

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. LEONCIO PEDRIGAL Y SIMBALLANA @ "BAKLA", APPELLANT.

G.R. No. 152604. September 18, 2003

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

In Criminal Case No. 5247-G, appellant Leoncio Pedrigal y Simballana @ "Bakla" was charged before the Regional Trial Court of Gumaca, Quezon, Branch 61, with murder in an information[1] which reads:

That on or about the 18[th] day of December 1995, at Sitio Badajos, Barangay Butanyog, Municipality of Mulanay, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the abovenamed accused, with intent to kill, armed with a small bolo (itak-itakan), with treachery, did then and there willfully, unlawfully and feloniously attack, assault and stab with the said weapon one Richard Napeñas, thereby inflicting upon the latter wounds on different parts of his body which directly caused his death.

That the accused attacked and stabbed said Richard Napeñas suddenly and unexpectedly without giving the latter any opportunity to defend himself or to escape.

Appellant pleaded "not guilty". Trial on the merits then ensued.

At around 5:30 in the afternoon of December 18, 1995, in Barangay Butanyog, Mulanay, Quezon, Crisanta Carsola overheard Juana Pedrigal telling her son, appellant Leoncio Pedrigal, "Bakla, parang awa mo na, tulungan mo si Pepe at nilolooban ni Ricky." Appellant allegedly told his mother not to worry as he will take care of the matter. Carsola relayed what she heard to Felino Rosas, a barangay captain. Later in the afternoon, she joined the victim, Ricky Napeñas, and Leonora Rejano in front of their houses where they partook of coffee and engaged in small talk. Appellant suddenly appeared from out of the dark and repeatedly stabbed Napeñas.

Carsola immediately reported the matter to Rosas, and together they rushed to the scene where they saw appellant holding a small bolo while astride Napeñas. They disarmed appellant and brought Napeñas to the hospital, but he expired on the way.

Dr. Heriberto Morales, Municipal Health Officer of Mulanay, Quezon, conducted the autopsy and concluded that Napeñas died of hemorrhagic shock due to multifarious wounds. The abdominal wound which caused the small intestine to spill out, was the most fatal.[2]

Appellant denied the charge against him. He claimed that he was on his way to Barangay Butanyog when Napeñas stabbed him with a tres cantos ice-pick. He drew his small bolo and engaged the victim in a fight. After about thirty minutes, they both fell down in exhaustion. Brgy. Capt. Rosas arrived and disarmed them. He was brought to a hospital in Catanauan for medical treatment. He was issued a medical certificate by the hospital but the same was in his parents' possession.

The trial court gave credence to the prosecution's evidence and rendered a decision,[3] the dispositive portion of which reads:

WHEREFORE, based on the foregoing premises, the Court finds the accused guilty beyond reasonable doubt of the crime of Murder punished and defined under Art. 248 of the Revised Penal Code and therefore sentences him to suffer the penalty of RECLUSION PERPETUA and to pay the heirs of the victim Ricky Napeñas P50,000.00 as indemnity for damages and to pay P20,000.00 as actual damages, plus costs of the suit.

Hence, this appeal. Appellant insists that he killed Napeñas in self-defense.[4] Nonetheless, even assuming that he is found guilty, he submits that he should only be held liable for homicide and not murder.[5]

In invoking self-defense, appellant is deemed to have admitted that he killed the victim, and the burden of evidence is shifted on him to prove that he did not commit unlawful aggression.[6] The question of whether appellant acted in self-defense is essentially a question of fact. In self-defense, unlawful aggression is a primordial element.[7]

When the accused interposes self-defense, he must prove 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.[8] Appellant failed to prove these elements.

Appellant alleges that he attacked Napeñas because the latter was suspected of robbing Pepe Briones, his brother-in-law. This, however, fails to qualify as unlawful aggression committed against appellant.

Significantly, the most telling proof that appellant did not act in self-defense was the number of wounds he inflicted on Napeñas. Napeñas suffered seven (7) stab wounds, one of which proved to be fatal. The nature, number and location of the wounds sustained by the victim belie the assertion of self-defense since the gravity of said wounds is indicative of a determined effort to kill and not just to defend.[9]

In the alternative, appellant claims that he should have been convicted only of homicide, instead of murder, because of the absence of the qualifying circumstance of treachery. He argues that it is not sufficient to show that the attack was sudden to establish treachery. He cites *People v. Reception*,[10] where it was held that for treachery to be appreciated, it must also be proved that the malefactor must have employed means, method or manner of execution that would ensure his safety from retaliatory act of the victim; and that such means, method or form of execution are consciously and deliberately adopted by the malefactor.

In the case at bar, it was shown that appellant suddenly appeared from the dark and surprised the unsuspecting Napeñas, who was not in a position to defend himself as he was not expecting an attack on him. He was simply sitting down, having a conversation with two other persons and enjoying a cup of coffee.

From all indications, appellant adopted this manner of executing his attack in a way that would ensure its success. In this regard, the trial court found:

From the testimony of Dr. Heriberto Morales, that the victim sustained seven (7) wounds located at the parietal area above the left ear, left elbow, left forearm, right chest, right lower abdomen, left shoulder, left scapular area, right paravertebral area, the most fatal of which is the wound on the abdomen which caused the coming out of the small intestine and caused the instantaneous death of the victim, it can be reasonably presumed that accused chose his manner and mode of attack to ensure that there is no risk to himself that may arise from the defense that the victim may undertake.

Another observation of the Court which confirms the presence of treachery is the fact that Barangay Captain found difficulty in removing the itak-itakan from the accused as it was tied with the sleeve of his jacket wrapped around his hand and which the Court sees also as the reason why Barangay Kagawad Carsula did not notice the weapon held by the accused when he suddenly appeared before them and attacked the victim. Without any visible weapon in his hand when he suddenly appeared, the victim failed to undertake any move to defend himself.[11]

The harshness of appellant's acts indicate a calculated pursuit of decision to kill, thus suggesting treachery.[12] More importantly, appellant did not sustain any wound, thus indicating that the suddenness of his attack on Napeñas ensured his safety from retaliatory attack from the latter.

The essence of treachery is the sudden and unexpected attack on the victim which renders the latter unable and unprepared to defend himself by reason of the suddenness and severity of the attack.[13] Even if the attack was frontal, it does not negate the finding of treachery. A frontal attack can be treacherous if sudden and unexpected and the victim is unarmed.[14]

Appellant admits that he attacked Napeñas because the latter allegedly robbed Briones, his brother-in-law. Plainly, this provides the motive for appellant to avenge whatever wrongdoing, imagined or otherwise, was committed by Napeñas.

All told, the trial court gave full faith and credence to the prosecution witnesses who testified in a positive and straightforward manner, when they identified appellant, and who were not found to have been ill-motivated. Furthermore, the said witnesses were all public officials who enjoyed the presumption of regularity in the performance of their official duties.[15] Where there is nothing to indicate that a witness was actuated by improper motive, his positive and categorical declarations on the witness stand under solemn oath deserve full faith and credence.[16]

Case law dictates that the findings of facts of the trial court, its calibration of the collective testimonies of the witnesses, its assessment of the probative weight of the evidence of the parties as well as its conclusions anchored on said findings are accorded by the appellate court high respect, if not conclusive effect, because of the unique advantage of the trial court of observing at close range the conduct, demeanor and deportment of the witnesses as they regale the trial court with their testimonies unless the trial court ignored, misunderstood or misinterpreted cogent facts and circumstances of substance, which if considered, would alter the outcome of the case.[17] We see no reason to overturn the findings of the trial court.

Thus, we find that the trial court was correct in convicting appellant of the crime of Murder, and imposed on him the penalty of reclusion perpetua. Under Article 248 of the Revised Penal Code, murder is punished by reclusion perpetua to death. Considering that no aggravating or mitigating circumstance attended the killing, the lesser of the two indivisible penalties shall be imposed, pursuant to Article 63(2) of the Revised Penal Code.

The trial court correctly awarded P50,000.00 as civil indemnity. It however, failed to award moral damages and exemplary damages. An award of moral damages in the amount of P50,000.00 is in line with current jurisprudence. In cases of violent death, moral damages are awarded even in the absence of proof because an untimely and violent death invariably brings about emotional pain and anguish on the part of the victim's family.[18] Considering the presence of qualifying aggravating circumstance of treachery, exemplary damages in the sum of P25,000.00 are likewise awarded.[19]

The trial court, likewise, awarded P20,000.00 only as actual damages. Ordinarily, receipts should support claims of actual damages, but where the defense does not contest the claim, it should be granted.[20] In this case, the defense even stipulated that the heir of the victim suffered actual damages amounting to P30,000.00.[21]

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court of Gumaca, Quezon, Branch 61 finding appellant Leoncio Pedrigal y Simballana @ "Bakla" guilty beyond reasonable doubt of murder and sentencing him to suffer the penalty of reclusion perpetua, is **AFFIRMED** with **MODIFICATION**. In addition to the award of P50,000.00 as civil indemnity, appellant is likewise ordered to pay the heirs of the victim P50,000.00 as moral damages, P25,000.00 as exemplary damages, and P30,000.00 as actual damages. Costs de officio.

SO ORDERED.

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

- [1] Records, pp. 2-3.
- [2] TSN, June 17, 1998, pp. 5-6.
- [3] Penned by Judge Aurora V. Maqueda-Roman of the Regional Trial Court of Gumaca, Quezon, Branch 61, Rollo, pp. 16, 29.
- [4] TSN, September 27, 2000, p. 10.
- [5] Appellant's Brief, Rollo, p. 44.
- [6] People v. Rubiso, G.R. No. 128871, 18 March 2003.
- [7] People v. Muñoz, G.R. No. 150030, 9 May 2003.
- [8] People v. Vicente, G.R. No. 137296, 26 June 2003.
- [9] People v. Aliben, G.R. No. 140404, 27 February 2003.
- [10] G.R. No. 141943-45, 13 November 2002.
- [11] Decision, Records, pp. 262, 277.
- [12] People v. Tumaob, 353 Phil. 331, 337 (1998).
- [13] People v. Torio, G.R. No. 122109, 25 June 2003.
- [14] People v. Vicente, *supra*.
- [15] Decision, Records, pp. 276-277.
- [16] People v. Villegas, G.R. No. 138782, 27 September 2002.
- [17] People v. Sibonga, G.R. No. 95901, 16 June 2003.
- [18] People v. Mallari, G.R. No. 145993, 17 June 2003.
- [19] People v. Vicente, *supra*.
- [20] People v. Torio, *supra*.
- [21] TSN, June 17, 1998, pp. 9-10; People v. Valledor, G.R. No. 129291, 3 July 2002.

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