PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE M. PANTORILLA AND BARTOLOME DAHAN, ACCUSED.

G.R. No. 122739. January 19, 2000

Ponente: PARDO, J.

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PARDO, J.:

The case before the Court is an appeal taken by Jose M. Pantorilla from the decision[1] of the Regional Trial Court, Branch 17, Kidapawan, Cotabato convicting him of murder and sentencing him to the penalty of reclusion perpetua and to indemnify the heirs of the victim Franklin Bello in the amount of fifty thousand pesos (P50,000.00). The trial court acquitted co-accused Bartolome Dahan of the crime charged.

On March 27, 1990, Acting Second Assistant Provincial Prosecutor Alfonso B. Dizon, Jr. of Cotabato filed with the Regional Trial Court, Cotabato, Branch 17, Kidapawan an information charging Jose M. Pantorilla, Bartolome Dahan, Peter Doe, and John Doe with murder, committed as follows:

> "That in the evening of December 24, 1989, at Poblacion, Municipality of Makilala, Province of Cotabato, Philippines, the above-named accused, in company with Peter Doe and John Doe, whose identity and true names still unknown, conspiring and confederating and mutually helping one another, with treachery and evident premeditation and availing the darkness of the night, with intent to kill, did then and there, willfully, unlawfully and feloniously drag FRANKLIN BELLO inside the house of Jose Pantorilla and once inside, with the use of a bolo, did then and there, willfully, unlawfully and feloniously attack, assault, hack and stab FRANKLIN BELLO, hitting and inflicting upon the latter mortal wounds in the different parts of his body which caused his instant death.
>
> "CONTRARY TO LAW."[2]

At the arraignment on July 4, 1990, accused Jose M. Pantorilla and Bartolome Dahan pleaded not guilty. Trial on the merits ensued.

The facts are as follows:

On December 24, 1989, at around 7:00 in the evening, Allan Cablayan, Franklin Bello, Cezar Santos and Nelson Sanchez were having a drinking spree inside the store of Mrs. Lina Asibal in Poblacion, Makilala, Cotabato.

Afterwards, Cablayan, Santos and Sanchez left Bello in the store and proceeded to the house of Danny Atienza to continue their drinking session. However, Atienza was not at home, so they returned to the store. They found Franklin Bello no longer inside the store but standing in front of it, so they asked him where he was going. Bello replied that he would go somewhere.[3] Cablayan, Santos and Sanchez turned to go to the back of the store to continue drinking. While walking, Allan Cablayan looked back and saw Franklin Bello being dragged by three persons. Allan Cablayan identified them as accused-appellant Jose Pantorilla, accused Bartolome Dahan and a third person he did not know.[4] The three persons dragged Bello inside the house of Jose Pantorilla and locked it. Allan Cablayan then heard Bello from the inside crying, "Tabang! Tabang! Tabang!," meaning "Help! Help!

Help!" Cablayan sought assistance from neighbors Ferdinand Ela, Norman Ela, Nelson Sanchez and Bobet Ela. They attempted to enter the house of Pantorilla, but the door was locked. They called for police assistance.

Sgt. Benito Enot responded, followed by Sgt. Marba and other members of the police force. The door was locked, so they commanded the occupants to open the door and come out. When the occupants of the house refused, policemen fired warning shots in the air.[5] A few seconds passed before a woman's voice yelled, "Tama na, sir." Then, the front door opened; the wife and daughter of accused-appellant Jose Pantorilla, together with the wife and a one-year old son of accused Bartolome Dahan emerged. Accused-appellant Jose Pantorilla came out last, dressed in his underwear.

Policemen then entered the house and found the body of Franklin Bello sprawled on the concrete floor of the kitchen, with blood and intestines protruding from his slashed stomach.[6] They took photographs of the deceased lying on the floor and also recovered a bladed instrument from the scene.[7]

Dr. Hervacio Albano, municipal health doctor, conducted a post-mortem examination on deceased Franklin Bello and concluded that the cause of death was multiple stab wounds.[8]

According to accused-appellant Jose Pantorilla, in the early evening of December 24, 1989, he was at his residence located in Tejada Subdivision, Poblacion, Makilala, Cotabato, with his wife and daughter, and the wife and one-year-old son of accused Bartolome Dahan. At around 8:30 in the evening, Pantorilla came out of his house to investigate the noise created by his chickens. He approached his chickens and gave them water. While returning to his house from the poultry, Franklin Bello, carrying a bolo, embraced Pantorilla from the side and said to him, "Hain ang imong kwarta?" ("Where is your money?"). They then entered Pantorilla's house through the kitchen. Pantorilla saw Francisco Cablayan and Allan Cablayan with Franklin Bello but they were not able to enter the house, since Pantorilla managed to kick the self-locking door against them. While in the kitchen, Bello started hacking Pantorilla with the bolo. Pantorilla fell to the ground. He suffered a scar on his upper breast with a wide line around three inches, and scars on the skin surface in different parts of his body. Then, Franklin Bello fell on his stomach, hitting the bolo. Pantorilla stood up, got the knife on the floor and used it to stab Bello.[9] Thereafter, policemen arrived. Pantorilla refused to come out of his house as commanded by the policemen, saying that there was no warrant for his arrest. When policemen strafed his house with bullets, his wife shouted "Tabang," meaning "help". Pantorilla decided to come out with his family, together with the family of accused Bartolome Dahan, who had paid a visit.[10] Bartolome Dahan was not with them.[11] Policemen took accused-appellant Pantorilla to the municipal building and placed him in jail.

On February 23, 1995, after due trial, the Regional Trial Court, Kidapawan, Cotabato rendered decision, the dispositive portion of which reads, to wit:

> "WHEREFORE, the Court finds accused JOSE PANTORILLA guilty beyond reasonable doubt of the crime of MURDER as charged in the information and hereby sentences him to suffer the penalty of Reclusion Perpetua. He is hereby ordered to indemnify the heirs of Franklin Bello, the sum of P50,000.00.
>
> "On reasonable doubt, the Court finds the accused, BARTOLOME DAHAN, not guilty of the crime charged and hereby ACQUITS him. Consequently, the Provincial Warden is hereby ordered to release accused Bartolome Dahan from his preventive custody, unless held for some other offense/s.
>
> "SO ORDERED.
>
> "Given this 23rd day of February, 1995, at Kidapawan, Cotabato, Philippines.
>
> "RODOLFO M. SERRANO
> Judge"[12]

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Hence, this appeal.

In his first assigned error, accused-appellant Jose Pantorilla alleges that the trial court erred in not believing his plea of self-defense. He claims that it was Franklin Bello who, under the influence of liquor, entered his house and started hacking him with a bolo.[13] He stabbed Bello out of fear for his own life and in order to protect his house from being robbed.

To buttress his claim of unlawful aggression, accused-appellant presented a medical certificate[14] which showed that he had contusions and hematoma, with an incised wound on his left foot and on the second toe of his right foot. He claimed that he sustained the injuries when Franklin Bello hacked him.

The rule is well-settled that when an accused invokes self-defense, the burden of evidence to prove his claim shifts to him.[15] It is incumbent upon him to show the concurrent presence of all the elements of self-defense, namely, (1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel it; (3) and lack of sufficient provocation on the part of the person defending himself.[16] Unlawful aggression is an indispensable element, whether in complete or incomplete self-defense.[17] He must rely on the strength of his own evidence and not on the weakness of that of the prosecution, for even if weak, it could not be disbelieved after the accused admitted to the killing.[18]

In this case, the fact that accused-appellant sustained injuries did not signify that he was a victim of unlawful aggression. His examining doctor testified that the wounds he incurred were merely superficial, perhaps caused by a small bladed instrument,[19] not a bolo. Furthermore, the medical certificate issued by Dr. Carlota Sandique of Sto. Niño Hospital, Makilala, Cotabato failed to indicate the purported injury of Pantorilla on his upper breast and on his hand,[20] rendering the testimony of accused-appellant Pantorilla doubtful.

Moreover, his testimony was not corroborated by any witness. Neither his wife nor the wife of Bartolome Dahan, who were allegedly inside the house when the stabbing incident occurred, testified in court.

Furthermore, prosecution witness Allan Cablayan identified accused-appellant as the aggressor, together with two other persons. Accused-appellant attempted to discredit the testimony of prosecution witness Allan Cablayan by alleging that he had been evicted from the house he was renting and had a grudge against accused-appellant for having initiated ejectment proceedings on behalf of the owner of the house. However, Allan Cablayan, in his testimony, denied bearing any grudge against accused-appellant.[21] His testimony was given credence by the trial court, which was in a better position to determine the issue of credibility of witnesses, having heard the witness and observed his deportment and manner of testifying. We find no cogent reason to rule otherwise, absent certain facts of substance and value which may have been overlooked that might affect the result of the case.[22]

Further negating the claim of self-defense is the manner in which the victim had been stabbed to death, which does not show reasonable means to repel an aggression. Evidence shows that the victim Franklin Bello died from multiple stab wounds. Pictures taken at the scene of the crime reveal that the stomach of the deceased had been slashed and the intestines protruded. There were also several bloodied marks on the head and other parts of the body of the deceased. The nature, location and number of wounds inflicted on the victim indicate a determined effort to kill him.[23]

Therefore, the plea of self-defense cannot prosper.

In his second assigned error, accused-appellant contends that the trial court convicted him on the basis of circumstantial evidence but failed to enumerate the circumstances supporting his conviction. He points out that prosecution witness Allan Cablayan only testified that he saw the victim being dragged and locked inside his house then heard a voice inside crying for help, and merely presumed that accused-appellant killed Franklin Bello.

The second assigned error is inconsistent with the first one. Accused-appellant, in his testimony in court, admitted that he took a knife from the floor and used it to stab Franklin Bello.[24] In invoking self-defense, accused-appellant admitted killing Bello. Thus, he can not now assert lack of proof to convict him.

Therefore, we find no error of the trial court in placing responsibility on accused-appellant Jose M. Pantorilla for the death of Franklin Bello.

We note, though, that the trial court failed to indicate any qualifying circumstance which would qualify the killing to murder. Without any qualifying circumstance, which will determine the degree of culpability and penalty to be imposed, accused-appellant Jose M. Pantorilla may be held liable only for homicide, not murder.[25]

WHEREFORE, the decision appealed from is hereby MODIFIED. The Court finds accused-appellant Jose M. Pantorilla guilty beyond reasonable doubt of homicide, defined and penalized under Article 249 of the Revised Penal Code. In the absence of any aggravating or mitigating circumstances, and applying the Indeterminate Sentence Law, the Court hereby sentences him to suffer the indeterminate penalty of ten (10) years of prision mayor, as minimum, to seventeen (17) years, and four (4) months of reclusion temporal, as maximum, with all its accessory penalties, and to pay the heirs of Franklin Bello in the amount of fifty thousand pesos (P50,000.00), as civil indemnity, and costs.

SO ORDERED.

Davide, Jr., C. J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

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[1] In Criminal Case No. 2281, Decision dated February 23, 1995, penned by Judge Rodolfo M. Serrano.

[2] Information, Original Record, pp. 28-29.

[3] TSN, February 4, 1991, p. 6.

[4] TSN, February 4, 1991, pp. 2-6.

[5] TSN, October 5, 1990, pp. 17-18.

[6] TSN, October 5, 1990, pp. 8-10.

[7] TSN, October 5, 1990, p. 12.

[8] Certificate of Death, Original Record, p. 12.

[9] Testimony of Jose Pantorilla, TSN, May 13, 1993, pp. 2-9.

[10] TSN, May 13, 1993, pp. 10-11.

[11] TSN, December 2, 1993, p. 5.

[12] Original Record, p. 463.

[13] Appellant’s Brief, Rollo, p. 63.

[14] Medical Certificate, Original Record, p. 302.

[15] People vs. Bautista, G. R. No. 96092, August 17, 1999; People vs. Janairo, G. R. No. 129254, July 22, 1999.

[16] Paragraph 1, Article 11, Revised Penal Code; People vs. De la Cruz, G. R. No. 130608, August 26, 1999; People vs. Tomolin, G. R. No. 126650, July 28, 1999; People vs. Borreros, G. R. No. 125185, May 5, 1999.

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[17] Ibid., citing People vs. Lascota, 275 SCRA 591 (1997)

[18] People vs. Sanchez, G. R. No. 118423, June 16, 1999, citing People vs. Picardal, 151 SCRA 170 (1987)

[19] Testimony of Dr. Erlinda Magdangal, TSN, March 15, 1994, p. 6.

[20] TSN, May 13, 1993, pp. 14-15.

[21] TSN, February 4, 1991, pp. 18-21.

[22] People vs. Bermudez, G. R. No. 129033, June 25, 1999.

[23] People vs. Bitoon, G. R. No. 112451, June 28, 1999; People vs. Mangahas, G. R. No. 118777, July 28, 1999.

[24] TSN, May 13, 1993, p. 9.

[25] Article 249, Revised Penal Code.

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