

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NORMAN OBORDO Y BULALAKAW, ACCUSED-APPELLANT.

G.R. No. 139528. May 09, 2002

Ponente: KAPUNAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-139528/>

KAPUNAN, J.:

Before the Court is an appeal from the Decision of the Regional Trial Court of Sindangan, Zamboanga del Norte, Branch 11, dated July 2, 1999 in Criminal Case No. 7659 finding accused-appellant Norman Obordo y Bulalakaw guilty beyond reasonable doubt of the crime of murder and sentencing him to suffer the penalty of reclusion perpetua.

On January 28, 1997, accused-appellant was charged with murder in an information which alleged:

That at dawn, on or about January 23, 1997 in Barangay Antipolo, City of Dapitan, within the jurisdiction of this Honorable Court, the above-named accused, armed with a hunting knife, with intent to kill by means of treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and stab with the use of said hunting knife one, HOMER JAMAROLIN, thereby resulting to his instantaneous death.

That as a result of the criminal acts of the accused heirs of the deceased suffered the following damages to wit:

1. Moral damages - - - P 30,000.00
2. Exemplary damages - - 30,000.00
3. Death Indemnity - - - 40,000.00
- Total - - - P100,000.00

CONTRARY TO LAW. (Viol. of Art. 248 of the Revised Penal Code, amended by R.A. 7659)[1]

Upon arraignment, accused-appellant entered a plea of not guilty. Thereafter, trial ensued.

The prosecution presented as its witnesses Edgar Bendillo, Rolando Jamarolin, Dr. Bernardo Palma and Renelio Jamarolin.

Edgar Bendillo testified that at about 7:30 in the evening of January 22, 1997, he, the victim Homer Jamarolin and their companions Roy Adrias, Rene Adrias, and Inting Jamlod went to Antipolo, Dapitan City to attend a benefit dance. On their way to the dance, they stopped by the store of Mimie Valladares and engaged in a drinking spree.[2]

At about 1:00 a.m. of the following day, January 23, 1997, Rolando Jamarolin, Homer's brother, arrived at Valladares' store and asked the victim for some money to buy a bottle of softdrinks. Rolando persuaded Homer and his companions to proceed to the benefit dance and the group acceded.[3]

While Homer and his companions were on their way to the benefit dance, they met the group of Ronald Alap-ap, which included accused-appellant Norman Obordo.[4]

When Bendillo saw Alap-ap, with whom he previously had a fist fight, he approached Alap-ap and boxed the latter. Alap-ap staggered from the blow then pulled out a hunting knife from his waist, prompting Bendillo to retreat towards Homer and the rest of their group.[5]

In the meantime, accused-appellant called Homer, who was then holding a lighted cigarette, and asked him if he could light accused-appellant's cigarette. Homer obliged and extended his lighted cigarette to accused-appellant.[6] At this time, Bendillo was walking back towards his companions and was about one fathom[7] A "fathom" is defined as a full stretch of the arms in a straight line; also, grasp, reach, or a unit of length equal to 6 feet based on the distance between fingertips of a man's outstretched arms and used especially for measuring the depth of water (Webster's Third New International Dictionary, p. 828 [1976]).⁷ away from Homer when he saw accused-appellant approach the latter to reach for the lighted cigarette. Accused-appellant's right hand was at the right side of his hip as if concealing something. Accused-appellant took Homer's cigarette with his left hand and with his right hand suddenly stabbed Homer on the left side of the abdomen near the navel with what seemed to be a small bolo. After he was stabbed, Homer retaliated by punching accused-appellant in the face. Accused-appellant fell to the ground, then got up on his feet and ran away. Bendillo said that although Homer and accused-appellant were facing each other then, Homer had no chance to defend himself because he was busy lighting accused-appellant's cigarette. Bendillo further stated that he was able to see the stabbing because the place was well-lighted because there was a fluorescent lamp from the electric post and the moon was shining brightly.[8]

Rolando Jamarolin ("Rolando"), the brother of the victim, corroborated Bendillo's statements. Rolando testified he left the house on January 22, 1997 at around 8:00 p.m. to attend a benefit dance in a disco house in Antipolo, Dapitan City. At about 1:00 a.m. of January 23, 1997, he went outside the disco house to look for his brother Homer. Rolando eventually found Homer with Bendillo, Rene Adrias and Roy Adrias at Valladeres' store. He asked Homer for money to buy a bottle of cola. After finishing his drink, Rolando suggested to Homer and his group that they proceed to the benefit dance before going home. However, they were not able to attend the dance because they met the group of accused-appellant, Alap-ap and their other companions along the way.[9]

Rolando explained that when Bendillo saw Alap-ap, Bendillo approached the latter and boxed him. Rolando heard accused-appellant call Homer and say "Pagdakota ko, Bay." Accused-appellant was asking Homer to light his cigarette. Rolando then saw Homer go near accused-appellant to light the unlighted cigarette with Homer's cigarette which was already lighted. While Homer was lighting accused-appellant's cigarette, the latter suddenly thrust his hunting knife towards the left side of Homer's abdomen. Homer was unable to prevent himself from being stabbed because the act took place all of a sudden.[10]

After Homer was stabbed, he retaliated by punching accused-appellant. The latter fell out but he stood up at once, and then he and his companions ran away from the scene. Thereafter, Rolando Jamarolin and their other companions rushed Homer to the hospital, but the victim died before they could reach the same.[11]

Rolando was able to ascertain that it was accused-appellant who stabbed his brother because the place was illuminated by a fluorescent bulb.[12]

Dr. Bernardo Palma, the City Health Officer who examined Homer's body at about 9:10 a.m. on January 23, 1997, found that the victim sustained a wound on the left side of the navel and that his stomach and liver were also injured.[13] His postmortem report indicated the following:

FINDINGS:

STABBED WOUND 1 inch left hypochondriac region with injuries to stomach liver.

CAUSE OF DEATH:

Acute anemia secondary to stabbed wound with injuries to stomach and liver.[14]

Dr. Palma opined that the a sharp-edged pointed blade instrument which could be a small bolo or a hunting knife must have been used by the assailant in stabbing the victim.[15]

The prosecution's last witness was the victim's father, Renelio Jamarolin ("Renelio"). He testified that at the time of his death, Homer was physically fit and gainfully employed by a certain Atty. Cainta as a fishpond watcher. Homer was earning Two Thousand Pesos (P2,000.00) a month, excluding his commission from the bangus and the lukon. Renelio said that he suffered great pain and anguish as a result of Homer's death. He claimed Thirty Thousand Pesos (P30,000.00) as moral damages, Thirty Thousand Pesos (P30,000.00) as exemplary damages and Forty Thousand Pesos (P40,000.00) as indemnity for his son's death.[16]

The defense presented the testimonies of Vidal Calalang and the accused-appellant.

Vidal Calalang, a Barangay Tanod of Antipolo, Dapitan City at the time of Homer's killing, testified that on January 23, 1997 from about 1:00 to 2:00 a.m., he was patrolling the area near the disco where the benefit dance was being held. While patrolling near the bridge, he saw Homer punch accused-appellant. Accused-appellant thereafter stabbed Homer and ran away. Calalang said that he saw what happened because the incident occurred in a well-lighted place. He stated further that he only saw Homer and the accused-appellant and that he did not see their companions.[17]

Accused-appellant admitted before the trial court that he stabbed Homer with a hunting knife, but interposed self-defense. He stated that he attended the benefit dance held in Antipolo, Dapitan City on January 22, 1997. He and his companions Ronald Alap-ap, Richard Alap-ap, Walter Alajos and Ricky Esmade left the affair at about 2:00 a.m. the following day, January 23, 1997. On their way home to Tamion, Dapitan City, Ronald Alap-ap was boxed by Edgar Bendillo. Accused-appellant claimed that he was subsequently punched by Homer and he fell to the ground. He saw Homer trying to get something from his waist, so accused-appellant pulled out his hunting knife and stabbed Homer before the latter could harm him further.[18]

On July 2, 1999, the trial court promulgated its Decision finding accused-appellant guilty beyond reasonable doubt for having killed Homer. The dispositive portion thereof states:

WHEREFORE, the Court finds the accused NORMAN OBORDO, GUILTY beyond reasonable doubt of the crime of MURDER as defined and penalized under the Revised Penal Code, as amended under Section 6 of Republic Act No. 7659, and is hereby sentenced to RECLUSION PERPETUA, to indemnify the heirs of the deceased Homer Jamarolin in the amount of P50,000.00 and to pay P15,000.00 by way of moral damages.

COST DE OFICIO.

SO ORDERED.[19]

Accused-appellant filed the instant appeal, assigning the following errors:

I

THE COURT A QUO ERRED IN NOT CONSIDERING SELF-DEFENSE IN THE CASE AT BAR.

II

THE COURT A QUO ERRED IN APPRECIATING TREACHERY IN THE CASE AT BAR.[20]

Accused-appellant contends that the trial court erred in disregarding his claim of self-defense on the ground that

he was not able to establish the existence of all the elements thereof. He insists that it was the victim's group which started the trouble, as in fact Edgar Bendillo, a friend of Homer, punched Ronald Alap-ap who was with accused-appellant on the day of the killing. Accused-appellant maintains that he was only defending himself when he stabbed Homer. He reiterated witness Vicente Calalang's statement that Homer punched him before he stabbed the victim. This he says was clearly an act of unlawful aggression on Homer's part. Moreover, he asserts that the means by which he defended himself was reasonable since Homer was about to get something from his waist and accused-appellant believed at that time that the victim was about to pull out a weapon and use it to harm him.[21]

Accused-appellant argues further that the trial court erred in holding that Homer's killing was attended by treachery, since it was Homer's group which initiated the attack on accused-appellant's group. This shows that Homer's group was really looking for and expecting trouble. Hence, it can not be said that the victim was not expecting an attack from accused-appellant's group.[22]

The Court is not convinced by accused-appellant's arguments.

When an accused invokes self-defense, the burden of evidence is shifted to him to prove by clear and convincing evidence the elements of his defense.[23] In effect, he admits that he committed the killing and the burden is shifted to him to prove that the killing was justified. He must therefore establish the presence of the following requisites of self-defense: (1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel such unlawful aggression; and (3) lack of sufficient provocation on the part of the person defending himself.[24]

Accused-appellant failed to prove by clear and convincing evidence that there was unlawful aggression on the part of the victim, a condition sine qua non for the successful invocation of self-defense.[25] He failed to show that his life was threatened and that the threat was imminent and actual, not imaginary.[26] It was established during trial that prior to the stabbing, the victim merely extended his lighted cigarette to accused-appellant. This cannot by any stretch of imagination be construed as an unlawful aggression on the part of Homer.

Accused-appellant's claim that Homer punched him first before he stabbed the victim was not given credence by the trial court, which found the testimonies of Bendillo and Rolando Jamarolin to be more credible.

Bendillo narrated in detail the incidents that led to the killing of Homer in the early morning of January 23, 1997 as follows:

xxx

Q:

Then what did you see when you were there already at the place where Homer Jamarolin was situated?

[A]:

I immediately saw Homer Jamarolin at that time that Norman Obordo was about to light a cigarette and I saw him stabbed Homer Jamarolin.

Q:

How far were you when you saw Norman Obordo stabbed Homer Jamarolin?

A:

One (1) fathom.

Q:

Did you see what weapon did Norman Obordo use in stabbing Homer Jamarolin?

A:

Yes, sir.

Q:

What was that?

A:

A small bolo.

Q:

Could you show to the Honorable Court by way of measuring with your hand what is the height of that bolo?

INTERPRETER:

Witness demonstrated the length of the bolo which is approximately 1 foot.

PROSECUTOR LIGORIO:

Q:

Was Homer Jamarolin hit when he was stabbed by Norman Obordo?

A:

Yes sir, he was hit.

Q:

By the way, when you saw Norma[n] Obordo stabbed Homer Jamarolin where, was he situated at that time.

Was he at the side or in front of Homer Jamarolin or where?

A:

He was facing Jomer (sic).

Q:

But not so frontal, I mean it was somewhat side view on the part of Homer Jamarolin?

A:

Yes sir.

Q:

And did you see what part of the body was Homer Jamarolin hit when he was stabbed?

A:

I saw.

Q:

Where? Can you point what part of the body?

A:

At the left rib at the side.

Q:

Are you sure that Norman Obordo stabbed Homer Jamarolin at that time?

A:

Yes sir.

Q:

It was night time, how could you tell us that you saw Norman Obordo stabbed Homer Jamarolin?

A:

Because there was a light nearby.

Q:

What kind of lamp?

A:

Fluorescent lamp.

Q:

Electric lamp?

A:

Yes sir.

Q:

When Homer Jamarolin was hit with that instrument a small bolo directed to him by Norman Obordo, what happened to Homer Jamarolin?

A:

He retaliated by boxing?

Q:

You mean he was able to box Norman Obordo despite the fact that he was hit?

A:

Yes sir.

Q:

Was Norman Obordo hit?

A:

Yes, sir.

Q:

Where?

A:

In his face.

Q:

And what happened to Norman Obordo when he was hit?

A:

He fall (sic) down.

Q:

And what did he do when he fall (sic) down?

A:

He ran away.

Q:

By the way, when he stabbed Homer Jamarolin and according to you you saw that he was hit with a small bolo, was he able to pull back the bolo or the bolo was (sic) just remain in the body of Homer Jamarolin?

A:

The bolo was being pulled.

Q:

You said that after he was hit with the fist of Homer Jamarolin he fall (sic) down and you said further that after he stood up and ran away, did Norman Obordo bring the bolo?

A:

He was bringing the bolo.

xxx[27]

His testimony during cross-examination, quoted hereunder, shows the consistency of his statements regarding the pertinent circumstances of the stabbing incident:

Q:

And after that boxing incident, you immediately go (sic) home together with your companions?

A:

After I boxed Alap-ap, I went back to the place of Homer Jamarolin.

Q:

And after that you went home together with your companions?

A:

When I went back I saw Norman Obordo called upon to lit his cigarette.

Q:

Who called Homer Jamarolin?

A:

Norman Obordo.

Q:

How was Homer Jamarolin being called by Norman Obordo?

A:

Norman Obordo make (sic) a sign of calling to someone to go near him because he wanted to light his cigarette.

Q:

So, it was Homer Jamarolin who approached Norman Obordo?

A:

Yes, Sir because there was a sign making a signal of calling Homer Jamarolin because he wanted to lit his cigarette.

Q:

Is it not a fact that you testified during the last meeting that it was Norman Obordo who approached Homer Jamarolin?

A:

No, Sir.

xxx

Q:

Since you said that it was Homer Jamarolin who approached Norman Obordo, did you not try to advise him not to approach Norman Obordo considering that Norman Obordo is the companion of Rolando Alap-ap of whom you have boxed just a moment ago?

A:

No Sir, because I know for a fact that the purpose of approaching is to light the cigarette.

Q:

How far [was] your position from Norman Obordo?

A:

About one fathom.

Q:

Was he together with some other companions, this Norman Obordo?

A:

He was at a distance with the group.

Q:

Is it not a fact that this Norman Obordo was being boxed by Homer Jamarolin right after you boxed Rolando Alap-ap?

A:

That is not true.

xxx

COURT: (Clarificatory questions)

Q:

In other words you were present when Norman Obordo stabbed to death Homer Jamarolin?

A:

Yes Sir. I was nearby.

Q:

So, you were able to positively identify the person who stabbed Homer Jamarolin?

A:

Yes, Sir.

Q:

Because at that time it was a moon light (sic) and the place where the stabbing incident took place was well

illuminated from the electric light from the dancing, am I right?

A:

Yes, Your Honor.

Q:

And considering that Homer Jamarolin is your companion, you are very aware that at that time during the stabbing incident he was unarmed?

A:

Yes, Sir.

Q:

As a result of the stabbing incident Homer Jamarolin died?

A:

Yes, Your Honor.

xxx[28]

The trial court also gave credence to the testimony of Rolando Jamarolin, which corroborated Bendillo's statements. Rolando testified on direct examination in this manner:

xxx

Q:

Do you mean to say after Edgar Bendillo boxed without any reason Ronald Alap-ap, this Norman Obordo called your elder brother Homer Jamarolin?

A:

Yes, Sir.

Q:

You witnessed then you heard Norman Obordo called your brother Homer Jamarolin?

A:

Yes, Sir.

Q:

How far were you from your brother Homer and Norman Obordo that time?

A:

Only 1 fathom.

Q:

And at that distance of one fathom you heard what then the words uttered by Norman Obordo which called the attention of your brother Homer?

A:

Yes, Sir.

Q:

Will you please narrate or give the exact words uttered by Norman Obordo which called the attention of your brother Homer Jamarolin?

A:

Norman Obordo stated that “Bay” let me light my cigarette.

Q:

You mean to say your brother is smoking?

A:

Yes, Sir.

Q:

Is he at that time bringing a cigarette lighter or match?

A:

Cigarette.

Q:

So, at that time your brother Homer Jamarolin was smoking?

A:

Yes, Sir.

Q:

How do you know that he is smoking?

A:

Because we were together in going to the disco place.

Q:

At that time he is holding [a] cigarette stick or placed it between his lip?

A:

In his hand.

Q:

What is the distance of Homer Jamarolin to Norman Obordo at that time?

A:

Very near.

INTERPRETER:

The witness demonstrated the distance from the witness stand up to the Interpreter of this Court approximately a meter.

Q:

When Norman Obordo told your brother “pagdakota ko Bay,” what was the reaction of your brother?

A:

He handed his cigarette to him.

Q:

In that position he tried to extend his hand with lighted cigarette, what have you noticed the action of Norman Obordo?

A:

He received the cigarette and simultaneously stabbed my brother.

Q:

You mean to say when your brother extended his lighted cigarette to Norman Obordo, Norman Obordo reached for the cigarette? Was he able to receive the cigarette of your brother to light his cigarette?

A:

He was able to reach the cigarette.

Q:

Was Norman Obordo then able to light his cigarette?

A:

He was able to light his cigarette but simultaneously stabbed my brother.

Q:

Do you mean to say, what hand of Norman Obordo was holding the cigarette?

A:

Left hand.

Q:

How about the right hand of Norman Obordo at that time?

A:

His right hand was at his side.

Q:

What have you noticed when his right hand was placed at the hip?

A:

I do not know what he was holding because he is concealing.

Q:

Do you mean to say that you noticed the right hand of Obordo was concealing something at that time?

A:

I saw he was hiding his hand.

Q:

While in the act of lighting cigarette, what have you notice[d]?

A:

I saw that the hunting knife was already embedded at the side of my brother.

Q:

You mean to say at that time your brother was not on guard of what will happen to him?

A:

Yes, Your Honor.

Q:

So, in a lightning speed you noticed that something stocked (sic) to the left portion of the abdomen of your brother?

A:

That's the time when the hunting knife was already embedded at the left side.

Q:

On that action, there was no time your brother could defend himself?

A:

Yes, Your Honor he has no time to defend himself at that time because he was handling his cigarette.

Q:

When you noticed that something stock (sic) at the vital part of the body of your brother, what happened next?

A:

After that Norman Obordo pulled his hunting knife and my brother was able to box and hit Norman Obordo and Norman Obordo fell down and also my brother fell down.

Q:

When both of them feel (sic) down, what happen (sic) next?

A:

Norman Obordo immediately ran away and I extended help to my brother.

xxx

Q:

And as you said a while ago in spite of the fact that it happened about dawn of January 23, 1997 you were able to positively identify Norman Obordo as the person who stabbed your brother because as you said there was light, am I right?

A:

Yes, Sir.

Q:

The place was illuminated by moon light night and electric bulb?

A:

Moon and electric light.

xxx[29]

Rolando's narration of the events surrounding the killing of Homer on cross-examination affirms his earlier testimony:

Q:

After Edgar Bendillo boxed Ronald Alap-ap, what happened next?

A:

Homer was called by Norman Obordo.

Q:

Aside from Norman Obordo and Ronald Alap-ap, who are the other companions of Ronald Alap-ap and Norman Obordo if you know?

A:

I do not know the identity of the other companions of Norman Obordo because the place is not very clear to me.

Q:

In other words you could not see or identify the faces of the companions of Norman Obordo?

A:

I can identify.

Q:

You said that after boxing, after Edgar Bendillo boxed Ronald Alap-ap your brother approached Norman Obordo, is that correct?

A:

It was Norman Obordo who called him.

Q:

Why? What was the purpose of Norman Obordo in calling your brother?

A:

For the purpose of lighting his cigarette.

Q:

So in other words your brother is smoking?

A:

Yes, Sir. While Norman Obordo was holding/carrying cigarette.

Q:

And according to your testimony in the direct examination when your brother Homer Jamarolin approached Norman Obordo, Norman Obordo allegedly stabbed your brother, is that correct?

A:

At that time that he handed his cigarette to Norman Obordo he was was immediately stabbed.

Q:

How far were you from them?

A:

About 1 fathom.

Q:

Aside from you, who was the other person near to the place of them?

A:

Edgar Bendillo.

xxx

Q:

When you said that Norman Obordo allegedly stabbed your brother what happened to your brother?

A:

He felt pain.

Q:

But according to you in your direct testimony Mr. Witness, your brother was able to box Norman Obordo?

A:

Yes, Sir.

Q:

What about you, what did you do at that time?

A:

I aided my brother so that he will be brought to the hospital.

Q:

How about your other companions, what did they do?

A:

We were helping one another in order that he will be brought to the hospital.

Q:

How about the companions of Norman Obordo, what did they do?

A:

They ran away.

xxx

COURT: (Clarificatory questions)

Q:

So, during the stabbing incident you were actually present, am I right?

A:

Yes, Your Honor.

Q:

The stabbing incident occurred on January 23, 1997 at about 1:00 o'clock dawn, am I right?

A:

Yes, Your Honor.

Q:

Considering that it was 1:00 o'clock dawn, may I know whether the place where the incident happened was well lighted?

A:

It was lighted.

Q:

Why can you say that it was lighted, what kind of light which illuminated the place?

A:

Fluorescent.

Q:

So there was a fluorescent lamp?

A:

Yes, Your Honor.

Q:

Coming from what place?

A:

At the back where we were standing.

xxx

Q:

So, at the time of the stabbing incident, you were actually present?

A:

Yes, Your Honor.

Q:

Were you able to identify positively the person of Norman Obordo who stab your brother Homer Jamarolin?

A:

Yes, Your Honor.

Q:

Please look around. Is Norman Obordo present in this Court?

A:

Yes, Your Honor.

Q:

Will you please come down and touch the shoulder of the person of Norman Obordo?

INTERPRETER:

As approached and pointed to by the witness, this person when ask[ed] his name answered that he is Norman Obordo.

COURT:

Q:

You want to impress this Court that before the stabbing incident, you were very near to Norman Obordo, am I right?

A:

At a distance of one fathom.

Q:

What was the relative position of Homer Jamarolin when you said Norman Obordo suddenly thrust his hunting knife considering that they were facing each other?

A:

He was extending his hand with a cigarette on it.

Q:

In other words when Norman Obordo called your brother Homer Jamarolin, your brother went nearer to Norman Obordo. He extended his hand with cigarette?

A:

He extended his hand with cigarette.

Q:

To light the cigarette of Norman Obordo?

A:

Yes, Sir.

Q:

While in that position extending his hand holding a lighted cigarette in order that Norman Obordo would light the cigarette, you mean to say without any warning this Norman Obordo thrust his hunting knife to Homer Jamarolin?

A:

He was unaware.

Q:

At that time may I know whether Homer Jamarolin was armed with a deadly weapon?

A:

No, Sir.

xxx[30]

After a circumspect examination of the records, the Court finds no reason to disturb the lower court's finding and to depart from the rule that factual findings of the trial court regarding the credibility of witnesses considering that it is in a better position to determine the same, having heard the witnesses themselves and having observed their deportment and manner of testifying during trial.[31]

The incident between Bendillo and Alap-ap cannot be considered as an unlawful aggression on the part of the victim since that incident was apparently just between the two of them and did not involve either Homer or accused-appellant. In fact, none of Bendillo's friends or Alap-ap's companions that early morning joined in the fight involving the two. Hence, accused-appellant's attempts at justifying his act of stabbing Homer as having been made in defense of an attack from the victim's group must fail.

Even assuming arguendo that there was unlawful aggression on the part of the victim, accused-appellant likewise failed to prove that the means he employed to repel Homer's punch was reasonable. The means employed by the person invoking self-defense contemplates a rational equivalence between the means of attack and the defense.[32] Accused-appellant claimed that the victim punched him and was trying to get something from his waist, so he (accused-appellant) stabbed the victim with his hunting knife.[33] His act of immediately stabbing Homer and inflicting a wound on a vital part of the victim's body was unreasonable and unnecessary considering that, as alleged by accused-appellant himself, the victim used his bare fist in throwing a punch at him.

There was thus no error on the part of the trial court in rejecting accused-appellant's claim of self-defense.

The trial court was also correct in ruling that the killing of Homer was attended by the qualifying circumstance of treachery. Treachery is present when the offender employs means, methods or forms in the execution of an offense which tend directly and specially to insure its execution without risk to himself arising from the challenge that the offended party might make.[34] It has two elements, to wit: (1) the employment of means of execution that gives the person attacked no opportunity to defend himself or to retaliate; and (2) the deliberate or conscious adoption of the means of execution.[35] The essence of treachery is the sudden and unexpected attack by the aggressor against the unsuspecting victim without the slightest provocation on the latter's part, depriving the latter of any real chance of defending himself.[36]

The Court agrees with the finding of the lower court that —

xxx [Homer] Jamarolin was completely unaware of the murderous design of accused Norman Obordo. Jamarolin was in the act of lighting the cigarette of Norman Obordo, when he was suddenly, without warning stabbed by Norman Obordo. While it may be true that a sudden and unexpected attack is not always treacherous, in the case at bar, however, there was treachery because this type of assault was deliberately adopted by Norman Obordo. Jamarolin was afforded no opportunity to put up any defense whatsoever, while Obordo was exposed to no risk at all, and that form of attack, evidently, was consciously adopted by him. xxx[37]

That the killing of Homer by accused-appellant was attended by treachery is not negated by the fact that they were face-to-face when accused stabbed the victim, for there can be treachery even if the attack is frontal, so long as the same was sudden and unexpected, leaving the victim without any opportunity to defend himself or to retaliate.[38]

In view of the existence of the qualifying circumstance of treachery in the case at bar, accused-appellant was correctly convicted of the crime of murder, as defined under Article 248 of the Revised Penal Code for the killing of Homer Jamarolin.[39] There being no aggravating circumstance, the imposition of the penalty of reclusion perpetua is proper.

However, it is necessary to increase the award of damages granted by the trial court to the heirs of the victim. Although the trial court was correct in granting civil indemnity in the amount of Fifty Thousand Pesos (P50,000.00), its award of moral damages in the amount of Fifteen Thousand Pesos (P15,000.00) to compensate the victim's heirs for injuries to their feelings must be increased to Fifty Thousand Pesos (P50,000.00) in accordance with prevailing jurisprudence.[40]

WHEREFORE, the Decision of the Regional Trial Court of Sindangan, Zamboanga del Norte, Branch 11 in Criminal Case No. 7659, finding accused-appellant Norman Obordo y Bulalakaw guilty of murder and imposing upon him the penalty of reclusion perpetua, is **AFFIRMED** with the **MODIFICATION** that accused-appellant is ordered to pay the heirs of Homer Jamarolin the amounts of Fifty Thousand Pesos (P50,000.00) as civil indemnity for the death of Homer Jamarolin and Fifty Thousand Pesos (P50,000.00) as moral damages.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Ynares-Santiago, and Austria-Martinez, JJ., concur.

[1] Records, p. 5.

[2] TSN, October 17, 1997, pp. 9-12, 18-19.

[3] Id.

[4] Id., at 13.

[5] Id., at 13 and 19.

[6] Id., at 13.

[7] Id., at 14. A "fathom" is defined as a full stretch of the arms in a straight line; also, grasp, reach, or a unit of length equal to 6 feet based on the distance between fingertips of a man's outstretched arms and used especially for measuring the depth of water (Webster's Third New International Dictionary, p. 828 [1976])

[8] TSN, October 17, 1997, pp. 13-21.

[9] TSN, June 5, 1998, pp. 3-6.

[10] Id., at 6-7, 11-14.

[11] Id., at 6-7.

[12] Id., at 14.

[13] TSN, October 17, 1997, p. 6

[14] Exhibit "A", "A-1" and "A-5," Records, p. 63.

[15] TSN, October 17, 1997, pp. 4-7.

[16] TSN, October 23, 1998, pp. 13-16.

- [17] TSN, December 11, 1998, pp. 6-7.
- [18] TSN, March 12, 1999, pp. 5-7, 16-20.
- [19] Records, pp. 117-118.
- [20] Appellant's Brief, Rollo, p. 51.
- [21] Id., at 58-60.
- [22] Id., at 61.
- [23] People vs. Damitan, G.R. No. 140544, December 7, 2001.
- [24] People vs. Herrera, G.R. Nos. 140557-58, December 5, 2001.
- [25] People vs. Flores, G.R. No. 138841, April 4, 2001.
- [26] People vs. Damitan, *supra*.
- [27] TSN, October 17, 1997, pp. 13-15.
- [28] TSN, July 31, 1998, pp. 7-9.
- [29] TSN, June 5, 1998, pp. 11-14.
- [30] TSN, October 23, 1998, pp. 6-12.
- [31] People vs. Absalon and Dijon, G.R. No. 137750, January 25, 2001.
- [32] People vs. Encomienda, 46 SCRA 522 (1972).
- [33] Rollo, pp. 32-33.
- [34] People vs. Almendras, G.R. No. 137277, December 20, 2001; People vs. Mosende, G.R. No. 137001, December 5, 2001.
- [35] People vs. Reynes, G.R. No. 134607, December 12, 2001.
- [36] People vs. Herrera, *supra*; People vs. Bantiling, G.R. No. 136017, November 15, 2001.
- [37] Decision, Records, pp. 114-115.
- [38] See People vs. Garcia, G.R. No. 129216, May 20, 2001; People vs. Gonzales, G.R. No. 128282, May 30, 2001.
- [39] Article 248 states:
- 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 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.
- xxx (Emphasis supplied.)
- [40] People vs. Herrera, *supra*, citing People vs. Pardua, et al., G.R. No. 1100813, June 18, 2001.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.