PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DEOMEDES IGLESIA, ACCUSED-APPELLANT.

G.R. No. 132354. September 13, 2001

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the decision,[1] dated August 8, 1997, of the Regional Trial Court, Branch 1, Manila, finding accused-appellant Deomedes Iglesia guilty of the crime of murder and sentencing him to suffer the penalty of reclusion perpetua and to pay the heirs of the victim, Demetrio Agua, the amounts of P100,000.00 as moral damages, P30,000.00 as nominal damages, and P50,000.00 as civil indemnity.

The information against accused-appellant alleged —

> That on or about the 31st day of March, 1994, in the City of Manila, Philippines, the said accused did then and there willfully, unlawfully and feloniously, with intent to kill, with treachery, and evident premeditation, attack, assault, and use personal violence upon one Demetrio Agua y Ayao, by then and there stabbing the latter on the left chest with a kitchen knife, thereby inflicting upon the said Demetrio Agua y Ayao [the] mortal stab wound which was the direct and immediate cause of his death thereafter.[2]

When arraigned on May 18, 1994, accused-appellant pleaded not guilty to the crime charged.[3] During the pre-trial conference, the prosecution and the defense entered into the following stipulation of facts: (a) that accused-appellant stabbed the victim on the left chest with a kitchen knife, albeit he claimed that it was in self-defense; (b) that the incident occurred on March 31, 1994, at about 11:50 p.m., at 1155 F. Torres St., Singalong, Malate, Manila; and (c) that accused-appellant and the victim, together with four other male companions, had a drinking spree prior to the stabbing incident.[4]

Five witnesses, namely, Rodora Agua, SPO2 Conrado Cabigao, Modesta Agua, Dr. Ravell Ronald Baluyot, and Bernardo Babaran, testified for the prosecution. The gist of their testimonies is as follows:

On March 30, 1994, from 5 o'clock in the afternoon until 11:30 in the evening, accused-appellant, the victim, Demetrio Agua, and several companions were having a drinking spree behind the victim's house at 1155 F. Torres St., Singalong, Manila.[5] At around 12:30 to 12:45 a.m. of March 31, 1994, Rodora, the victim's daughter, and Modesta, the victim's wife, heard a commotion outside. When they went out, they saw accused-appellant[6] breaking beer bottles. The victim, Demetrio Agua, tried to pacify accused-appellant and, as the latter would not stop, told him (accused-appellant) not to embarrass him (Demetrio Agua) in the presence of many people, including a barangay tanod, Egay, because he (Demetrio Agua) was a barangay officer. Egay also tried to calm accused-appellant down.

Bernardo Babaran, also a barangay tanod, heard accused-appellant and the victim having an argument, after which accused-appellant went inside the room he was renting. At that point, Babaran persuaded Demetrio Agua to go home.

However, while Agua was on his way home, accused-appellant suddenly jumped from the roof and attacked Demetrio Agua. Modesta, Rodora, and Bernardo Babaran looked on helplessly as accused-appellant and the victim struggled. Babaran tried to stop the fight, but he did not succeed. In the course of their struggle, accused-appellant stabbed the victim on the left side with a knife. Demetrio Agua pushed accused-appellant, causing the latter to fall to the ground. Agua shouted for help, saying, "Bernie, tulungan mo ako, may tama ako!" ("Bernie, help me, I've been hit!") Babaran went to the barangay outpost, which was more or less 20 meters away from the scene, to ask for the help. Modesta Agua also left the scene to get help.

When she returned, Modesta saw a man, whom she identified as a townmate of accused-appellant, holding the knife used by accused-appellant in stabbing Agua. Modesta recognized the knife because she had seen accused-appellant carrying it before. As described by Babaran, the knife was around eight inches long, with a pointed end and without a handle.

Four persons who were on duty that night as barangay tanods responded to Babaran's call for help. These were Mario Jolampang, Dondon Jarabellana, Ricky Maylas, and Roy Torres. On their way, they saw the victim being carried by several people to a taxi so that he could be taken to the hospital. Upon order of the barangay chairman, accused-appellant was arrested and subsequently turned over to the police. He was taken to the hospital to see the victim, Demetrio Agua, but the latter was already dead when they arrived. The policemen, together with the barangay chairman and Babaran, took accused-appellant to the police station for investigation.[7]

Dr. Ravell Ronald R. Baluyot conducted an autopsy on the body of Demetrio Agua. His report states:

> POSTMORTEM FINDINGS
>
> Pallor, lips and nailbeds.
>
> Surgical Incisions, chest, left inframammary area, 27.0 cms. along the 5th intercostal space; chest, left side, two (2) in number, along the anterior median line, at the 7th and 8th intercostal, one is 5.1 cms. and other is 5.0 cms.
>
> Abrasions; left elbow, posterior aspect, 2.0 x 1.0 cms.; left forearm, middle third, posterior aspect, 8.0 x. 4.0 cms.; right knee, anterior aspect, 9.0 x. 4.2 cms.; right, leg, middle third, anterolateral aspect, 5.1 x. 1.2 cms.; left knee, anterior aspect, 1.0 x. 0.5 cm.;
>
> Incised wounds: chest, right infraclavicular area, 2.5 cms.; back, left scapular area, 0.5 cm.; left arm, lateral third, posterior aspect, 3.0 cms.; big toe, medial aspect, 3.0 cms.
>
> 1. Elliptical, with clean-cut edges, 2.0 cms.; oriented obliquely, with sharp infero-medial and blunt supero-lateral extremities, located at the chest, right side, level of the 3rd intercostal space and 17.0 cms.; from the anterior median line, directed forwards, upwards and medially, involving the skin and soft tissues, with an approximate depth of about 6.0 cms.
>
> 2. Elliptical, with clean-cut edges, 2.0 cms., oriented obliquely with sharp supero-medial and blunt infero-laterally, extremities, located at the chest, left axillary area, 23.0 cms. from the anterior median line, directed backwards, downwards and medially, involving the skin and soft tissues, cutting the 6th rib, into the left thoracic cavity, ventricle of the heart, with an approximate depth of about 13.0 cms.
>
> Hemopericardium, 20 cc., non-clotted.
> Hemothorax, left 450 cc., non-clotted.
>
> Brain and other visceral organs, pale.
> Stomach, contains a small amount of brownish fluid.

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CAUSE OF DEATH: STAB WOUND OF THE CHEST.[8]

Dr. Baluyot testified that the victim died of a stab wound on the left chest caused by a pointed and sharp-edged instrument. From his examination of the body, he was able to determine that the incised wounds were made by the hospital personnel as they conducted a thoracostomy on the victim, or an opening of the chest to remove the clotted blood, in order to alleviate the latter's condition. These wounds did not cause the death of the victim. Dr. Baluyot estimated that the victim had already been dead for seven hours at the time of the autopsy.[9]

The defense presented accused-appellant Deomedes Iglesia and Joselito Abacaro.

Accused-appellant denied that Modesta and Rodora Agua were present at the time of the incident. He claimed that the victim had insulted him, telling him, "Putang ina mo, Dodong. Walang ibang siga dito sa ating lugar kundi ako lang, marami akong tauhan dito." ("You son of a bitch, Dodong. I am the only tough guy in this neighborhood because there are a lot of people under me.") Accused-appellant said that the victim was the chief of the barangay tanods in their neighborhood. Accused-appellant claimed he tried to talk to the victim, but the latter tried to stab him. He said he tried to wrest the knife from the victim and, in the course of their struggle, the latter accidentally stabbed himself.[10]

Joselito Abacaro corroborated accused-appellant's testimony. He stated that accused-appellant and the victim were having drinks, but soon they were shouting at each other. He heard the victim tell accused-appellant, "Putang ina mo, huwag kang sisigaw dito at may paglalagyan ka sa akin." ("You son of a bitch, don't shout here or I will put you in your place.") A barangay tanod, called Egay, also heard the two men having an argument. He and Abacaro tried to pacify the two and told the victim to go home. But accused-appellant, who had gone up to his room, came out through the window and jumped from the roof because the victim shouted invectives at him. Abacaro did not see either accused-appellant or the victim with a knife, but he saw the victim making a stabbing motion towards accused-appellant. He also said that accused-appellant wrestled with the victim for an object, although he did not see what the object was.[11]

On the basis of the evidence presented, the trial court rendered its decision on August 8, 1997, the dispositive portion of which reads as follows:

> WHEREFORE, this Court finds the accused GUILTY beyond reasonable doubt of the crime of MURDER and, as a consequence, hereby sentences him to suffer the penalty of reclusion perpetua with all the accessory penalties provided by law, and to pay the costs. Further, the accused is ordered to pay moral and nominal damages in the respective sums of P100,000.00 and P30,000.00, and the additional [sum] of P50,000.00 for the death of the victim, with legal interest thereon from the filing of this case.[12]

Hence this appeal.

First. Accused-appellant questions the veracity of the testimonies of Rodora and Modesta Agua. He contends that these witnesses were not at the scene of the incident when it happened and that their absence is shown by the fact that they were not the ones who took the victim to the hospital.

The contention has no merit. The mere fact that Rodora and Modesta Agua are the daughter and wife of the victim, respectively, does not necessarily make their testimonies untruthful. The relationship of the witnesses to the victim without further evidence cannot serve as proof of bias.[13] It may not be presumed that these witnesses would testify falsely just to obtain retribution for the death of a loved one by blaming it on persons whom they know to be innocent.[14] To the contrary, the inclination of the victim's relatives is to see that the real culprits are punished.[15]

It is true Modesta and Rodora Agua were not among those who took the victim to the hospital. But, as Modesta

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explained, it was because she had left to get help when she saw that the victim had been stabbed. When she came back, she saw her husband already being taken to the hospital. Indeed, Modesta and her daughter could not have been unaware of the incident as it started near their house. As it was about 12:30 o'clock in the morning when the incident happened, it is highly probable that they were in their house at that time.

In ascertaining the credibility of the testimonies of witnesses, the test is whether they agree on the essential facts and substantially corroborate a consistent and coherent whole.[16] In this case, Modesta and Rodora gave consistent, straightforward, and credible accounts on how the victim was killed by accused-appellant. Both testified: (1) that because accused-appellant was making trouble by breaking beer bottles, Demetrio Agua tried to pacify him; (2) that accused-appellant went up to his room, but while Demetrio Agua was on his way home, he came out of the window, jumped from the roof, and attacked the latter; (3) that accused-appellant and the victim wrestled with each other for several minutes and then accused-appellant was able to stab Demetrio Agua in the course thereof.

What reinforces the credibility of Modesta and Rodora Agua is the fact that their account of the events leading to the victim's death is corroborated by the testimony of Bernardo Babaran and the findings of Dr. Baluyot, who found that the victim died of a stab wound on the left side of his chest. Both are disinterested witnesses whose credibility has not been questioned.

Indeed, other than his bare claim that Modesta and Rodora were not present when the incident happened, accused-appellant presented no evidence to prove that these prosecution witnesses were actuated by improper motives in testifying against him. In the absence of such evidence, their testimonies are entitled to full faith and credit.[17]

Finally, the findings of the trial court on the credibility of witnesses deserve great weight as it is in the best position to evaluate the same because of its unique opportunity to observe the witnesses, their demeanor, conduct, and attitude on the witness stand.[18] Unless some facts or circumstances of weight and substance have been overlooked, misapprehended, or misinterpreted by the trial court, its findings are binding and conclusive on this Court.[19] Finding no reason to make an exception in this case, we uphold the testimonies of Modesta and Rodora Agua.

Second. Accused-appellant claims that it was the victim who attacked him with a knife and that the latter was accidentally stabbed during their struggle.

This contention is untenable. A plea of self-defense shifts the burden of proof to the defense because the accused then admits having committed the criminal act and only disclaims liability on the ground that his life had been exposed to harm.[20] The accused must rely on the strength of his own evidence and not on the weakness of the prosecution's evidence, for even if the latter were weak it could not be disbelieved after the accused has admitted the killing.[21] The accused must establish the following requisites by clear and convincing evidence: (a) unlawful aggression on the part of the victim; (b) reasonable necessity of the means employed to present or repel such aggression; and (c) lack of sufficient provocation on the part of the accused.[22] Of these requisites, unlawful aggression, i.e., the sudden unprovoked attack on the person defending himself, is indispensable.[23] This is because the theory of self-defense is based on the necessity on the part of the person being attacked to prevent or repel the aggression.[24]

As already stated, the prosecution and the defense stipulated during pre-trial that accused-appellant had stabbed the victim although he claimed he acted in self-defense.[25] This is binding upon accused-appellant and he cannot later claim that the victim accidentally hit himself. Accused-appellant cannot contradict himself to suit his own purposes without making a mockery of the trial.

Indeed, accused-appellant's testimony is belied by the prosecution witnesses who collectively testified that the victim was on his way home when accused-appellant jumped from the roof and attacked him with a knife. Even defense witness Joselito Abacaro admitted that accused-appellant jumped from the roof, although he claimed that neither accused-appellant nor the victim was armed.[26] The gaps in Abacaro's testimony may be due to his failure to see the incident in its entirety and do not discount the possibility that accused-appellant was armed. In view of the foregoing, it is clear that the defense failed to show with convincing proof that it was the victim who started the fight between him and accused-appellant. Accordingly, accused-appellant's claim that he acted in self-defense must be rejected.

Nor can accused-appellant's assertion that the victim merely hit himself accidentally be believed considering that the victim sustained two stab wounds, one on the right side of the chest and another, the fatal wound, on the left side of his chest. The stab wound on the right side of the victim's chest had a depth of 6 cms., while the one on the left side was 13 cms. deep.[27] These wounds could not have been caused by the victim himself.

In contrast to accused-appellant's self-serving testimony, the prosecution witnesses were consistent in saying that it was accused-appellant who first attacked the victim as a consequence of a prior verbal altercation between them. In the light of the positive, categorical, and consistent testimonies of the prosecution witnesses and the incredible version of the defense, we find that accused-appellant was correctly held liable by the trial court.

Third. We hold, however, that the trial court erred in finding that treachery attended the killing of Demetrio Agua because the latter was caught completely unaware and was unarmed at the time he was attacked by accused-appellant.

There is treachery when the offender commits any of the crimes against a person, 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.[28] Two essential elements must, therefore, be established, to wit: (a) the employment of means of execution that gives the person attacked no opportunity to defend himself or to retaliate; and (b) the said means of execution was deliberately or consciously adopted. What is decisive is that the execution of the attack made it impossible for the victim to defend himself or to retaliate.[29]

In this case, although the attack was sudden, the evidence shows that the victim was not caught completely off guard. For the fact is that the victim and accused-appellant engaged in combat that lasted for several minutes before the former was finally overpowered and then killed. This negates the existence of the first element of treachery, i.e., a sudden attack giving the victim no opportunity to defend himself or to retaliate. The existence of a struggle before the fatal blow was dealt on the victim shows he was forewarned of the impending attack and that he was afforded the opportunity to put up a defense.[30] In addition, the prosecution witnesses themselves testified that a heated argument arose between accused-appellant and the victim prior to the attack. This would be sufficient to forewarn the victim against any assault which accused-appellant might launch against him.[31]

Nor was evidence presented to show that accused-appellant consciously adopted his mode of attack in order to insure the execution of the crime without risk to himself.[32] The second element, i.e., adoption of means, methods, or forms to ensure the commission of the crime, was thus not proved by the prosecution.

Evident premeditation was likewise not established because the prosecution presented no evidence to prove (1) the time when the offender determined to commit the crime; (2) an act manifestly indicating that the offender had clung to his determination; and (3) a sufficient lapse of time between the determination to commit the crime and the execution thereof, to allow the offender to reflect on the consequence of his act.[33] Indeed, it was established that the killing of Demetrio Agua resulted from an argument between him and accused-appellant minutes prior to

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the attack.

In the absence of any qualifying circumstance in this case, the crime committed by accused-appellant is homicide which, in accordance with Art. 249 of the Revised Penal Code, is punishable by reclusion temporal. Applying the Indeterminate Sentence Law, the minimum of the penalty to be imposed on accused-appellant is prision mayor, being the penalty next lower in degree from reclusion temporal.

As provided by Art. 64(1) of the Revised Penal Code, there being no aggravating nor mitigating circumstance attending the commission of the crime, the penalty of reclusion temporal in its medium period as the maximum of the penalty should be imposed on accused-appellant.

With respect to the items of damages awarded by the trial court, we find the award of indemnity in the amount of P50,000.00 in favor of the heirs of the victim to be in accord with recent rulings of this Court.[34] However, we find the amount of P30,000.00 awarded as nominal damages to be excessive and should therefore be reduced. The amount of P15,000.00 would be appropriate considering that the heirs of the victim actually incurred hospital and funeral expenses as a result of the victim's death, although the exact amount thereof has not been adequately shown.[35] The amount of moral damages awarded should likewise be reduced to P50,000.00 in accordance with the current case law.[36]

The trial court likewise erred in stating that the interest on the damages awarded shall accrue from the time of the filing of this suit. In Eastern Shipping Lines, Inc. v. Court of Appeals,[37] we held that when the judgment of the Court awarding a sum of money becomes final and executory, the rate of legal interest shall be 12% per annum from such finality until its satisfaction. The interest should thus be computed from the time of the finality of this decision, and not from the filing of the complaint against accused-appellant.

WHEREFORE, the decision of the trial court, dated August 8, 1997, is modified by finding accused-appellant guilty of homicide and sentencing him to suffer the penalty of 12 years of prision mayor, as minimum, to seventeen (17) years and four (4) months of reclusion temporal, as maximum, and to pay the heirs of the victim, Demetrio Agua, the amount of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P15,000.00 as nominal damages.

SO ORDERED.

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

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[1] Per Judge Rebecca G. Salvador.

[2] Records, p. 1.

[3] Id., p. 13.

[4] Order, dated May 18, 1994, p. 2; id., p. 15.

[5] TSN (Rodora Agua), pp. 3, 7, June 27, 1994; TSN (Modesta Agua), pp. 6-7, Aug. 31, 1994.

[6] Referred to as "Dodong" in the transcript of stenographic notes.

[7] TSN (Rodora Agua), pp. 4-10, June 27, 1994; TSN (Rodora Agua), p. 5, Aug. 1, 1994; TSN (Modesta Agua), pp. 5-7, 10-14, 16-17, and 19, Aug. 31, 1994; TSN (Bernardo Babaran), pp. 3-8, March 14, 1995; TSN (Bernardo Babaran), pp. 3-4, July 27, 1995.

[8] Exh. K; Records, p. 121.

[9] TSN, pp. 5, 7-12, Feb. 13, 1995.

[10] TSN, pp. 3-5, April 8, 1997.

[11] TSN, pp. 3-6, April 10, 1997.

[12] Decision, p. 3; Records, p. 171.

[13] People v. Barro, G.R. No. 118098, Aug. 17, 2000.

[14] People v. Riglos, G.R. No. 134763, Sept. 4, 2000.

[15] People v. Birayon, G.R. No. 133787, Nov. 29, 2000.

[16] People v. Gaspar, 318 SCRA 649 (1999).

[17] People v. Barro, G.R. No. 118098, Aug. 17, 2000.

[18] Ditche v. Court of Appeals, 327 SCRA 301 (2000).

[19] People v. Mira, G.R. No. 123130, Oct. 2, 2000.

[20] People v. Basadro, G.R. No. 131851, Feb. 22, 2001.

[21] People v. Francisco, 330 SCRA 497 (2000).

[22] People v. Bautista, 331 SCRA 170 (2000).

[23] People v. Cotas, 332 SCRA 627 (2000).

[24] People v. Florague, G.R. No. 134779, July 6, 2001.

[25] Order, dated May 18, 1994, p. 2; Records, p. 15.

[26] TSN, p. 6, April 10, 997.

[27] Exh. K; Records, p. 121.

[28] People v. Amazan, G.R. Nos. 136251, 138606, and 138607, Jan. 16, 2001.

[29] People v. Hilot, G.R. No. 129532, Oct. 5, 2000.

[30] People v. Langit, G.R. Nos. 134757-58, Aug. 4, 2000.

[31] People v. Peña, 291 SCRA 606 (1998).

[32] People v. Cabareño, G.R. No. 138645, Jan. 16, 2001.

[33] People v. Orcula, 335 SCRA 129 (2000).

[34] People v. Galo, G.R. No. 132025, Jan. 16, 2001; People v. Mendoza, G.R. No. 134004, Dec. 15, 2000.

[35] People v. Anivado, G.R. Nos. 131022 & 146048-49, Dec. 14, 2000.

[36] People v. Ronas, G.R. Nos. 128088 and 146639, Jan. 31, 2001; People v. Celeste, G.R. No. 134763, Sept. 4, 2000.

[37] 234 SCRA 78 (1994).

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