

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SAMUEL “SONNY” EMPERADOR Y LOPEZ, ACCUSED-APPELLANT.

G.R. No. 132669. September 25, 2002

Ponente: VITUG, J.

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VITUG, J.:

The hard day’s work would have been easily gratified with whorish talks with his brothers and a few friends but, as darkness crept in the small and quiet barangay in Agoo, La Union, Danilo Collado was struck dead by accused Samuel Emperor, still now claiming guilelessness.

The accusatory Information for murder against Samuel Emperor read:

“The undersigned Chief Investigator of the Agoo Police Station, Agoo, La Union, after having been first duly sworn to an oath in accordance with law, accuses SAMUEL ‘SONNY’ EMPERADOR y LOPEZ, alias BANENG, for the crime of MURDER, committed as follows:

“That on or about 6:30 P.M. of September 14, 1996, at Barangay San Roque West, Municipality of Agoo, Province of La Union, Philippines, and within the preliminary jurisdiction of this Honorable Trial Court, the above-named accused, with intent to kill, did then and there willfully, unlawfully, feloniously and suddenly attack and stab one DANILO ‘DANIEL’ COLLADO y BALTAZAR, 48 years old, married, resident of San Roque West, Agoo, La Union, several times, with the use of a hunting knife, inflicting him multiple fatal stab wounds on the different parts of his body, which was the direct cause of his death, to the great damage and prejudice of the family of the victim.”[1]

Arraigned, the accused pled “not guilty” to the charge. When trial ensued, the prosecution called Mario Collado, Benigno Collado and Ligaya Collado, brothers and wife of the victim, respectively, to the witness stand. The medico-legal officer, Dr. Fredesvinda Pacis, testified on the result of her autopsy on Danilo. The defense, during its turn, presented accused Emperor himself, Emelita Lopez and Roberto Miranda.

Mario Collado was the first to take the witness stand. He narrated that on the early evening of 14 September 1996, about six-thirty, he and his brothers Danilo and Benigno were seated along the barangay road of San Roque West, Agoo, La Union. Edgardo Emperor, a brother of the accused, was also with them. The group was conversing about a funny incident that involved a common friend, Pito Dacanay, when the accused arrived and poised himself in front of Danilo. Without apparent provocation, he pulled out his blade, a japanese hunting knife or bayonet, from his waist and stabbed Danilo on the chest. Danilo ran but the accused caught up with him. Danilo was thrown to the ground face down and repeatedly stabbed by the accused. When Mario tried to rescue the victim, the accused vent his blows on him. Mario fled with a deep cut on his forearm. He went to the hospital where he later learned that Danny died because of multiple stab wounds.

Benigno Collado testified that he was with his brothers, Mario and Danilo, when the stabbing incident happened. He could not understand why the accused would stab his brother Danilo without any provocation. Samuel Emperor came from his left side and surged towards Danilo, striking the latter with his japanese hunting knife.

Benigno was horrified and glued to his seat. It was only when Samuel chased Danilo and the accused continued hitting the victim that Benigno came to his senses. He rushed to help Danilo but it was too late. Danilo was already sprawled on the ground. The accused then turned his ire on Benigno. Benigno was able to get away but not before being hit himself by a hacking blow delivered by the accused.

Dr. Fredesvinda Pacis, the physician who conducted the autopsy on Danilo, declared that she found five stab wounds on the body and several abrasions on the face, forehead and nose of the deceased. The immediate cause of death was attributed to hypovolemic shock caused by the stab wound on the left ventricle of the heart. When asked whether she could tell, by the nature of the wounds, if the victim was stabbed at close range, she answered in the affirmative.

Ligaya Collado testified that the death of her husband Danilo was a great loss to the family. The couple had ten surviving children of school age. When Danilo was alive, he was a farmer and a fisherman. He earned 24 sacks of palay in one year and a weekly income of P500.00 as a fisherman and an additional P300.00 as a farm worker. The family spent a good sum of money - P14,500.00 for the coffin and funeral cost, P500.00 for religious services, P900.00 cost of the tomb and the sum of P18,080.00 for food and other expenses – for her husband's wake and funeral. The sudden death of her husband also caused extreme pain and suffering to her and the others he left behind.

The accused interposed self-defense and claimed that he was drinking in front of his house with Domingo Collado, Benigno Collado, Pito Dacanay and Edgardo Emperador when Danilo arrived boisterously and shouted invectives at him. Danilo kicked a bottle of gin and lunged his scythe to stab the accused. The latter punt the scythe out of Danilo's hands. Danilo then got hold of a knife that the group had used in slicing their pulutan. He wrestled with Danilo for possession of the knife, and it was while they were grappling that the latter was stabbed. He surmised that if he did not fight back, he could have easily been the one killed.

Emelita Lopez, a neighbor, corroborated the version given by the accused. She said that from her window she could see the accused drinking gin with his brother Edgardo, along with Pito, Domingo and Benigno Collado, near her house. Danilo, who was drunk, arrived and threw insults on Samuel. He kicked a bottle of gin and it hit the ankle of Samuel. Pito and Edgardo scampered away from the scene but the Collado brothers remained where they were. Danilo and Samuel soon engaged in a fistfight. Domingo and Benigno picked up a hollow block and threw it at Samuel who was able to evade it. She tried to then pacify Domingo but he told her not to interfere. She backed off when she noticed that he was holding an 8-inch long knife. She saw Danilo running away but bumped himself into a post and collapsed to the ground.

Roberto Miranda, the barangay Captain of San Roque West, said that Samuel came to see him on 14 September 1996, between six-thirty to seven-thirty in the evening and said that he was surrendering to the authorities. Miranda called up the police and turned in Samuel who likewise turned over the Japanese hunting knife or bayonet.

The court a quo, convinced of the case made out at the trial by the prosecution rather than the version proffered by the defense, adjudged the accused guilty of the killing but appreciated the mitigating circumstances of voluntary surrender, as well as passion and obfuscation, holding thusly-

“WHEREFORE, in view of all the foregoing considerations, the Honorable Court finds the accused Samuel ‘Sonny’ Emperador Y Lopez GUILTY of the crime of MURDER beyond reasonable doubt. The accused is hereby sentenced to suffer the penalty of Reclusion Perpetua together with all its accessory penalties; to indemnify the heirs of the victim for Moral Damages in the amount of P50,000.00 for the death of the victim; P35,000.00 in actual expenses; P60,000.00 for loss of earning capacity and to pay the cost of the

proceeding.”[2]

In his appeal to this Court, the convicted accused made the following assignment of errors; to wit:

I

“THE COURT A QUO ERRED IN NOT HOLDING THAT ACCUSED-APPELLANT ACTED IN COMPLETE SELF-DEFENSE.

“II

“GRANTING THAT ACCUSED-APPELLANT DID NOT ACT IN SELF-DEFENSE, THE LOWER COURT ERRED IN CONCLUDING THAT THE ATTACK UPON THE VICTIM WAS PERPETRATED WITH TREACHERY, THUS, QUALIFYING THE KILLING TO MURDER.

“III

“GRANTING THAT ACCUSED-APPELLANT DID NOT ACT IN SELF-DEFENSE, AND THAT TREACHERY WAS PROVEN DURING TRIAL, THE LOWER COURT ERRED IN QUALIFYING THE KILLING TO MURDER DESPITE THE NON-ALLEGATION OF TREACHERY IN THE INFORMATION.”[3]

Appellant would insist that the trial court failed to recognize his “natural instinct” to protect himself from the impending danger posed by the victim. The infliction by him of a fatal wound on the deceased, he said, was unavoidable. Appellant would also fault the trial court for appreciating treachery which was neither specifically alleged nor proved.

A close look at the records, the Court believes, sufficiently establishes the accountability of appellant for the death of Danilo Collado but only for homicide and not murder. The narration of eyewitness Mario Collado of the facts about the incident suffers no ear-mark of falsehood.

“Q On September 14, 1996, at around 6:30 in the afternoon, where were you?

“A I was at Brgy. San Roque West, Agoo, La Union.

“Q What were you doing then at that time?

“A We were conversing there and sitting.

“Q Who were with you then?

“A Ricardo Emperador, Benigno Collado, Danilo Collado and me.

“X X X X X X X X

“Q Was there [any] unusual incident at that time?

“A Yes, sir.

“Q And what was that incident?

“A He suddenly stabbed my brother.

“Q Who is that ‘he’ that you are referring to that stabbed your brother?

“A Sonny Emperador.

“Q And what is the name of your elder brother?

“A Danilo Collado.

“Q And who stabbed Danilo Collado?

“A Sonny Emperador. (Witness pointing again to the accused.)

“Q Is that Sonny Emperador and Samuel Emperador the same person?

“A Yes, sir.

“Q And how many times did this Sonny Emperador stab your brother?

“A When my brother was sitting, Samuel stabbed him on his left breast. He was able to stand and run for about 5 arms length away and Samuel still chased him.

“Q And what happened when Samuel Emperador chased your brother Danilo?

“A He was able to run after him.

“Q And what did Samuel Emperador do when he was able to run after Danilo?

“A He again stabbed him. (Witness making a sign by holding an imaginary weapon and he stabbed Danilo.)

“Q And what part of the body of Danilo was stabbed?

“A At the back on the left.

“Q How many times?

“A For three (3) times at the back and once at the left side of the waist.

“Q And what did you do when Samuel Emperador was stabbing Danilo?

“A I wanted to lend succor to my brother but because the accused turned on me, so I ran.

“Q What do you mean by your statement that Sonny turned on you?

“A He wanted to stab me.

“COURT QUESTION:

“Q So you were stabbed by Sonny Emperador, is that what you mean?

“A Yes, sir.

“PROSECUTOR CATBAGAN:

“Q And after that, what did you do?

“A I ran.

“COURT QUESTION:

“Q How many times did Sonny Emperador stab you?

“A Only once, sir. (Witness pointing to the scar.)

“Q Were you hit when Sonny Emperador stabbed you?

“A Yes, sir.

“Q Where were you hit?

“A My right forearm. (Witness pointing to a scar measuring around 3½ inches long.)

“PROSECUTOR CATBAGAN:

“Q After that what happened next?

“A I ran away but Samuel saw my younger brother Benigno and he again turned on him.

“x x x x x x x x

“Q You claimed that your brother Danilo, Benigno and Ricardo were seated at the barangay road, how were you seated there?

“A On both sides of the barangay road particularly on the west side, my brother Danilo and Benigno were seated on the western side, while on the eastern side seated were Ricardo and me.

“Q Where were you seated?

“A A bamboo bench.

“Q So you were facing each other?

“A Yes, sir.

“Q Then you claimed that the accused Sonny Emperador suddenly arrived?

“A Yes, sir.

“Q Where did he come from?

“A From inside their house.

“Q From what direction?

“A From the western door.

“Q From what direction from where you were seated?

“A West of the place where we were seated.

“Q Did you see the accused come out of their house?

“A Yes, sir.

“Q When you saw him, was he already armed with a knife?

“A Yes, sir, a knife tucked at his back.

“Q Whom did he approach first?

“A My brother Danilo.

“Q If the accused Samuel Emperador came from the west, so he approached your brother [from] behind?

“A He went around Danilo and faced him.

“Q And what did he do after they were facing each other.

“A He stabbed my brother Danilo.

“Q At the time when Samuel Emperador stabbed your brother, what was the position of your brother?

“A He was sitting down on the bench.

“Q And did you see that he suddenly stabbed your brother when your brother was seated?

“A Yes, sir.

“Q Did you hear your brother say anything before the stabbing?

“A None sir but he suddenly arrived and stabbed him.

“PROSECUTOR CATBAGAN:

“Q While your brother was seated, how many times did Sonny stab him?

“A Only once sir. While he was seated, he stabbed him on the left breast.

“Q And after Danilo was stabbed on the left breast, what did your brother do if any?

“A My brother ran but still he chased him.

“Q Who chased him?

“A Sonny. (Witness pointing to the accused.)

“Q Was Sonny able to approach Danilo?

“A Yes, sir.

“Q And what did Sonny do to Danilo?

“A He stabbed him repeatedly.

“COURT QUESTION:

“Q When Sonny stabbed your brother, Danilo, after he caught up Danilo, was your brother standing when he stabbed him?

“A He already fell down and grimacing in pain and stabbed him repeatedly.

“Q When your brother Danilo ran, to what direction did your brother run?

“A Towards the south.

“Q Did he fall on the ground after he was stabbed?

“A Yes, sir.

“Q So the accused was able to run after your brother Danilo because your brother fell down?

“A Yes, sir.

“Q And when your brother fell down and the accused was able to catch on him, the accused stabbed your brother repeatedly?

“A Yes, sir.”[4]

Benigno Collado, for his part, gave a similar account of the incident that had befallen his deceased brother.

“Q On September 14, 1996, where were you in the afternoon?

“A We were there in our Brgy. San Roque West, Agoo, La Union.

“Q And was there any unusual incident that happened on that particular day?

“A There was, sir.

“Q What was that incident?

“A Regarding the death of Danilo Collado.

“Q Do you know how Danilo died?

“A I know, sir.

“Q Will you please tell us how he died?

“A That he was stabbed here on his left breast. (Witness pointing to his left breast near his left nipple.)

“Q And who stabbed Danilo Collado?

“A That one, sir. (Witness pointing to the accused Samuel Emperador.)

“Q And before Danilo Collado was stabbed what were you doing?

“A We were conversing, sir.

“Q To whom were you conversing with?

“A To Danilo Collado, Pito Dacanay and myself. We were five then, sir. Mario Collado, Edgardo Emperador.

“X X X X X X X X

“PROSECUTOR CATBAGAN:

“Q And while you were conversing what happened?

“A He stabbed my brother, sir.

“Q To whom are you referring to that stabbed your brother?

“A Samuel Emperador alias Sonny.

“Q And when for the first time [did] you notice Samuel Emperador when he came to your place?

“A He came by near my left side.

“Q And after that what happened?

“A He immediately stabbed my brother, sir.

“Q And what part of the body of your brother was hit?

“A Here on his left breast, sir.

“Q And when Samuel Emperador stabbed your brother in his left breast what happened next?

“A My brother Danilo Collado ran.

“Q What is the name of your brother that ran again?

“A Danilo Collado.

“Q How about you what did you do?

“A I was taken aback, I just waited there.

“Q And what about Sonny Emperador, what did he do?

“A He chased my elder brother, sir.

“Q And was he able to catch up your brother?

“A Yes, sir.

“Q And what happened after that?

“A When my brother fell down sidewise, he stabbed him repeatedly, sir.

“Q And how many times did Samuel Emperador stab your brother?

“A For four (4) times more, sir.

“Q And how about you what did you do when you saw Samuel Emperador chased your brother?

“A I was about to help my brother but Samuel Emperador stabbed me at my back.”[5]

Where the innocence or culpability of an accused would basically hinge on the issue of credibility of witnesses, the findings of the trial court is accorded a high degree of respect.[6] The trial judge has before him the essential aids to determine the veracity of conflicting testimony[7] and, as so often said, unless it would appear that facts or circumstances of real weight have evidently been ignored, the findings of the trial judge are not disturbed on appeal.[8] Indeed, the number and location of the victim’s wounds would belie the claim of self-defense by appellant.

Appellant’s contention, however, that the trial court erred in appreciating treachery in the killing of the victim should be accorded merit. While, verily, the appellant’s act was treacherous - the mode of attack neither forewarned Danilo nor afforded him any opportunity to make a defense or to ward off the attack - the Information, however, bore no specific allegation of treachery or evident premeditation.

Unlike the old rules,[9] the 2000 Revised Rules of Criminal Procedure[10] now explicitly mandates that qualifying and aggravating circumstances must be stated in ordinary and concise language in the complaint or information.[11] When the law or rules specify certain circumstances that can aggravate an offense or that would attach to such offense a greater penalty than that ordinarily prescribed, such circumstances must be both alleged and proven in order to justify the imposition of the increased penalty.[12]

Under Article 249 of the Revised Penal Code, any person who, not falling within the provisions of Article 248,[13] kills another without the attendance of any qualifying circumstances shall be deemed guilty of homicide. The trial court correctly appreciated the mitigating circumstance of voluntary surrender but not the mitigating circumstance of passion and obfuscation. Passion and obfuscation cannot co-exist with treachery[14] which was established though not alleged. In the mitigating circumstance of passion and obfuscation, one loses his reason and self-control, largely precluding him from deliberately employing a particular method, means or form of attack in the execution of the crime.[15] It could not be present where the accused did not act due to uncontrollable burst of emotion provoked by prior or unjust acts or due to a legitimate stimulus that could overcome reason.[16]

Homicide carries the penalty of reclusion temporal with a duration of 12 years and 1 day to 20 years. With the attendance of one mitigating circumstance, i.e., voluntary surrender, the penalty should be meted in its minimum period of anywhere from 12 years and 1 day to 14 years and 8 months. Applying the Indeterminate Sentence Law,

the penalty to be imposed shall be within the range of the penalty next lower in degree than that prescribed for the offense, i.e., prision mayor or from 6 years and 1 day to 12 years, as minimum, to anywhere within the range of reclusion temporal in its minimum period, or from 12 years and 1 day to 14 years and 8 months, as maximum.

The heirs of the victim should deserve an award of P50,000.00 civil indemnity, P50,000.00 moral damages for their pains and sufferings, P35,000.00 actual damages, here duly established, plus the loss of “earning capacity.” The deceased was 48 years old at the time of his death and earning about P800.00 every week or P40,000.00 a year. A net equivalent of 50% of his gross annual income would be a fair calculation of his living expenses and that of his family,[17] entitling an award of P426,600.00 for lost earnings in accordance with the formula;[18] viz:

$$\begin{aligned} & 2/3 (80 - \text{age at the time of death}) \times (\text{gross annual income [GAI]} - \text{living expenses [50\% of GAI]}) \\ &= 2 (80 - 48) \\ & \quad \frac{\quad}{3} \times (40,000 - 20,000) \\ &= 21.33 \times 20,000 \\ &= 426,600 \end{aligned}$$

WHEREFORE, the assailed decision of the trial court is **AFFIRMED** with **MODIFICATION**. Appellant Samuel Emperador y Lopez is hereby found guilty only of homicide, and he is thus sentenced to suffer the indeterminate penalty of 9 years and 1 day of prision mayor, as minimum, to 13 years, 4 months and 1 day of reclusion temporal, as maximum. He is likewise ordered to indemnify the heirs in the amounts of P35,000.00 actual damages, P50,000.00 civil indemnity, P50,000.00 moral damages, and P426,000.00 for lost earnings. Costs against appellant.

SO ORDERED.

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

[1] Records, p. 1.

[2] Rollo, p. 46.

[3] Rollo, p. 81.

[4] TSN, 13 May 1997, pp. 3-11.

[5] TSN, 07 July 1997, pp. 3-5.

[6] People vs. Anonuevo, GR. No. 137843, 12 October 2001.

[7] Ibid.

[8] People vs. Alao, 322 SCRA 380.

[9] SEC. 8. Designation of the offense. – Whenever possible, a complaint or information should state the designation given to the offense by the statute, besides the statement of the acts or omissions constituting the same, and if there is no such designation, reference should be made to the section or subsection of the statute punishing it. (7)

SEC. 9. Cause of accusation. – The acts or omissions complained of as constituting the offense must be stated in ordinary and concise language without repetition, not necessarily in the terms of the statute defining the offense, but in such form as is sufficient to enable a person of common understanding to know what offense is intended to be charged, and enable the court to pronounce proper judgment. (8)

[10] SEC. 8. Designation of the offense. – The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it. (8a)

SEC. 9. Cause of the accusation. – The acts or omissions complained of as constituting the offense and the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the court to pronounce judgment. (9a)

[11] People vs. Catubig, G.R. No. 137842, 23 August 2001.

[12] People vs. Tabanggay, 334 SCRA 575.

[13] Art. 248. Murder - Any person who, not falling within the provisions of Article 246, shall kill another, shall be guilty of murder and shall be punished by reclusion perpetua, to death if committed with any of the following attendant circumstances:

- With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense, or of means or persons to insure or afford impunity;
- In consideration of the price, reward or promise;
- By means of inundation, fire, poison, explosion, shipwreck, stranding of a vessel, derailment or assault.
- On occasion of any of the calamities enumerated in the presiding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic, or any other public calamity;
- With evident premeditation;
- With cruelty by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse. (It is settle that the circumstances qualifying the killing to murder must be allege in the information otherwise the killing maybe considered merely as homicide.)

[14] People vs. Wong, 70 O.G. 4844 (05 October 1973).

[15] Ibid.

[16] People vs. Mancao, Jr., 132 SCRA 132; citing U.S. vs. Taylor, 6 Phil. 162.

[17] People vs. Teehankee, 249 SCRA 54.

[18] People vs. Pascual, 331 SCRA 252.

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