

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RAMON CAMACHO, ACCUSED-APPELLANT.

G.R. No. 138629. June 20, 2001

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the decision,[1][1]1 dated February 8, 1999, of the Regional Trial Court, Branch 29, Iloilo City finding accused-appellant Ramon Camacho guilty of murder and sentencing him to suffer the penalty of reclusion perpetua and to pay the heirs of the victim, Esperidion Armada, Jr.,[2] the sum of P50,000.00 as indemnity, the amount of P36,518.00 as actual damages, and the costs without subsidiary liability in case of insolvency.

The information against accused-appellant alleged: [3]

That at about 5:00 o'clock in the afternoon of July 18, 1994, at Barangay Quipot, Municipality of Janiuy, Province of Iloilo, Philippines, and within the preliminary jurisdiction of this Honorable Court, the above-named accused with intent to kill by means of treachery did, then and there, willfully, unlawfully and feloniously attack, assault and hack Esperidion Armada, Jr. alias Onyok, a resident of Barangay Jibolo, Janiuy, Iloilo several times with the use of a fighting bolo, locally known as guinunting, hitting the latter in different parts of his body thereby causing his subsequent death.

Upon arraignment, accused-appellant pleaded not guilty to the crime charged and trial of the case followed.[4]

The prosecution presented evidence showing the following facts:

At around 5:00 p.m. of July 18, 1994, Rogelio Caro[5] and the victim Espiridion Armada, Jr. met at the market of Janiuy, Iloilo. The victim wanted to buy the carabao which Caro was tending.[6] The animal belonged to the uncle of accused-appellant.[7] Caro and Armada went to the house of accused-appellant at Barangay Quipot, arriving at around 11:00 a.m.[8]

Accused-appellant's wife prepared lunch[9] while accused-appellant entertained the arrivals with whisky and the native drink tuba.[10] Accused-appellant and the victim stayed inside the house, while Caro stayed near the door.[11]

After some time, the victim suggested to accused-appellant that they go to the owner of the carabao since it was getting late. Accused-appellant replied that they could go later and, since he was there, there was no need for the victim to be afraid. After a while, the victim again said it was getting late. Camacho assured him that it was all right, as he went inside his room to get a fighting bolo, in local parlance called guinunting.[12]

When he returned to the living room, accused-appellant asked the victim to take another shot of whisky. The victim obliged, but as he was taking his drink, accused-appellant took his guinunting from its sheath and hacked the victim on the left shoulder and different parts of the body.[13] Shocked by the initial attack, Caro ran away.[14]

Dr. Renato Armada, Municipal Health Officer of Janiuay who conducted an autopsy on the body of the victim, found that the victim had suffered 13 hacking wounds, to wit:[15]

- Hacking wound 16 cm. x 1 cm. x 1 cm. located at the right parietal area of the skull and fracturing the skull and involving the meninges.
- Hacking wound 15 cm. x 1/2 cm. x 1 cm. located at the frontal area to the occipital area of the skull involving the meninges.
- Hacking wound 19 cm. x 8 cm. located at the epigastrium of the abdominal area lacerating the small intestines.
- Hacking wound 10 cm. x 5 cm. x 6 cm. located at the left arm fracturing the left humerus.
- Hacking wound 11 cm. x 3 cm. located at the right lateral part of the right wrist involving the veins and arteries.
- Hacking wound 6 cm. x 2 cm. x 1 cm. located at the occipital area fracturing the skull.
- Hacking wound 12 cm. x 2 1/2 cm. located at the right lateral side of the neck involving the carotid artery and jugular vein.
- Hacking wound 15 cm. x 8 cm. x 13 cm. located at the left shoulder fracturing the clavicle and severing the arteries and veins.
- Hacking wound 6 1/2 cm. x 4 cm. x 4 1/2 cm. located at the left shoulder 10 cm. below the 8th wound fracturing the distal part of the clavicle.
- Hacking wound 13 cm. x 4 1/2 cm. x 2 cm. located at the back fracturing the left scapula.
- Hacking wound 26 cm. x 7 cm. x 6 cm. located at the back hitting the spinal column.
- Hacking wound 20 cm. x 4 cm. x 9 1/2 cm. located at the right shoulder fracturing the right clavicle.
- Hacking wound 14 cm. x 1 cm. x 2 1/2 cm. located just below the right side of the neck involving the skin.

The victim died of hemorrhagic shock secondary to multiple hacking wounds.[16]

Accused-appellant admitted that he killed the victim but claimed he acted in self-defense. Testifying as sole witness in his defense, accused-appellant recounted the following:[17]

At around 11:30 in the morning of July 18, 1994, Rogelio Caro and the victim Espiridion Armada, Jr. arrived in the house of accused-appellant in Barangay Quipot, Janiuay. The victim is the cousin of his wife. The two guests rested, while accused-appellant's wife prepared lunch for them. After eating, accused-appellant, the victim, and Caro drank the whisky which the victim brought with him. At around 4:00 o'clock in the afternoon, the victim asked accused-appellant to help him steal a carabao from a certain Piling of Barangay Barasalon, Janiuay. As accused-appellant refused to do so, the victim took out his butcher's knife and tried to stab accused-appellant twice. Accused-appellant parried the blows and was not hit. Accused-appellant claimed that he ran to get his bolo inside his room, but the victim followed him. Accused-appellant claimed that he slashed the victim's hand with the bolo in self-defense, causing the latter to drop his knife. The two then grappled with each other. Accused-appellant said his mind went blank and he did not know he had inflicted 12 hack wounds on his adversary. He said he came to his senses only the following morning when he surrendered to the Citizens Armed Forces Geographical Unit (CAFGU).

On February 8, 1999, the trial court rendered judgment as follows:

WHEREFORE, in view of the foregoing, the Court finds the accused RAMON CAMACHO guilty beyond reasonable doubt of the crime of MURDER as defined and penalized under Article 248 of the Revised Penal Code, as amended by RA 7659 and taking into consideration the mitigating circumstance of voluntary surrender hereby sentences said accused to serve the penalty of reclusion perpetua, to indemnify the heirs of the deceased in the sum of P50,000.00 without subsidiary liability in case of insolvency, to reimburse the heirs of their actual damages in the amount of P36, 518.00 and to pay the costs.

SO ORDERED.[18]

Hence, this appeal. Accused-appellant alleges:

- THE COURT A QUO GRAVELY ERRED IN DISREGARDING APPELLANT'S PLEA OF SELF-DEFENSE OR THE PRIVILEGED MITIGATING CIRCUMSTANCE OF INCOMPLETE SELF-DEFENSE.
- ASSUMING ARGUENDO THAT THE GUILT OF THE ACCUSED-APPELLANT HAS BEEN PROVEN BEYOND DOUBT, THE COURT A QUO GRAVELY ERRED IN APPRECIATING TREACHERY AS A QUALIFYING CIRCUMSTANCE.[19]

First. Article 11 of the Revised Penal Code provides,

The following do not incur any criminal liability:

1. Anyone who acts in defense of his person or rights provided that the following circumstances concur:

First. Unlawful aggression;

Second. Reasonable necessity of the means employed to prevent or repel it;

Third. Lack of sufficient provocation on the part of the person defending himself.

The lower court correctly held that these elements of self-defense are absent in the instant case. Indeed, the settled rule is that he who seeks justification for his act must prove by clear and convincing evidence the presence of the elements of self-defense, the rationale being that having admitted the wounding or killing of his adversary which is a felony, he is to be held criminally liable for the crime unless he establishes to the satisfaction of the court the fact of legitimate self-defense.[20] To prove the justifying circumstance claimed by him - self-defense - to the satisfaction of the court, he must rely on the strength of his own evidence and not on the weakness of that of the prosecution, for even if that is weak, it cannot be disbelieved after the accused himself had admitted the killing.[21] Although it is a cardinal principle in criminal law that the prosecution has the burden of proving the guilt of the accused, the rule is reversed where the accused admits committing the crime, but only in defense of oneself.[22] In interposing self-defense, accused-appellant admits authorship of the killing and the burden of proof is shifted to him to establish that the killing was justified.[23]

In this case, during the preliminary investigation of the case, the lower court ordered accused-appellant to file a counter-affidavit to rebut the charge of murder.[24] He failed, however, to file such affidavit.[25]

Indeed, accused-appellant failed to corroborate his claim of self-defense with evidence other than his own testimony, despite the fact that other persons were in the house when he killed the victim and may therefore have witnessed it. His wife and son both executed affidavits which were submitted during the preliminary investigation of this case.[26] However, these affidavits were not presented as evidence in the lower court and, being hearsay, cannot establish the elements of self-defense.

Moreover, no evidence exists to support accused-appellant's claim of self-defense. Accused-appellant claims that he grappled with the victim, but he did not present the clothes he wore that day which could have been stained

with the victim's blood. Neither did he present any medical certificate showing injuries sustained by him as a result of their fight. While accused-appellant claims that he grappled with the victim, the autopsy report shows that all the victim's wounds were hacking wounds which could only have been inflicted from a distance. Accused-appellant also claims that the victim was armed with a butcher's knife, but he failed to present the weapon or to account for its loss. Doing so upon surrender or even during trial would have bolstered his theory of the case. In *People v. Alfaro*,^[27] we held that the failure to account for the non-presentation of the bladed weapon allegedly used by the victim is fatal to a plea of self defense.

Second. Accused-appellant attempted to establish unlawful aggression on the part of the victim. He testified that the victim attacked him first because he refused to join the latter and Rogelio Caro in stealing a carabao.^[28] The trial court, however, correctly disregarded this claim.

Unlawful aggression is a condition sine qua non for the justifying circumstance of self-defense. There can be no self-defense, whether complete or incomplete, unless the victim has committed unlawful aggression against the person defending himself.^[29] As we previously explained, accused-appellant failed to present evidence to corroborate his claim that the elements of self-defense, including unlawful aggression, were present in this case.^[30]

Third. It is settled that, because of its opportunity to observe the facial expressions, gestures, and tone of voice of a witness who is testifying, the trial court's evaluation of the testimony of a witness is entitled to great respect.^[31] The proximate contact of the trial court with those who take the witness stand places it in a more competent position to discriminate between a true and false testimony.^[32] In this case, accused-appellant failed to show that the trial court erred in giving weight to the testimony of the prosecution's witness.

Caro positively identified accused-appellant as the one who killed the victim:

Q:

When this Ramon Camacho returned already carrying that fighting bolo what happened next?

A:

Ramon Camacho ordered Onyok to drink his glass of whisky because he would follow after him, but after Onyok drank the glass of whisky, Ramon Camacho got his fighting bolo from the scabbard and then hacked Onyok with that fighting bolo and because I was surprised I fled because I might be killed.

Q:

How many times did Ramon Camacho hack Onyok?

A:

I just saw Ramon Camacho hacked Onyok once because I fled.

Q:

And was alias Onyok hit when he was hacked by Ramon Camacho?

A:

Yes, sir.

Q:

In what particular portion of the body?

A:

Witness indicating his left shoulder.

Q:

And you said because of surprise you ran away. To what direction did you proceed?

A:

I went out of the door and went to the direction of the forest.[33]

This testimony proves beyond reasonable doubt that accused-appellant killed the victim without any justification. The testimony of a single eyewitness is sufficient to support a conviction as long as it is clear and straightforward and worthy of credence by the trial court.[34] The testimony of a single witness, if positive and credible, is sufficient to support a conviction. A testimony is credible if it bears the earmarks of truth and sincerity and had been delivered in a spontaneous, natural, and straightforward manner.[35]

However, there is merit to accused-appellant's claim that the lower court erred in appreciating treachery as a qualifying circumstance and in finding him guilty of murder. Circumstances which qualify criminal responsibility, such as treachery, cannot rest on mere conjecture, no matter how reasonable or probable such conjecture may be. They must be based on facts of unquestionable existence. Such circumstances must be proved as indubitably as the crime itself.[36] Treachery as a qualifying circumstance should be established by proof beyond reasonable doubt.[37]

Article 14, par. 16 of the Revised Penal Code provides:

There is treachery when the offender commits any of the crimes against the 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.

Treachery requires proof of two conditions: (1) that the means, method, and form of execution employed gave the person attacked no opportunity to defend himself or to retaliate and (2) that such means, method, or form of execution was deliberately and consciously adopted by the accused.[38]

A sudden attack by the assailant constitutes treachery only if such mode of attack was deliberately adopted by him with the purpose of depriving the victim of a chance to either fight or retreat.[39] But suddenness of an attack does not by itself prove the existence of treachery. There must also be proof that the accused consciously adopted the mode of attack to facilitate the perpetration of the killing without risk to himself.[40]

In the case at bar, by hacking the victim with a guinunting as the victim was putting down his glass, accused-appellant apparently did not give the victim an opportunity to defend himself or to strike back. Nonetheless, the prosecution failed to prove beyond reasonable doubt the subjective element of treachery, i.e., that accused-appellant deliberately chose this method of assault with the particular objective of accomplishing the act without risk to himself arising from any defense that the victim might put up. There was no proof that accused-appellant made preparations to kill the victim in such a manner as to ensure the execution of the crime or to make it difficult or impossible for the person attacked to defend himself.[41] Instead, the evidence shows that the victim, of his own volition, went to accused-appellant's house and brought the liquor for their drinking session. Indeed, the records show that accused-appellant initially did not have any weapon with him with which to strike the victim. It was only after he had already drunk some whisky that he went inside his room to get the guinunting. The prosecution did not adduce proof showing that accused-appellant calmly and carefully reflected upon the mode of attack.

Since the information alleged only one qualifying circumstance and the prosecution failed to prove its existence, accused-appellant should be held guilty not of murder, but of the lesser crime of homicide. Article 249 of the Revised Penal Code punishes homicide with reclusion temporal. Taking into consideration the mitigating circumstance of voluntary surrender, accused-appellant having surrendered himself to the authorities soon after the killing, the penalty should be imposed in its minimum period. In accordance with the Indeterminate Sentence Law, therefore, accused-appellant should serve a penalty the minimum of which is eight (8) years and one (1) day of prision mayor and the maximum of which is of twelve (12) years and one (1) day of reclusion temporal.

As regards the civil liability of accused-appellant, the award of P36,518.00 as actual damages must be disallowed for lack of proof, such as receipts, to support the same.[42] Moral damages amounting to P50,000.00 should be awarded to the victim's heirs, however, in accordance with current rulings.[43]

WHEREFORE, the decision of the Regional Trial Court, Sixth Judicial Region, Branch 29, Iloilo City is **AFFIRMED** with the following **MODIFICATIONS**: (1) accused-appellant is found guilty of homicide and sentenced to suffer the indeterminate sentence of eight (8) years and one (1) day of prision mayor, as minimum, to twelve (12) years and one (1) day of reclusion temporal, as maximum; (2) the award of actual damages in the amount of P36,518.00 is deleted for lack of basis; and (3) accused-appellant is ordered to pay the heirs of the victim moral damages in the amount of P50,000.00.

In the service of his sentence, petitioner shall be credited in full with the period of his preventive imprisonment.

SO ORDERED.

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

[1] Per Judge Rene B. Honrado.

[2] Also known as "Onyok" and "Oñok."

[3] [Records, p. 3.]

[4] Id., pp. 23, 25.

[5] Also known as "Emilio Caro."

[6] TSN (Rogelio Caro), pp. 4-5, Feb. 17, 1995.

[7] TSN (Rogelio Caro), p. 4, March 24, 1995.

[8] TSN, pp. 5-6, Feb. 17, 1995.

[9] TSN, p. 4, March 24, 1995.

[10] TSN, pp. 7-8, Feb. 17, 1995.

[11] Id., p. 8.

[12] Id., pp. 9-10.

[13] Id., pp. 10-11.

[14] Id., p. 11.

[15] Exh. B; Records, pp. 77-79.

- [16] Exh. D; Records, p. 8.
- [17] TSN, pp. 3-11, Sept. 22, 1995.
- [18] Rollo, p. 21; Records, p. 179.
- [19] Accused-Appellant's Brief, p. 1; Rollo, p. 37.
- [20] *People v. Boholst-Caballero*, 61 SCRA 180 (1974).
- [21] *People v. Corecor*, 159 SCRA 84 (1988); *People v. Ansoyon*, 75 Phil. 772 (1946).
- [22] *People v. Magallanes*, 275 SCRA 222 (1997).
- [23] *People v. Unarce*, 270 SCRA 756 (1997).
- [24] Records, p. 15.
- [25] *Id.*, p. 20.
- [26] Affidavit (Fanny Armada Camacho), dated Aug. 5, 1994; Affidavit (Anthony Camacho), dated Aug. 8, 1994; Records, pp. 16-17.

[27] 119 SCRA 204 (1982).

- [28] TSN (Ramon Camacho), pp. 7-9, Sept. 22, 1995.
- [29] *People v. Cario*, 288 SCRA 404 (1998).
- [30] *People v. Bautista*, 254 SCRA 621 (1996).
- [31] *Sevalle v. Court of Appeals*, G.R. No. 122858, Feb. 28, 2001; *People v. Bautista and Bautista*, G.R. No. 131840, April 27, 2000.
- [32] *Sevalle v. Court of Appeals*, *supra*; *People v. Olivo*, G.R. No. 130335, Jan. 18, 2001; *People v. Salonga*, G.R. No. 128647, March 31, 2000.
- [33] TSN (Rogelio Caro), pp. 10-11, Feb. 17, 1995.
- [34] *People v. Villanueva*, 284 SCRA 501 (1998).
- [35] *Sevalle v. Court of Appeals*, *supra*; *People v. Lazo*, 198 SCRA 274 (1991).
- [36] *People v. Rapanut*, 263 SCRA 515 (1996).
- [37] *People v. Padrones*, 189 SCRA 496 (1990); *People v. Talay*, 101 SCRA 332 (1980).
- [38] *People v. Arellano*, G.R. No. 122477, June 30, 2000.
- [39] *People v. Acaya*, G.R. No. 108381, March 7, 2000.
- [40] *People v. Juan and Juan*, G.R. Nos. 100718-19, Jan. 20, 2000.
- [41] See generally 1 R. Aquino & C. Aquino, *The Revised Penal Code* 412-418 (1997 ed.).
- [42] *People v. Olivo*, *supra*; *People v. Bayotas*, G.R. No. 132078, Sept. 25, 2000; *People v. Lopez*, 312 SCRA 684 (1999).
- [43] *Sevalle v. Court of Appeals*, *supra*; *People v. Berzuela*, G.R. No. 132078, Sept. 25, 2000; *People v. Lopez*,

312 SCRA 684 (1999).

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