

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RONNIE FLORES Y PANGANIBAN, ACCUSED-APPELLANT.***G.R. No. 138841. April 04, 2001*

Ponente: VITUG, J.

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Arnel Baldevieso could not have known that the "scythe of death" would soon come to fetch him. Just days before, he was enjoying himself in the idle pastime of watching a card game at a neighborhood corner.

Jocelyn Marie Baldevieso, eyewitness to the murder charge, recalled that at five o'clock in the afternoon of 15 September 1997, she was with her husband, victim Arnel Baldevieso, at San Lazaro Street, Gulod, Novaliches, Quezon City, watching "tong-its," a card game of chance, then being played by Mila Reyes, Manong Pat and Aling Lita, all known to the witness. The players were on a "papag" (wooden bed) propped against a wall. Baldevieso was seated on the same papag as the players. With her youngest child in tow, Jocelyn Marie Baldevieso went to follow her husband to tell him to get home and mind the children as she had to go somewhere else. But, already quite caught in the game, Arnel Baldevieso ignored his wife. Her interest in the game also piqued, Jocelyn Marie decided to stay. She moved to the opposite direction, facing her husband with approximately three meters between them, to indeed get a better view of the card game. It was while at this vantage point when Jocelyn Marie saw accused-appellant Ronnie Flores coming towards them from across the street. She promptly warned her husband, "Umuwi ka na dahil andyan na si Ronnie." Jocelyn Marie was just too aware of the standing feud between her husband and Ronnie Flores that stemmed from an unpaid debt of P800.00, which accused-appellant had failed to pay. The incident had, at one time, led Arnel Baldevieso himself to stab accused-appellant. Apparently still nursing a grudge against his assailant, Flores issued threats against the former, a fact which Jocelyn Marie had repeatedly cautioned her husband about.

On that fateful afternoon of 15 September 1997, Arnel Baldevieso, described by his wife as the hard-headed, obstinate husband that he was, shrugged off her warning, telling her that he and accused-appellant had already patched things up. Jocelyn Marie Baldevieso retorted, "Don't be too sure!" True enough, accused-appellant approached the victim from the right side, placed his arm on the victim's shoulder and, when the latter instinctively faced him, stabbed Arnel Baldevieso with a bladed instrument, identified by the witness to be a "29." As the players were so engrossed in their game, no one immediately noticed that there was anything amiss until they saw blood spurting from the victim and accused-appellant hurriedly running away. Jocelyn Marie brought her husband to the Quezon City General Hospital, where he was operated on. Arnel Baldevieso told his wife after the operation that he had thought that he was just "tinapik" (patted) by accused-appellant. Unfortunately for the victim, what he thought to be a mere "pat" proved fatal. Six days after the stabbing incident, while convalescing at the Quezon City General Hospital, Arnel Baldevieso expired.

According to the medical findings of Dr. Ma. Cristina Freyra, the physician who conducted the autopsy, the victim's death was due to the single 12-centimeter stab wound, which ran downwards, towards the victim's left side, fracturing the zyphoid and lacerating strategic internal organs --- the left lobe of the liver, stomach and

pancreas.[1] Subsequent medical treatment, which was meant to surgically mend the affected organs, could have saved him had not Arnel Baldevieso succumbed to septicemia,[2] an overwhelming infection of the stab wound.

SPO1 Eduardo Frias, an investigator of the Novaliches Police Station, testified having taken the victim's sworn statement two days after the incident while the latter was still confined at the hospital. He observed that the victim, despite the fatal wound, appeared to be in hale and hearty condition and in full possession of his faculties, even reading the statement prepared by him before affixing his signature thereon. According to the witness, Arnel Baldevieso, his wife, and one Mila Reyes, vaguely identified the suspect, and it was only on 27 October 1997, upon the arrest of accused-appellant, when he was able to ascertain the name and identity of accused-appellant.

Inspector Bernardo A. Borrinaga, stationed at the Novaliches Intelligence Station, stated that on 27 October 1997 Jocelyn Marie Baldevieso came to their office to report that she had just spotted accused-appellant in the area. He decided to accompany the distressed widow to the vicinity of Aptin Building where Jocelyn Marie pointed to the suspect who was then conversing with friends. When Borrinaga confronted accused-appellant with the murder of Arnel Baldevieso, the suspect admitted to the killing but said that he only did so in self-defense. With this admission, Inspector Borrinaga took the suspect to the Novaliches Police Station where the latter voluntarily submitted himself for further investigation.

On 31 October 1997, a case of murder was filed against Ronnie Flores y Panganiban; it read:

I N F O R M A T I O N

"The undersigned accuses RONNIE FLORES Y PANGANIBAN, of the crime of Murder, committed as follows:

"That on or about the 15th day of September, 1997, in Quezon City, Philippines, the above-named accused, with intent to kill, qualified by evident premeditation and treachery, taking advantage of superior strength did, then and there wilfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of ARNEL BALDEVIESO Y FERNANDEZ by then and there stabbing said victim with a bladed weapon, hitting him on the stomach, thereby inflicting upon him serious and mortal wounds, which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of said ARNEL BALDEVIESO Y FERNANDEZ." [3] At the trial, following a plea of not guilty and the presentation of the case made out by the prosecution, heretofore recited, accused-appellant Ronnie Flores narrated his own version of the incident. According to him, on the afternoon of 15 September 1997, he approached the victim, who was then watching "tong-its," in order to collect from the latter payment for a debt amounting to P3,500.00. Upon being asked to pay, the deceased resented the demand and tried to stab him. Accused-appellant managed to dodge Baldevieso's blows and the two men fell to the ground while grappling for the possession of the bladed weapon. He proceeded to relate how the deceased, who was, he said, holding a knife, was on top of him, and how he, in self-defense, pushed away the hand of the deceased twisting it in such a way that the knife then hit Arnel Baldevieso. Upon seeing the victim lying on his back, accused-appellant got scared and ran away. Ronnie Flores claimed that, except for the tong-its players, no one else, particularly Jocelyn Marie Baldevieso, was present at the time.

On 13 April 1999, Branch 219, of the RTC of Quezon City found accused-appellant Ronnie Flores guilty beyond reasonable doubt of the crime charged; it concluded:

"WHEREFORE, finding accused Ronnie Flores guilty beyond reasonable doubt of the crime of Murder without the attendance of aggravating circumstances, the Court hereby sentences him to suffer the penalty of Reclusion Perpetua; to pay the heirs of Arnel Baldevieso the sum of (a) 5,404.75 for hospital and medical expenses; (b) P33,138.13 for burial expenses; (c) P50,000.00 as moral damages; and (d) P70,000.00 as indemnity; and to pay the costs." [4]

In his appeal to this Court, accused-appellant maintained that the trial court erred in failing to appreciate in his favor the justifying circumstance of self-defense and in considering, in any event, the attendance of treachery. He contended that -

"I

"THE TRIAL COURT GRAVELY ERRED IN DISREGARDING THE DEFENSE INTERPOSED BY THE ACCUSED-APPELLANT.

"II

"ASSUMING FOR THE SAKE OF ARGUMENTS THAT APPELLANT IS GUILTY, THE TRIAL COURT GRAVELY ERRED IN APPRECIATING THE AGGRAVATING CIRCUMSTANCE OF TREACHERY."[5]

The validity of self-defense is premised on the impossibility on the part of the State to at all times prevent aggression upon its people. Founded in the human instinct to protect, repel and save one's person from impending danger or peril,[6] the right of self-defense justifies measures taken by one who is attacked and placed in a situation where he either has to forfeit his life or has to take the life of his assailant. Nevertheless, the application of this justifying circumstance, in this context, requires a clear showing 1) that the victim has committed unlawful aggression amounting to actual or imminent threat to the life and limb of the person claiming self defense; 2) that there be reasonable necessity in the means employed to prevent or repel the unlawful aggression; and 3) that there be lack of sufficient provocation on the part of the person claiming self-defense or, at least, that any provocation executed by the person claiming self-defense be not the proximate and immediate cause of the victim's aggression.

At the witness stand, the widow of the deceased explained how accused-appellant had approached the unsuspecting Arnel Baldevieso from behind, placed his arm on the victim's shoulder and, when the latter faced his direction, stabbed the victim inflicting upon him the lone mortal wound ---

"Q While you were watching tong-its you claim that you saw Ronnie Flores?

"A Yes, sir.

"Q And you were still there standing in front of your husband?

"A Not in front.

"Q On the opposite of your husband, that is correct?

"A Yes, sir.

"Q You saw already Ronnie Flores approaching those persons who were playing tong-its?

"A Yes, sir.

"Q Now, did you hear any word that was uttered by Ronnie Flores while he was approaching the group of persons playing tong-its?

"A None, sir.

"Q To what direction . . . From what direction was Ronnie Flores coming?

"A From that side (witness gesturing).

"Q To the side where your husband was seated?

"A Yes, sir.

"Q Now, you saw Ronnie Flores until he was already beside your husband?

"A Yes, sir, but I did not see that he was holding something.

"Q You were there still standing in front, opposite your husband and Ronnie was already standing at the back of your husband?

"A Yes, sir.

"Q And you were still in front there?

"FISCAL MANLANGIT

May I just move that the answer of the witness be recorded `bigla na lang po siyang inakbayan.'

"ATTY. MALLABO

"Q When you said `bigla na lang siyang inakbayan', you are referring to Ronnie Flores?

"A Yes, sir.

"Q And the person being 'inakbayan' was your husband?

"A Yes, sir.

"Q When Ronnie Flores placed his hand on top of the shoulder of your husband, did you hear any word?

"A None, sir.

"Q What about your husband, did he utter any word?

"A No, sir.

"Q And so what else transpired after Ronnie Flores placed his hand over the shoulder of your husband and there was no word that was uttered between the two?

"A When he placed his arm over my husband's shoulder, my husband turned to him and Ronnie suddenly stabbed my husband (witness making a stabbing motion).

"x x x x x x x x

"Q So your husband was seated?

"A Yes, sir.

"Q And his back against the wall?

"A My husband was seated on the papag against the wall.

"Q So in other words there was no space in between the back of your husband and the wall, referring to where he was 'nakasandal' or leaning?

"A None, sir.

"Q So when Ronnie Flores approached your husband, it is not at the back but beside?

"A Yes, sir (witness turning her back showing how her husband was positioned).

"ATTY. MALLABO

Wrong interpretation, your Honor. The witness was demonstrating the position of her husband at the time that Ronnie approached because my previous question was when Ronnie arrived, he did not approach your husband at the back, but beside, and the witness said `yes', kasi nakaganito siya.'

"COURT INTERPRETER

Witness demonstrating to show and how her husband turned his back when Ronnie came. Witness turned her back to show how Arnel was positioned while leaning against the wall and how he turned his head to his left.

"ATTY. MALLABO

"Q So when Ronnie Flores approached your husband who was sitting with his back leaned against the wall, he approached him by his side?

"A Yes, sir.

"Q Was it from the left side or on the right side of your husband?

"A Right side.

"Q So that was the time that Ronnie placed his hand on top of the shoulder of your husband and I quote: `doon niya inakbayan yung asawa ko'?

"A Yes, sir.

"Q So they were side by side and not Ronnie at the back?

"A (Witness demonstrating how Ronnie Flores approached her husband. Ronnie Flores being represented by a court personnel and when Ronnie Flores placed his left arm over the shoulder of Arnel. Arnel turned to his right as to face Ronnie Flores and Ronnie Flores placed his right hand somewhere in the abdomen of Arnel).

"Q Now, when Ronnie Flores placed his hand on top of the shoulder of your husband, did you hear any word uttered by Ronnie Flores?

"A None, sir.

"Q. Did you also hear any word that was uttered by your husband?

"A None, sir.

"Q Now, what about Mila, what was she doing at the time that Ronnie placed his hand over the shoulder of your husband?

"A Because they were concentrating in their game.

"Q So none of the 3 uttered any words?

"A None, sir.

"Q Now, what about you, what did you do when you saw Ronnie Flores place his hand over the shoulder of your husband?

"A None, sir.

"Q You did not say anything?

"A No, sir.

"Q What happened next?

"A When my husband was stabbed Mila found out that my husband was stabbed, since the blood splurged, Mila shouted and then Ronnie Flores ran away.

"Q Again, you said that . . . By the way, when Ronnie placed his hand on top of the shoulder of your husband, your husband stood up?

"A No, sir.

"Q He did not move, he was just sitting?

"A Yes, sir.

"Q So when Ronnie stabbed your husband, your husband was sitting?

"A Yes, sir.

"Q And Ronnie was in front of your husband?

"A He was at his right side.

"Q Right side of your husband? When your husband stood up, Mila started shouting?

"A Yes, sir.

"Q What about you, what did you do?

"A I was shocked, I could not do anything because I was holding my youngest child.

"Q You were shocked. Now, you brought your husband to the hospital?

"A Yes, sir.

"Q And you talked to your husband?

"A At the hospital, yes, sir.

"Q What did you talk about when you were in the hospital?

"A I asked my husband if he knew when Ronnie Flores approached him and if he felt it when he was stabbed by Ronnie Flores and my husband said he did not feel it when he was stabbed. He thought he was just 'tinapik'." [7] In the version given by accused-appellant of the incident, the aggressor was the victim, who menacingly wielded his knife against him, leaving him with no choice but to fight for dear life.

"Q Mr. Witness, you heard the wife of Baldevieso, the victim, testify before this Court, is it not?

"A Yes, sir.

"Q She claimed that in the afternoon of September 15, approximately 5:00 o'clock in the afternoon, 1997, her husband was watching tong-its and suddenly you just arrived and without any provocation, whatsoever, you stabbed her husband. Tell the Court whether that is true or not?

"A No, sir.

"Q She described the matter by which you stabbed her husband by placing your face on top of his shoulder grabbing him and then facing each other you stabbed him. Tell us whether that is true or not?

"A No, sir.

"Q After stabbing you ran away and after that you never showed up, in effect she was telling the Court that you escaped. Tell us whether that is true or not?

"A That is not true also, sir.

"Q If that is not true, tell us what actually transpired between you and the victim on September 15, 1997 at approximately 5:00 o'clock in the afternoon?

"A I went to the place where they were playing tong-its and Arnel Baldevieso was there and I was trying to collect payment for his loan and he got angry with me and `inundayan ako ng saksak.'

"Q After that what else happened?

"A I parried his stab blow, sir.

"Q What happened after you parried his stab?

"A We both fell to the ground.

"Q Who was on top?

"A He was, sir.

"Q What about the knife, who was holding the knife when you fell down?

"A He was the one holding the knife, sir.

"Q And what happened while you were lying on the ground while Arnel Baldevieso was on top of you and holding a knife, what happened?

"A I was able to push his hand away and it hit his chest.

"Q And what happened after that?

"A I just saw when he lay on his back, when he was there lying on his back and I got scared and then I moved away from him.

"Q The wife testified that she was beside her husband when that alleged stabbing incident took place, did you actually see the wife there?

"A No, sir.

"Q Who were the persons present when that stabbing incident happened if you can recall them?

"A I don't remember any more who were there but they were playing tong-its.

"Q Aside from those persons playing tong-its were there other persons watching?

"A Many.

"Q By the way after you saw the body of Arnel Baldevieso wounded what did you do?

"A I moved away from him, sir.

"Q What else did you do?

"A Nothing else, sir."[8]

An oft-repeated maxim on the plea of self-defense is that, once raised, the burden of proving the elements of the claim shifts to him who invokes it.[9] The condition of unlawful aggression is a sine qua non; otherwise stated, there can be no self-defense, complete or incomplete, unless the victim has committed an unlawful aggression against the person defending himself.[10] A perusal of the testimonial evidence given by the prosecution and the

defense points to the mutual animosity between accused-appellant and his victim on account of an unpaid debt. As to who owed whom, the accounts are conflicting.

Given the ill-will between the parties, and pursuant to the burden imposed by law on the party invoking self-defense, the admission of accused-appellant that he had killed Arnel Baldevieso, rendered it incumbent upon him to convincingly demonstrate that the initial encounter with the victim was characterized by sobriety on his part and that the bloody culmination of that encounter was not of his doing but was the result of the deceased's own aggression. Accused-appellant would have the Court believe that there was a confrontation between him and the victim which escalated into a heated argument, turning into a struggle for the knife and ultimately reaching a bloody end. Accused-appellant, however, failed to bolster his self-defense theory by presenting, notwithstanding the presence of the tong-its players in the scene, anyone to corroborate his claim. Other than his own self-serving account, Ronnie Flores was dismally unable to prove facts which would warrant the application of the justifying circumstance. Absent any such satisfactory evidence showing unlawful aggression on the part of the victim, the testimony of Jocelyn Marie Baldevieso to the effect that accused-appellant approached the unsuspecting victim from behind, placed his arm on the latter's shoulder and, with no warning, stabbed him, could not now be rightly ignored.

The rule has always been that self-defense cannot be proved other than by sufficient and credible evidence which would exclude any vestige of criminal aggression on the part of the person invoking it,[11] nor can it be justifiably entertained where it is not only uncorroborated but is, in itself, extremely doubtful.[12] Accused-appellant has a good point, however, in contending that the finding of treachery by the trial court is not sustainable. The suddenness of an attack does not, of itself, suffice to support a finding of alevosia. Treachery, or "alevosia" cannot be assumed and its existence must be proven as fully as the crime itself.[13] The aggression exhibited by accused-appellant Flores could not have been totally unexpected. Although occupied with the tong-its game, Baldevieso knew that accused-appellant, with whom he had a long standing feud and who had made no secret of his intent to kill him, was coming his way. Even his wife's words, "Umuwi ka na dahil nandyan na si Ronnie," was a warning he refused to heed. Verily, treachery would not be attendant when the victim, aware of the danger on his life, chose to be courageous, instead of being cautious, and to court an obvious danger that might have well been avoided.[14] Neither could the facts here shown support the charge of evident premeditation alleged in the Information. The element of evident premeditation is manifested by the planning and preparation undertaken by the offender prior to the commission of the crime.[15] It is not presumed from the mere lapse of time[16] nor can it be deduced from sheer speculation.[17] An intangible matter, evident premeditation is exhibited from these circumstances --- (1) the time when the offender has appeared determined to commit the crime; (2) the act evidently indicating that the offender has clung to his determination; (3) sufficient lapse of time between the determination to commit the crime and the execution thereof during which the offender could have reflected upon the consequences of his act.[18] While the previously issued threats against the life of his victim may roughly be said to indicate premeditation, absent any other evidence disclosing the true criminal state of mind of the accused, threats of this variety are regarded by courts as casual remarks naturally emanating from a feeling of rancor and not a resolution of the character involved in evident premeditation.[19] The killing of Arnel Baldevieso deviates from the natural workings of the criminal mind which usually abhors detection and the possibility of retaliation. Instead of ensuring that his authorship of the crime would remain unknown, accused-appellant appears to have chosen to stab Arnel Baldevieso in broad daylight, in an accessible neighborhood corner and in the presence of a number of other persons who could easily identify him. Needless to say, these facts do not bear the earmarks of a carefully planned murder.

Neither does the prosecution's allegation of superior strength hold against accused-appellant. This aggravating circumstance necessitates the showing of the relative disparity in physical characteristics, usually translating into

the age, the gender, the physical sizes and the strength, of the aggressor and the victim. There is no proof that accused-appellant utilized any notorious inequality^[20] to his advantage.^[21] There being no circumstance qualifying the killing of Arnel Baldevieso to murder, accused-appellant can only be held accountable for HOMICIDE punishable under Article 249 of the Revised Penal Code by reclusion temporal.

WHEREFORE, the appealed decision is MODIFIED. Accused-appellant Ronnie Flores is hereby found guilty beyond reasonable doubt only of the crime of HOMICIDE and, applying the Indeterminate Sentence Law, he is sentenced to suffer an indeterminate penalty ranging from 9 years and 1 day of prision mayor, as minimum, to 15 years, 6 months and 1 day of reclusion temporal medium, as maximum. The award for damages in favor of the heirs of Arnel Baldevieso are AFFIRMED except for the civil indemnity of P70,000.00 which is hereby reduced to P50,000.00. Costs against accused-appellant.

SO ORDERED.

Melo, (Chairman), Panganiban, Gonzaga-Reyes, and Sandoval-Gutierrez, JJ., concur.

[1] TSN, Dr. Ma. Cristina Freyra, 13 January 1998, pp. 3-9.

[2] Exh. A, Records, p. 62.

[3] Rollo, p. 4.

[4] Rollo, p. 19.

[5] Rollo, p. 31.

[6] *People vs. Boholst-Caballero*, 61 SCRA 180.

[7] TSN, Ronnie Flores, 25 June 1998, pp. 7-13.

[8][8] TSN, 14 January 1999, pp. 2-4.

[9] *People vs. Nuestro*, 240 SCRA 221.

[10] *People vs. Sazon*, 189 SCRA 700; *People vs. Bayocot*, 174 SCRA 285.

[11] *People vs. Mercado*, 159 SCRA 453; *People vs. Lebumfacil, Jr.*, 96 SCRA 573.

[12] *People vs. Flores*, 43 SCRA 342; *Ebajan vs. CA*, 170 SCRA 189.

[13] *People vs. Ardisa*, 55 SCRA 245; *People vs. Narit*, 197 SCRA 334.

[14] *People vs. Lopez*, 249 SCRA 610.

[15] *People vs. Morin*, 241 SCRA 709.

[16] *People vs. Silvestre*, 244 SCRA 479.

[17] *People vs. Ganzagan, Jr.*, 247 SCRA 220.

[18] *People vs. De la Cruz*, 242 SCRA 129.

[19] *People vs. Fuentesuela*, 73 Phil. 553.

[20] *People vs. Carpio*, 191 SCRA 108.

[21] People vs. Bustos, 51 Phil. 385; People vs. Diokno, 63 Phil. 601.

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