

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. CAMILO ANSUS Y DENIEGA, APPELLANT.

G.R. No. 149784. July 14, 2003

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Appellant Camilo Ansus y Deniega @ "Kibo" was charged with Murder before the Regional Trial Court of Sorsogon, Sorsogon, Branch 52, in Criminal case No. 99-4919 in an Information which reads as follows:

That on or about 7:30 in the evening of January 10, 1999, in Sitio Talaban-an, Brgy. Bonga, Municipality of Bacon, Province of Sorsogon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with treachery and evident premeditation, armed with a bolo, did then and there willfully, unlawfully and feloniously, attack, assault and hack several times one Crispin Domanico, thereby inflicting upon the latter, mortal injuries on the different parts of his body which caused his death, to the damage and prejudice of his legal heirs.

CONTRARY TO LAW.[1]

Upon arraignment on August 11, 1999, appellant pleaded not guilty to the crime charged.[2] Trial thereafter ensued.

The facts as presented by the prosecution show that in the afternoon of January 10, 1999, Rafael Ansus was having a drinking session with the victim, Onofre Dig, Mory Sia and a certain Rene in the house of Rogelio Ansus. They were later joined by appellant and Allan Deocampo. In the course thereof, appellant, then armed with a bolo, told Rene that, "it is good, Prime,[3] that you are here, it is very nice for your head to be cut off." Upon hearing this, Rogelio Ansus took appellant's bolo for safekeeping. Later, appellant again told the victim, "it's good, Prime, considering that we have not seen each other for quite a long time," to which the victim replied, "Prime, what have I done against you?" Rafael Ansus rebuked them and told them to stop the conversation. He then asked the victim to go home. Shortly after the victim left, appellant retrieved his bolo from Rogelio Ansus and likewise left. Later that evening, the group in Rogelio's house heard wailing and crying coming from the house of the victim. They rushed to see what was going on, only to find out the victim lying on his back, bloodied. As the victim was still alive, Rafael Ansus asked him who was it who hacked him, and the victim answered that it was appellant. The victim was brought to the hospital, but eventually died at around 9:00 p.m. that same evening.[4]

Yolanda Domanico, the victim's wife, testified that her husband came home in the afternoon and took a nap. At 7:30 p.m., she woke him up so he could watch over the pigs. While the victim was in the kitchen, she heard somebody shout from outside of their house and her husband replied, "what wrong have I done to you. I have not done anything wrong." She carried a lamp and went to the kitchen, and saw her husband being hacked by appellant outside their house. She panicked and looked for a bolo. However, when she saw her husband lying on the ground with one hand cut off, she shouted for help. Appellant just stood near them holding a "ginunting" type

of bolo. Rafael Ansus, Mory Sia and Onofre Dig arrived and brought the victim to the hospital.[5]

Appellant admitted that he hacked the victim but claimed that he acted in self-defense. He declared that at 7:00 p.m. of January 10, 1999, after a drinking session, he left to inspect his family's property. While walking along a dark road, an unidentified man with a shotgun blocked his path and pointed the gun at him. To save his life, he drew his bolo and hacked the man several times. After the man fell on the ground, he took his gun and gave it to Allan De Ocampo, who was following him behind. He was not able to recognize the victim because after he went home that night he fled to Manila. Sometime in April 1999, appellant went home to Sitio Cabarbuhan, which is adjacent to where the incident happened, and surrendered to the Mayor of Bacon, Sorsogon.[6]

On February 20, 2001, the trial court rendered judgment,[7] the dispositive portion of which reads:

WHEREFORE, premises considered, the Court finds accused Camilo Ansus y Deniega guilty beyond reasonable doubt of the crime of Murder, defined and penalized under Article 248 of the Revised Penal Code with the qualifying circumstance of treachery, the Court hereby sentences him to imprisonment of Reclusion Perpetua and to pay the heirs of Crispin Domanico the sum of P50,000.00, Philippine currency, as civil indemnity and the amount of P30,000.00 as moral damages, and to reimburse the heirs of the victim the amount of P35,000.00 as reasonable actual expenses without subsidiary imprisonment in case of insolvency and to pay the costs.

The accused being detained, his detention shall be credited in full in the service of his sentence.

SO ORDERED.[8]

Hence, this appeal raising the following errors, to wit:

I.

THE COURT A QUO ERRED IN FAILING TO APPRECIATE THE EVIDENCE OF SELF DEFENSE ADDUCED BY THE ACCUSED AND BY CONVICTING HIM FOR MURDER.

II.

THE COURT A QUO ERRED IN THE AWARD OF DAMAGES IN FAVOR OF THE HEIRS OF THE VICTIM.[9]

In essence, appellant argues that the unlawful aggression came from the victim, who resented his being forced to leave the drinking spree early. He waited in ambush to get even with appellant. As he was armed with a gun, appellant was forced to immediately draw his bolo and repeatedly hack him. The means employed by him was necessarily reasonable to repel the unlawful aggression by the victim who was about to shoot him with a gun.

Appellant's theory of self-defense is unavailing.

It is well-settled in this jurisdiction that once an accused had admitted that he inflicted fatal injuries on the deceased in an impulse to defend himself, the onus probandi rests upon him to prove by clear and convincing evidence that: [1] he is not the unlawful aggressor; [2] there was lack of sufficient provocation on his part; and [3] he employed reasonable means to prevent or repel the aggression. Although all the three elements must concur, self-defense must rest firstly on proof of unlawful aggression on the part of the victim. If no unlawful aggression has been proved, no self-defense may be successfully pleaded, whether complete or incomplete. In other words in self-defense, unlawful aggression is a primordial element.[10]

In the case at bar, appellant failed to show that the victim was guilty of unlawful aggression. Self-defense cannot be justifiably entertained where it is not only uncorroborated by competent evidence but is seriously doubtful.[11] Like alibi, self-defense is inherently a weak defense, which is so easy to concoct[12] but very difficult to verify.

Appellant's invocation of self-defense therefore deserves scant consideration.

Further, the question of whether appellant acted in self-defense is essentially a question of fact,[13] the determination of which is a task that rightly belongs to the trial court. The same rule applies to the assessment of credibility of witnesses. We have consistently ruled that the findings of facts and assessment of credibility of witnesses is a matter best left to the trial court because of its unique position of having observed that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying, which opportunity is denied to the appellant courts. Only the trial judge can observe the "furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath" - all of which are useful aids for an accurate determination of a witness' honesty and sincerity. The trial court's findings are accorded finality, unless there appears in the record some fact or circumstance of weight which the lower court may have overlooked, misunderstood or misappreciated and which, if properly considered, would alter the results of the case.[14] No such fact or circumstance obtains in the case at bar.

The trial court found the testimonies of the prosecution witnesses to be credible, particularly that of Yolanda Domanica, the victim's wife, who positively identified appellant as the assailant. In recalling that fateful night, she categorically testified that her husband could not have initiated the attack on appellant as he had just risen from sleep and was about to watch over the pigs when appellant came to their house and repeatedly hacked him to death, viz:

Q. Before the incident, where did your husband come from?

A. He came from our house.

Q. What was he doing then in your house?

A. He was lying down.

Q. While he was lying down, what happened?

A. I woke him up.

Q. Why did you wake him up?

A. Because I told him to watch over the pig.

Q. What did your husband do?

A. Somebody called him up.

Q. How was he called up?

A. Somebody called for Crispin.

Q. From where did that call come from?

A. Near the eaves of our house.

Q. What did your husband do?

A.

After he was called, my husband said "what wrong have I done to you. I have not done anything wrong. It is up for you to do."

Q. When your husband was saying that, where was he by then?

A. He was there in the kitchen.

Q. How about you, where were you then?

A. I was inside the house also, I was following him with a lamp.

Q. Then, what happened after you heard your husband uttered those words?

A. I heard that he was continuously hacked.

Q. How were you able to know that it was a hacking which was being done?

A. Because there was a thudding sounds.

Q. What did you do while you were hearing those thudding sounds?

A. I became confused and I also looked for something to arm myself with.

Q. What did you find to arm yourself?

A. A bolo.

Q. What did you do after you were armed with the bolo?

A. What can I do? When I already saw my husband with plenty of blood in his body?

Q. Where did you see your bloody (sic) husband?

A. He was there, flat on his back on a stone under the eaves of our house.

Q. Who else did you see in that place where your husband was?

A. Camilo.

Q. What did he have in his hands?

A. Ginunting type of bolo.[15]

The prosecution witnesses were not shown by appellant to have been impelled by ill-motive to testify falsely against him. Moreover, Rafael Ansus and Yoland Dominaco, being a friend and relative, respectively, of the deceased, would naturally be interested in having the real culprit punished.[16]

Not only were witnesses' testimonies convincing and unequivocal, the same were also backed up by the physical evidence, which is a mute but eloquent manifestation of truth.[17] It is well-settled rule that the nature and number of wounds inflicted by the assailant are considered important indicators which belie a plea of self-defense.[18]

In the case at bar, the following fatal injuries were sustained by the victim:

- Amputated ear, left;
- 5 cm. incised wound - occipital, left;
- 12 cm. incised wound, neck left;
- 4 cm. incised wound, arm bilateral;
- 3 cm. incised wound, distal third, anterior arm, right;
- 4 cm. incised wound, distal third, posterior arm, right;

- Amputated hand, right;
- 12 cm. incised wound - anterior chest;
- 4 cm. incised wound, back.

* Patient died.

Diagnosis - Multiple hacking injuries.[19]

While we affirm the trial court's finding that appellant was responsible for the killing of Crispin Domanico, we do not agree that the crime committed was Murder qualified by treachery or alevosia.

For treachery to be appreciated, it must be present right at the inception of the attack. Where no particulars are known as to how the killing began, its perpetration with treachery cannot merely be supposed.[20] It must be borne in mind that qualifying and aggravating circumstances which are taken into consideration for the purpose of increasing the degree of penalty imposed must be based on positive or conclusive proof, not mere suppositions or speculations,[21] and must be proved as clearly and convincingly as the killing itself.[22] Any doubt as to the existence of treachery must be resolved in favor of the accused.[23]

In the case at bar, there was neither a description of how the attack was commenced - whether it was sudden, unexpected and whether the victim was caught totally unaware - nor a showing that the method of execution in the commission of the crime was consciously or deliberately adopted by appellant.

Thus, the crime for which appellant should be made accountable must be modified from Murder to Homicide, penalized under Article 249 of the Revised Penal Code by reclusion temporal. There being no aggravating or mitigating circumstance, the proper imposable penalty should be reclusion temporal in its medium period, pursuant to Article 64 (1) of the Revised Penal Code. Applying the Indeterminate Sentence Law, the minimum term is anywhere within the range of prision mayor and the maximum within the range of reclusion temporal in its medium period.[24]

There is also a need to modify the trial court's award of damages. We find that the award of P35,000.00 as actual damages was not supported by evidence and, therefore, must be deleted. To be entitled to actual damages, it is necessary to prove the actual amount of loss with a reasonable degree of certainty, premised upon competent proof and on the best evidence obtainable to the injured party.[25] However, considering that the heirs of the victim suffered pecuniary loss for the wake and burial of the victim, only that there were no receipts to show the amount of such expenses, the amount of P25,000.00, should be awarded not for purposes of indemnification, but by way of temperate damages.[26]

Following prevailing jurisprudence, the Court finds the award of P50,000.00 as civil indemnity for the death of Crispin Domanico proper without any need of proof other than the fact of death.[27] However, the award of P30,000.00 as moral damages should be increased to P50,000.00 in line with the controlling case law.[28]

WHEREFORE, in view of all the foregoing, the decision of the Regional Trial Court of Sorsogon, Sorsogon, Branch 52, in Criminal Case No. 99-4919, is MODIFIED. Appellant is found GUILTY beyond reasonable doubt of the crime of Homicide and is sentenced to an indeterminate penalty of Eight (8) years and One (1) day of Prision Mayor, as minimum, to Fourteen (14) years, Eight (8) months and One (1) day of Reclusion Temporal, as maximum. Appellant is ORDERED to pay the heirs of Crispin Domanico the sums of P50,000.00 as civil indemnity, P50,000.00 as moral damages and P25,000.00 as temperate damages.

Costs de officio.

SO ORDERED.

Davide, Jr., C.J., Vitug, Carpio, and Azcuna, JJ., concur.

- [1] Records, p. 1.
- [2] Records, p. 29.
- [3] Colloquial for "Primo".
- [4] TSN, October 4, 1999, pp. 6-20.
- [5] TSN, October 5, 1999, pp. 5-15.
- [6] TSN, June 19, 2000, pp. 4-8.
- [7] Penned by Judge Honesto A. Villamor.
- [8] Rollo, p. 25.
- [9] Id., p. 42.
- [10] People v. Rabanal, G.R. No. 146687, 22 August 2002.
- [11] People v. Javier, G.R. No. 130489, 19 February 2002.
- [12] People v. Galvez, G.R. No. 130397, January 17, 2002
- [13] Id.
- [14] People v. Andarme, G.R. No. 140426, 30 July 2002.
- [15] TSN, October 5, 1999, pp. 6- 10.
- [16] People v. Antonio, G.R. No. 144933, 3 July 2002.
- [17] People v. Bonifacio, G.R. No. 133799, 5 February 2002.
- [18] People v. Javier, G.R. No. 130489, 19 February 2002.
- [19] Records, p. 5.
- [20] People v. Leal, G.R. No. 139313, 19 June 2001.
- [21] People v. Tavas, G.R. No. 123969, 11 February 1999, 303 SCRA 86 [1999].
- [22] People v. Rabanal, G.R. No. 146687, 22 August 2002.
- [23] People v. Ayupan, G.R. No. 140550, 13 February 2002.
- [24] People v. Manalad, G.R. No. 128593, 14 August 2002.
- [25] People v. Abrazaldo, G.R. No. 124392, 7 February 2003.
- [26] Id.
- [27] People v. Abadies, G.R. No. 135975, 14 August 2002.
- [28] People v. Ronquillo, G.R. No. 126136, 5 April 2002.

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