

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. TEODORO LAUT Y REBELLON AND DOMINGO LAUT Y SEVILLA, ACCUSED-APPELLANTS.*G.R. No. 137751. February 01, 2001*

Ponente: BELLOSILLO, J.

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TEODORO LAUT y REBELLON and DOMINGO LAUT y SEVILLA appeal from the Decision of the court a quo finding them guilty of murder and imposing upon them the penalty of reclusion perpetua and ordering them to pay the heirs of TOMAS FLORES SR., P14,390.50 as actual damages and P30,000.00 as moral damages.[2]

The version of the prosecution is that in the early afternoon of 28 November 1995, ten (10)-year old Tomas Flores Jr., was planting palay together with his mother Erlinda Flores in their rice field located in Biong, Cabusao, Camarines Sur. His younger brother Joel was playing in the fields. He chanced to look up the slope where he last saw his father Tomas Flores Sr., plowing the earth with his carabao but did not see him there. He dashed up the slope and at his vantage view saw his father being chased by his neighbor Domingo Laut. In no time, Domingo overtook his father and hacked him on the leg. He (Tomas Jr.) shouted to his mother that his father was being attacked. Erlinda scurried up the slope and saw Domingo continuously hacking her husband who had already fallen. She also saw that Domingo's brother Joselito and their father Teodoro join in the fray. Erlinda looked at Teodoro and noticed that he was carrying two (2) bolos, one tucked in his waist and the other raised in his right arm. She rushed to her husband and pleaded with the Lauts to stop the carnage. Tomas Jr. meanwhile ran to the poblacion to seek help. Domingo menacingly advanced towards her and struck her head with the handle of a scythe while exhorting her, "Saro ka pang hayop ka, gagadanon taka!" (you're another one, I will kill you!). Erlinda's bandana fell from her head as she dashed for safety towards the direction of her home. Domingo pursued her but she managed to elude him.

While playing, Joel saw his Manoy Junior and his mother scampering in different directions. He ran to where they were and saw the Lauts hacking his father who was already lying on the ground bathed in his own blood. Upon seeing his father, he cried and then fled.

Upon reaching her barangay, Erlinda sought help from her neighbor Luis Nacor who accompanied her home and advised her to wait for the authorities. Soon enough, several police officers arrived with her son Junior and they proceeded to the rice fields where she last saw her husband fall. There they saw her husband, unconscious, soaked in his own blood. Several men lifted his body from the ground and brought him to the hospital where he died.

The necropsy examination conducted by Dr. Eduardo P. Madrilejo, Municipal Health Officer of Cabusao, Camarines Sur, revealed that Tomas Flores, Sr., had sustained a total of twelve (12) hack wounds, the most fatal of which was the "partial avulsion wound at the anterior middle aspect of the neck measuring three (3) inches." [3]

On the same day, Teodoro Laut and his sons Domingo and Joselito were arrested and brought to the police station. Teodoro and Domingo were detained at the Tinangis Penal Farm while Joselito, who was barely fifteen

(15) years of age, was placed under the custody of the Department of Social Welfare and Development of Cabusao, Camarines Sur.

At the trial, the prosecution presented Erlinda, Tomas Jr., Joel, SPO4 Gerardo Gigic and Dr. Madrilejo as witnesses. After the testimonies of Erlinda, Tomas Jr. and Joel, Teodoro took the witness stand and claimed sole responsibility for the killing of Tomas Flores Sr. Teodoro insisted that he acted in self-defense. Consistent with their father's testimony, Domingo and Joselito denied participation in the crime and proceeded to present their respective alibis.

Teodoro testified that on 28 November 1995 he was at the bamboo grove which separated his property from the land tilled by Tomas. According to him, he was given by the landlord of Tomas, a certain Felix Gonzales, the authority to trim several clumps of bamboo that were encroaching on his property. Suddenly, someone struck his head from behind. He faced his attacker and recognized Tomas Flores Sr. who furiously said, "You fight because this is the end of your life!"[4] Tomas was holding a bolo in his right hand and a piece of wood on the other. Sensing danger, he moved backwards. Tomas attacked him with his bolo and he parried his blows. Since he knew a little of *armas de mano*[5] he was able to disarm Tomas and succeeded in getting hold of the latter's bolo. However, Erlinda, who was at her husband's side, gave him another bolo while shouting "kill him"[6] With a new bolo in hand, Tomas and Teodoro then fought it out. In the course of the fight, Teodoro inflicted several wounds on Tomas. With all his strength, he struck Tomas at the back. Tomas lost his balance and fell. Seeing that Tomas was already lying on the ground, he gathered the two (2) bolos used by Tomas in attacking him and wrapped them under his jacket. On his way to the Bicol Sanitarium for the treatment of his wounds, he met his son Joselito who accompanied him. Together, they proceeded to the hospital where he supposedly surrendered the two (2) bolos to the security guard. At the hospital, Dr. Delfin Sunga attended to his wounds located at his left eyebrow, earlobe and right knee.[7] The policemen came later with his son Domingo and together they were taken to the police station where they were detained.

Accused Domingo testified that on the afternoon in question, he was weeding his rice field located four (4) kilometers away from the scene of the crime. According to him, he left home right after lunch, at approximately 11:00 o'clock in the morning, and stayed at his rice field all afternoon. He came home at dusk and was informed that his father was being treated at the hospital for hack wounds. After washing himself, he went to the Bicol Sanitarium where he saw several policemen waiting for his father. They asked him to accompany his father to the police station and he obliged. At the police station, he was detained together with his father. His protestations for release fell on deaf ears.

Joselito likewise disclaimed any knowledge of the killing and expressed surprise when arrested. He testified that in the afternoon of 28 July 1995 he was tethering his father's carabao about a kilometer away. Upon his return home, he met his wounded father who was on his way to the hospital. He accompanied him to the Bicol Sanitarium and witnessed his arrest.

The trial court gave more credence to the testimony of Erlinda and her sons who vigorously asserted that they saw the Lauts hack their patriarch. Teodoro's plea of self-defense was rejected upon a finding that he inflicted twelve (12) hack wounds on Tomas. According to the court *a quo*, "if the accused stabbed the deceased merely to defend (himself), it certainly defies reason why (he) had to inflict (twelve) stab wounds (upon the deceased)."[8] Consequently, Teodoro together with Domingo was convicted of murder qualified by abuse of superior strength. Joselito was however acquitted for insufficiency of evidence.

In this appeal, accused-appellants contend that the court *a quo* erred in not sustaining Teodoro's plea of self-defense and in finding that Domingo assisted his father in killing the deceased.

Teodoro's claim that he merely defended himself deserves no credit. In an effort to dramatize his plight, he exaggerated his story. The necropsy report would readily repudiate his version of the story and in the process disprove the aphorism that dead men tell no tales. For one, if indeed he merely parried the blows delivered by the deceased, then Tomas' six-inch hack wound located at the center of his back clearly needs an explanation. In addition, as correctly observed by the trial court, the twelve (12) hack wounds found on the body of the deceased as contrasted with Teodoro's three (3) small superficial wounds belies the theory of the defense that it was Tomas who was the aggressor. Tomas' wounds located at his arms, wrists, chest, legs and back are all indicative of aggression and of the complicity of the father and son in the dastardly act.

In light of the foregoing, Teodoro's tall tale of self-defense does not inspire belief, especially when contrasted with the positive and categorical eyewitness accounts of Erlinda and her sons. Their testimonies are further corroborated by the extent of the hack wounds received by the deceased. Certainly, it would be the height of gullibility to believe Teodoro's plea of self-defense.

Domingo, on the other hand, relies on his alibi for exculpation. In his testimony, he attempted to show that he was tending his rice field some four (4) kilometers away when his father killed Tomas such that it was impossible for him to have been in the scene of the crime either before or after the killing.

We are not convinced. Domingo's defense must be rejected because of the easy access from his rice field to that of Tomas. Even if his claim that he went to his rice field at 11:00 o'clock in the morning is believed, this does not discount the possibility that he hiked back in time for the murder of Tomas. The distance of four (4) kilometers is not that far as to prevent Domingo, full-bodied as he is, from negotiating the stretch that very same afternoon. His defense then that he was at some other place at the time of the killing does not satisfactorily show that it was physically impossible for him to have participated therein.

The killing was properly denominated as murder because it was qualified by abuse of superior strength. The deceased, outnumbered and vanquished, was pursued until he stumbled and fell whereupon the two (2) accused-appellants synchronously delivered hacking blows upon him.

A perusal of the Decision reveals that its award of damages in favor of the heirs must be modified. Firstly, the trial court failed to award civil indemnity. Well entrenched is the rule that upon a finding of death, courts award civil indemnity in the amount of P50,000.00. This is in addition to the actual damages which in the present case were fixed at P14,390.50. The award of civil indemnity in case of death is separate and distinct from the award of actual damages which is based on a different jural foundation.

As to the award of damages for loss of earning capacity, Erlinda testified that her husband Tomas was earning P600.00 a week prior to his death.[9] She however failed to produce evidence to substantiate her claim. Nonetheless, Art. 2206 of the Civil Code provides, "the defendant shall be liable for the loss of the earning capacity of the deceased, and the indemnity shall be paid to the heirs of the latter x x x unless the deceased on account of permanent disability not caused by the defendant had no earning capacity at the time of his death." In the present case, as there is no indication that the deceased had no earning capacity at the time of his death due to a permanent physical disability, we are inclined to give credit to Erlinda's testimony. Based on her computation, Tomas was earning an annual income of P28,800.00 counted at the rate of P600.00 a week for forty-eight (48) weeks. To this amount would be deducted his necessary and incidental expenses estimated at fifty percent (50%), leaving a balance of P14,400.00.[10] His net annual income would then be multiplied by his life expectancy using the following formula: $\frac{2}{3} \times 80 - 40$ (age of the victim at time of death).[11] Tomas can therefore be said to have a life expectancy of twenty-six (26) years. All taken, an award of P374,400.00 for loss of earning capacity is just and proper.

The award of moral damages in the amount of P30,000.00 should be increased to P100,000.00 after considering that Tomas had left a brood of twelve (12) fatherless children and a grieving widow.

WHEREFORE, the assailed Decision of the trial court finding accused-appellants TEODORO LAUT Y REBELLON and DOMINGO LAUT Y SEVILLA guilty of Murder and sentencing them to suffer the penalty of reclusion perpetua and to pay the heirs of the victim Tomas Flores Sr., P14,390.50 as actual damages with the modifications that accused-appellants be also ordered to pay the heirs P50,000.00 as civil indemnity for the death of Flores Sr., and P374,400.00 representing the loss of his earning capacity. In addition, the award of moral damages is increased to P100,000.00.

SO ORDERED.

Mendoza, Quisumbing, Buena, and De Leon, Jr., JJ., concur.

[1] Also spelled in the records as "Rebellion" and "Revillon."

[2] Decision penned by Judge Lore R. Valencia-Bagalasca, RTC-Br. 56, Libmanan, Camarines Sur, 22 June 1998; Rollo, pp. 19-31.

[3] Original Records, p. 65.

[4] Rollo, p. 23.

[5] According to Judge Valencia-Bagalasca, the term "armas de mano" refers to an "old style" of martial arts. See TSN, 6 January 1998, p. 21.

[6] TSN, 6 January 1998, p. 7.

[7] Original Records, p. 170.

[8] Rollo, p. 26.

[9] Id, p. 22.

[10] *People v. Nullan*, G.R. No. 126303, 14 April 1999, 305 SCRA 679.

[11] The lower court stated that the victim was forty-one (41) years of age at the time of his death. However, the death certificate issued by the Civil Registrar of Cabusao, Camarines Sur, explicitly stated that Tomas Flores Sr. was forty (40) years old when he died; Original Records, p. 167.

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