PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NOLE ZATE Y MATANOG, ACCUSED-APPELLANT.

G.R. No. 129926. October 08, 2001

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

On appeal is the decision of the Regional Trial Court of Misamis Oriental, Branch 40, in Criminal Case No. 95-442, finding appellant Nole Zate y Matanog guilty of murder and imposing on him the penalty of reclusion perpetua.

The information against him reads:

> That at about 7:00 o'clock in the evening more or less, on May 6, 1995, at Barangay Mapulog, Municipality of Naawan, Misamis Oriental, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill and by means of treachery, did then and there willfully, unlawfully and feloniously attack, assault and stab one CRISANTO ABABAO with the use of a knife, thereby inflicting upon him fatal injuries which caused his instantaneous death.
>
> CONTRARY TO and in violation of Art. 248 of the Revised Penal Code.[1]

On arraignment, appellant entered a plea of not guilty.[2] But after trial on the merits, he was convicted as follows:

> WHEREFORE, premises considered, (the) court hereby finds accused Nole Zate y Matanog guilty beyond reasonable doubt, as principal, with (sic) the crime of Murder, qualified by treachery, defined and penalized under Art. 248 of the Revised Penal Code, as amended by section 6 (1) of R.A. 7659, as charged in the information and there being present voluntary surrender, without any aggravating circumstance to offset the same, hereby sentences said accused to suffer an imprisonment of reclusion perpetua with all the accessories of the law, to indemnify the surviving spouse Leonora Vda. de Ababao the sum of P27,000.00 as actual damages, representing death and burial expenses, P50,000.00 as moral damages and P50,000.00 as standard indemnity in cases of Homicide and/or Murder (as established by existing jurisprudence) and to pay costs of suit.[3]

His conviction stemmed mainly from the testimonies of prosecution witnesses Leonora Vda. de Ababao, Leo Gaid, PO3 Manuel Cabanilla, Dr. Jaime Roa, and Mark Anester Matanog. These witnesses established the following facts of the case according to the prosecution's version.

At around 7:00 o'clock P.M., May 6, 1995, witness Leo Gaid, with Oscar Gaid, Emer Ratunil, Mark Anester Matanog, and appellant Nole Zate were in a waiting shed in Purok I, Mapulog, Naawan, Misamis Oriental. There were three benches inside the waiting shed. Two benches faced each other with one end towards the entrance. A third bench was between the first two directly facing the entrance.

Leo, Oscar, Emer, and appellant were drinking beer when the victim, Crisanto Ababao, arrived. Without uttering a word, Crisanto went directly to the third bench and laid down on his right side towards the direction of the waiting

shed's entrance. Crisanto's feet were near appellant, while his head was beside Leo. Appellant and Leo, who were two meters away, were facing each other.

About two minutes after Crisanto took his position on the bench, appellant suddenly stood up. Then without warning he stabbed Crisanto twice, hitting the latter on the left breast and below the left ribcage. Immediately, appellant fled southward, weapon in hand, leaving Crisanto dead and the others stunned by the startling occurrence. The event was so sudden that Leo and his companions failed to intercede and prevent the incident from happening. Upon seeing Crisanto's body fall from the bench, Leo shouted for help.[4]

Thirty minutes later, Naawan Police Station Commander Gamaliel Dampal arrived at the crime scene with his policemen, one of whom was PO3 Cabanilla. They conducted a spot investigation, which pointed to appellant Nole Zate as the author of Crisanto's untimely death. The police also found that there was no altercation between the victim and appellant before the stabbing incident.[5]

Crisanto's cadaver was initially brought to the Naawan Municipal Building. However, since there were no facilities for an autopsy in Naawan, it was transferred to a funeral parlor in the Municipality of Initao where Dr. Jaime Roa, Naawan Municipal Health Officer, conducted an autopsy. Dr. Roa found the following:

> (1) Incised wound 0.6 inches horizontal position 3 inches below the left breast penetrating and perforating involving the heart.
>
> (2) Incised wound 1 inch just below the left axilla penetrating involving the left lung.
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> Cause of Death:
>
> Hemorrhage due to stab wound.[6]

Meanwhile Leonora Ababao, wife of the victim, was informed by one Eliseo Quilog of her husband's death at 7:00 o'clock A.M., May 7, 1995. She rushed to Naawan Poblacion but was told to go to Somo Funeral Parlor in Initao. Thereafter, she brought her husband's cadaver to the residence of her brother-in-law where it lay in state for five days. It was buried on May 11, 1995.

During trial, Leonora informed the court that she incurred as burial and other expenses the sum of P27,000, evidenced by receipts marked as Exhibits "C" to "C-14". She added that she was deeply aggrieved and very worried since her husband, a farmer and blacksmith, was the sole breadwinner of the family. She asked for an award of P50,000 as moral damages.[7]

Expectedly, the defense presented a contrary version of the fatal incident. Appellant testified that at about 1:00 o'clock P.M., May 6, 1995, he left his residence at Sitio Digcamara, Mapulog, Naawan to notify his elder brother at the poblacion that their mother wanted their coconuts harvested. When he returned to Digcamara with his nephew Junie Zate, he was not able to go home directly because Junie requested him to have a drink at the waiting shed. While they were drinking Tanduay rhum at 4:00 o'clock P.M., Leo Gaid and Crisanto Ababao arrived. Appellant noticed that Crisanto was already drunk. Crisanto allegedly told appellant that they came from a drinking spree at another store, but since there was no more liquor for sale there, they decided to transfer to where appellant and Junie were drinking.

According to appellant, he told Crisanto that he could not drink anymore since he had to work the following day. However, Crisanto insisted that appellant buy more beer, even on credit. According to appellant, Crisanto threatened that if he did not accede to the request, there would be trouble. Appellant obliged and bought five small bottles of beer and, later on, four bottles of `Beer Mucho'. Thereafter, Leo and Junie went their own way, leaving appellant and Crisanto in the waiting shed.

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Subsequently, appellant felt sleepy and dozed off in a crouching position with his feet on the bench. He was later awakened by a pain on his knee and discovered that Crisanto had struck him with a bamboo stick. When Crisanto was about to hit him again, he parried the attack with his left hand. Crisanto then moved to strike him once more in the forehead, but appellant timely and successfully wrestled the bamboo stick from Crisanto. Appellant threw away the stick.

At this point, appellant said, Crisanto held appellant's right shoulder with his left hand. Crisanto then used his right hand and raised his shirt to pull out a hunting knife tucked in his waist. When appellant saw what Crisanto was about to do, he struggled with Crisanto, then grabbed the knife from him, as appellant tried to run away.

However, appellant added, Crisanto prevented him from leaving by holding on to the collar of his shirt and pulling him back. It was then, said appellant, that he was forced to stab the victim without knowing which part of the latter's body he had hit. Despite the first wound inflicted upon Crisanto, the victim still refused to loosen his grip on appellant's shoulder. Thus, appellant again stabbed Crisanto and this time, appellant set himself free.[8]

Appellant's narration was partially corroborated by defense witness Benito Morala, who claimed that he was buying cigarettes at a nearby store when he saw the victim beating appellant with the bamboo stick. However, Benito admitted he got acquainted with appellant only in the provincial jail, where Benito was also detained on charges of illegal possession of firearms.[9]

After stabbing Crisanto, appellant said he ran and proceeded to his farm at Camaca, Digcamara, situated about one (1) kilometer away. There he stayed for the next two and a half days. Appellant added that he passed the time planning and thinking of a safe way to surrender to the authorities so that his life would not be endangered.[10] He decided to take a "trisikad" to the Naawan Police Station to give himself up. But along the way, in Barangay Tuburan, he was stopped by Vicky Madula, a member of the Civilian Volunteer Organization, who asked him who he was. Appellant readily introduced himself and, in the course of their conversation, revealed to Madula that he was on his way to surrender. Madula then sent a messenger to inform the police that appellant was in his residence.[11]

Later, Station Commander Gamaliel Dampal arrived, arrested appellant and brought him to the Naawan Police Station. A certification issued by Dampal showed that appellant voluntarily surrendered. While detained at the station, SPO1 Nashon Espino saw appellant's wound on the knee. Appellant was then brought to Dr. Jaime Roa for treatment, but did not tell anybody about the cause of the injury.[12]

Rejecting appellant's claim of self-defense, the trial court convicted him and, as already stated, sentenced him to reclusion perpetua. He now urges us to reverse the trial court's decision and acquit him on the ground that:

> I
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> THE TRIAL COURT ERRED IN REJECTING THE PLEA OF SELF-DEFENSE PUT UP BY ACCUSED-APPELLANT.
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> II
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> THE TRIAL COURT MANIFESTLY ERRED IN CONVICTING ACCUSED-APPELLANT OF THE OFFENSE CHARGED BEYOND REASONABLE DOUBT.[13]

The main issue to be resolved by this Court is whether or not the lower court erred in rejecting appellant's plea of self-defense while giving full faith and credence to the prosecution evidence.

At the outset, we must emphasize that in criminal cases, the burden of proof belongs to the prosecution who must prove, beyond reasonable doubt, that the accused committed the offense charged in the information. However,

when the accused invokes self-defense, the burden of proof shifts to the accused, such that, all elements of that justifying circumstance must be clearly and convincingly proved by him. Failing that, the accused cannot escape criminal liability; conviction will necessarily follow since he admitted that he killed or injured the victim.[14]

For appellant's plea of self-defense to be accepted by the Court, he must prove the following requisites: 1) unlawful aggression on the part of the victim; 2) reasonable necessity of the means employed to prevent or repel the aggression; and 3) lack of sufficient provocation on the part of the person defending himself. Without unlawful aggression on the victim's part, there can be no self-defense, whether complete or incomplete.[15] Hence, proof of the first element is paramount.

To prove the existenKce of unlawful aggression, appellant submits that the trial court should have believed his testimony, as corroborated by defense witness Benito Morala, that it was the victim, Crisanto Ababao, who attacked him first. Because of that attack, appellant avers that he was forced to stab Ababao in self-defense. Appellant insists that Morala's own testimony pointing to Ababao as the aggressor should not have been ignored by the lower court since Morala's testimony was clear, spontaneous and straightforward and, therefore, worthy of credit. In brief, appellant essentially assails the credibility of the prosecution witnesses as well as the relative weight given by the trial court to their testimonies. At the same time, appellant would like this Court to give full credence to his and Morala's version of the mortal conflict.

With respect to the matter of credibility of witnesses, the well established rule is that in the absence of a clear showing that some fact or circumstance of weight or substance had been overlooked, misunderstood or misapplied,[16] the trial judge's assessment of the witnesses' testimonies would not be disturbed on appeal. We have long recognized that the matter of assigning value to a declaration on the witness stand is more competently performed by a trial judge. After all, he had the front-line opportunity to personally evaluate the witnesses' demeanor, conduct, and behavior while testifying and is in a vantage position to determine the issue of credibility.[17] Thus, if there is no significant reason to warrant reversal of the trial court's findings, its judgment must be sustained by the reviewing or appellate court. In this case, we have carefully examined the evidence adduced by the parties but we find no compelling or convincing reason to alter the trial court's decision.

Firstly, we note the trial court's observation that the location and severity of the victim's wounds indicate that they could not have been inflicted in the manner narrated by the accused.[18] The fact that both wounds were mortal and directed at vital parts of the body indicate appellant's determination to kill the deceased and not merely to defend himself.[19] On this matter, we find that while the deceased sustained only two wounds, each was indubitably fatal. As held by the trial court, the first thrust of the knife coupled with the victim's intoxication would have caused the latter to loosen his grip on appellant's shoulder. The infliction of a second but equally fatal injury was unnecessary for appellant's self-defense, according to the trial court.

Additionally, the testimonies of the prosecution witnesses were found to be straightforward, credible, and believable by the trial court. Leo Gaid, a first cousin of appellant and appellant's twelve-year-old nephew, Mark Anester Matanog, testified for the prosecution. They provided corroborating and critical eyewitness accounts of the incident. They had no reason to testify falsely against appellant, their close relative. There was no showing by the defense that they were moved by any ill motive when they testified. Consequently, the trial court did not err in giving full faith and credence to their positive declarations concerning appellant's guilt.

As to defense witness Benito Morala, suffice it to say his testimony is highly suspect. Morala and appellant were together at the provincial jail. Between the two of them, it was not unlikely for one to concoct a story which would absolve the other from guilt. Morala's claimed presence at the scene of the crime was too convenient to be believed. His version of the story, jibing with that of appellant, gives rise to doubts about its spontaneity as it

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appeared to be rehearsed. Moreover, as pointed out by the Solicitor General, Morala merely testified on the victim's alleged beating appellant with a bamboo stick and the latter's stabbing the former.[20] But, he did not reveal any material information which would conclusively point to the deceased as the source of the aggression.

Under these circumstances, Morala's statements cannot possibly defeat the declaration of the two eyewitnesses - Gaid and Matanog - who testified candidly and spontaneously that appellant killed the deceased without provocation whatsoever. On this score, the defense failed to rebut their testimony. We are convinced that there was no provocation, much less on the victim's part that would justify appellant's claims of self-defense.

The trial court appreciated the qualifying circumstance of treachery in the commission of the offense. There is treachery when the offender commits any of the crimes against persons, employing means, methods or forms in the execution thereof which tend directly and specially to insure its execution without risk to himself arising from the defense which the offended party might make.[21] The essence of treachery is the sudden and unexpected attack without the slightest provocation on the part of the person being attacked.[22] In this case, evidence shows that the deceased was in fact lying down and sleeping on his side when attacked and slain by appellant. No altercation preceded the stabbing incident and, it appears the victim was not in a position to put up any defense. Thus, as alleged in the information and borne by the records, treachery qualified the killing of the deceased to murder.

Finally, to appellant's credit, the trial court considered the mitigating circumstance of his voluntary surrender to the police. Although appellant was stopped by a civilian volunteer on his way to Naawan and the police picked him up at Barangay Tuburan, it is clear that appellant intentionally ventured out of hiding to give himself up to the authorities. Appellant spontaneously and unconditionally placed himself at their disposal, and saved them the time and effort attendant to a search.[23] The testimonies of Vicky Madula and the arresting officers on this point were not contradicted by the prosecution. Thus, we find that the trial court correctly imposed the minimum of the penalty prescribed by law for the crime of murder which is reclusion perpetua. We also find the damages awarded by the trial court to be warranted and fully consistent with existing jurisprudence.

WHEREFORE, the decision of the Regional Trial Court of Misamis Oriental, Branch 40 in Criminal Case No. 95-442, finding appellant Nole Zate y Matanog guilty beyond reasonable doubt of the crime of murder and sentencing him to suffer the penalty of reclusion perpetua as well as to pay the victim's widow P27,000 as actual damages, P50,000 as civil indemnity and P50,000 as moral damages, is AFFIRMED.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

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[1] Rollo, p. 7.

[2] Original Records, p. 23.

[3] Supra, note 1 at 25.

[4] TSN, October 23, 1995, pp. 3-13.

[5] TSN, January 22, 1996, pp. 3-4.

[6] Supra, note 1 at 21.

[7] TSN, November 6, 1995, pp. 4-11.

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[8] TSN, July 24, 1996, pp. 5-13.

[9] TSN, February 12, 1996, pp. 4-8.

[10] Supra, note 8 at 13-15.

[11] TSN, June 10, 1996, pp. 10-13.

[12] TSN, May 15, 1996, pp. 5-10.

[13] Rollo, p. 42.

[14] See People vs. Patalinghug, 318 SCRA 116, 133 (1999).

[15] People vs. More, 321 SCRA 538, 543-544 (1999).

[16] People vs. Barellano, 319 SCRA 567, 592 (1999).

[17] See People vs. Alib, 322 SCRA 93, 98 (2000).

[18] Supra, note 1 at 24.

[19] See People vs. Nagum, 322 SCRA 474, 479 (2000).

[20] Supra, note 1 at 93.

[21] People vs. Biñas, 320 SCRA 22, 57 (1999).

[22] People vs. De Guia, 280 SCRA 141, 159 (1997) citing: People vs. Abapo, 239 SCRA 469, 479 (1994).

[23] See People vs. Baniel, 275 SCRA 472, 487 (1997) citing: People vs. Galaver, 223 SCRA 310, 315 (1993) and related cases.

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