhibit-"B") issued by Dr. Rogelio Daya, Assistant City Health Officer of Tacloban City shows that the deceased Milton Lagilles sustained the following injuries which resulted in his death, to wit:

- 1) Hacking wound, (R) deltoid area, upper portion anterior aspect, near shoulder joint, 22 cms. long, 5.5 cms. deep, 5 cms. wide;
- 2) Hacking wound, scalp, 16 cms. long, 3 cms. wide, skull deep, extending from frontal area to occipital area.

Cause of Death:

Hemorrhage due to hacking wounds.

Prosecution witness Cristilyn Lagilles and Anatolio Bohol revealed that immediately prior to the hacking incident, the accused challenged the deceased to a fight, which the victim obviously did not mind. Nonetheless, the accused persisted in his criminal designs and hacked the victim to death. Said prosecution witnesses further testified that before the accused hacked the victim, the latter was heard uttering the statement — "I will not fight you, don't do it, don't do it". Said prosecution witnesses could not have erred as they were barely two armslength from the scene of the crime. After inflicting the fatal wounds on the victim, the accused immediately ran away from the scene of the crime. This significant piece of evidence was, surprisingly, not denied by the defense, hence admitted.

According to said witnesses, at the time accused challenged the deceased victim to a fight, the former was drunk. While the hacking incident was taking place, prosecution witnesses Cristilyn Lagilles and Anatolio Bohol were immobilized with shock, although Lagilles was able to shout for help. Only after the victim had fallen down to the ground and his assailant fled, that witness Anatolio Bohol regained his composure and rushed and ran towards Costa Brava to fetch the husband of Cristilyn Lagilles, Danilo Lagilles, who upon arrival immediately rushed the victim to the hospital, but the victim was dead on arrival at the hospital.

(pp. 13-14, Rollo.)

Accused-appellant argues that he should have been exculpated on the ground of self-defense. Having invoked such justifying circumstance, accused-appellant is deemed to have necessarily admitted having killed the victim (People vs. Besana, Jr., 64 SCRA 84 [1975]). The burden of proof is thereupon shifted to him to establish and to prove the elements of self-defense (People vs. Nuestro, 240 SCRA 221 [1995]) by clear and convincing evidence (People vs. Boniao, 217 SCRA 653 [1993]). For exculpation, he must rely on the strength of his own evidence and not on the weakness of the prosecution (People vs. Morin, 241 SCRA 709 [1995]).

The elements of self-defense are: (a) unlawful aggression on the part of the victim, (b) reasonable necessity of the means employed to prevent or repel it, and (c) lack of sufficient provocation on the part of the person defending himself (People vs. Camahalan, 241 SCRA 558 [1995]).

Accused-appellant maintains that he acted in self-defense when he inflicted the fatal wounds with his scythe upon the victim because the victim stabbed him twice when he (accused-appellant) refused to sell tuba to the victim. According to accused-appellant, at around 7 o'clock on the evening of December 23, 1989, the victim went to the house of accused-appellant to buy tuba but accused-appellant refused because the victim was already drunk, and because of this refusal, the deceased stabbed accused-appellant three times after which the latter retaliated by hacking the deceased on the head with his scythe which he pulled from his waist.

Accused-appellant's version is unconvincing, flawed as it is by serious inconsistencies. He testified that "there was a person who called wanting to buy tuba". It would seem that when the deceased "called", he must have been at a certain distance from accused-appellant, such that the latter could not have been certain whether the buyer was drunk or not. In any event, human experience tells us that one who sells alcoholic drinks does not usually refuse a buyer unless the latter is obviously too intoxicated and is already creating trouble. There is not even a suggestion that the buyer was acting unnaturally, or boisterously, or bellicosely at the time he "called" accused-appellant to buy tuba. Further, it is too much of a coincidence that the victim would arm himself with a bladed weapon while on his way to buy tuba. And it goes against human nature to suggest that the accused should be carrying a scythe at his waist even after he had reached his house and was resting. Then too, not the slightest injury was sustained by accused-appellant from the alleged attack by the victim.

Moreover, accused-appellant's version is adulterated with evident falsehoods. He declared that he inflicted the fatal wounds on the deceased while he was down on the ground grappling with the deceased. This declaration goes counter to his earlier statement that he hacked the deceased while the latter was at the door of the former's house.

Such manifest falsehood and discrepancy in accused-appellant's testimony seriously impair its probative value and cast serious doubts on his credibility (*People vs. Cruz*, 231 SCRA 759 [1994]).

The factual findings and conclusions of the trial court are entitled to great weight and respect and should not be disturbed on appeal (*People vs. Daquipil*, 240 SCRA 314 [1995]), unless the trial court had overlooked, disregarded, misunderstood, or misapplied some fact or circumstance of weight and significance which if considered would have altered the result of the case (*People vs. Gapasan*, 243 SCRA 53 [1995]).

We have scoured the record in search of such fact or circumstance and have found none. Hence, the findings of the trial court must stand.

Another circumstance which glaringly points to the guilt of accused-appellant is his flight from the scene of the killing. Flight of an accused from the scene of the crime removes any remaining shred of doubt on his guilt (*People vs. Deunida*, 231 SCRA 520 [1994]).

As afore-mentioned, accused-appellant invokes self-defense, but he has utterly failed to substantiate the same. The paramount element of self-defense is unlawful aggression on the part of the victim, the absence of which negates self-defense (*People vs. Ponayo*, 235 SCRA 226 [1994]). As shown above, accused-appellant has grossly failed to establish that there was unlawful aggression on the part of the victim. No injury on accused-appellant was shown, or else any alleged wound must have been inflicted long before he hacked the victim, and must have been the very motive why he killed the victim. No witness has come forth to corroborate any supposed unlawful aggression on the part of the victim.

On the other hand, prosecution witnesses Anatolio Bohol and Cristilyn Lagilles positively and categorically testified that the victim was urinating at the yard of his house when accused-appellant appeared from behind and hacked the victim with a scythe on the right shoulder and on the head causing his death. The location and extent of the wounds sustained by the victim, clearly demonstrate the intent and determination of accused-appellant to kill the victim, and in effect corroborate the testimony of the prosecution witnesses that accused-appellant, suddenly and without, warning, treacherously attacked the victim from behind while the latter was totally oblivious of his impending doom.

WHEREFORE, the appealed decision is hereby AFFIRMED with costs against accused-appellant.
SO ORDERED.

Narvasa, C.J., (Chairman), Davide, Jr., Francisco, and Panganiban, JJ., concur.

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