PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MELANIO NUGAS Y MAPAIT, ACCUSED-APPELLANT.

G.R. No. 172606. November 23, 2011

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

Self-defense is often readily claimed by an accused even if false. It is time, then, to remind the Defense about the requisites of the justifying circumstance and about the duty of the Defense to establish the requisites by credible, clear and convincing evidence.

Melanio Nugas y Mapait appeals the decision promulgated on March 8, 2006,[1] whereby the Court of Appeals (CA) affirmed his conviction for murder under the decision rendered on August 17, 2000 by the Regional Trial Court, Branch 73, in Antipolo City (RTC).

Antecedents

On June 25, 1997, the Office of Provincial Prosecutor in Antipolo City charged Jonie Araneta y Nugas (Araneta) with murder committed as follows:

> That on or about the 26[th] day of March 1997, in the Municipality of Antipolo, Province of Rizal Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, armed with a bladed weapon, conspiring and confederating with an unidentified male person, whose true identity and present whereabout is still unknown, with treachery and taking advantage of their superior strength, did, then and there wilfully, unlawfully and feloniously attack, assault and stab with the said bladed weapon one Glen Remigio y Santos hitting the latter on the left neck, thereby inflicting upon him mortal stab wound which directly caused his death.
>
> CONTRARY TO LAW.[2]

On April 7, 1998, the Office of the Provincial Prosecutor, learning of the identity of the unidentified male co-conspirator of Araneta as Melanio Nugas y Mapait (Nugas), amended the information to include Nugas as a co-principal, to wit:

> That on or about the 26[th] day of March, 1997, in the Municipality of Antipolo, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping and aiding one another, armed with a bladed weapon, with intent to kill, evident premeditation, treachery, and taking advantage of superior strength, did then and there wilfully, unlawfully and feloniously attack, assault and stab with the said bladed weapon one Glen Remegio y Santos hitting the latter on the left neck, thereby inflicting upon him mortal stab wound which directly caused his death.
>
> CONTRARY TO LAW.[3]

Upon arraignment on June 9, 1998, Araneta and Nugas, both assisted by counsel de officio, voluntarily and spontaneously pleaded not guilty to the offense charged.[4]

In the course of the presentation of evidence for the Defense, Araneta manifested his willingness to change his plea, and to enter a plea of guilty as an accomplice in homicide. On July 19, 1999, the RTC approved his offer to change plea. The plea bargaining was with the conformity of the State Prosecutor and the heirs of the victim. Thus, after ensuring that Araneta had understood the consequences of his new plea of guilty, the RTC allowed him to enter a new plea. He was subsequently duly convicted as an accomplice in homicide and sentenced to suffer an indeterminate penalty of two years, four months, and one day of prision correccional, as minimum, to eight years and one day of prision mayor, as maximum.[5]

The trial proceeded against Nugas.

Evidence of the Prosecution

On March 26, 1997, at about 9:00 in the evening, Glen Remigio (Glen), his wife, Nila Remigio (Nila), and their two children, Raymond and Genevieve, then 11- and 6-years old, respectively, were traveling on board their family vehicle, a Tamaraw FX, along Marcos Highway in COGEO, Antipolo, Rizal. Glen was driving, while Nila sat to his extreme right because their children sat between them. While they were passing along Carolina Village, two men waved at them signalling their request to hitch a ride. Glen accommodated the two men, one of whom was carrying a maroon plastic bag, allowing them to board the vehicle at the rear. When the vehicle neared Masinag Market, the two men suddenly brandished knives that each pointed at Glen's and Nila's necks, warning them not to make any wrong move if they did not want to be harmed. Considering that the two men demanded to be brought to Sta. Lucia Mall, Glen continued driving the vehicle. Upon the vehicle reaching Kingsville Village, the man behind Glen suddenly stabbed Glen on the neck. Thereafter, the two men alighted and fled. Glen pulled the knife from his neck and handed it to Nila. He drove to the nearest hospital, but he collapsed on the way and lost control of the vehicle, causing it to run over two pedestrians, one of whom died and the other suffered a broken arm. Once the vehicle hit the railings of a gas station, Nila cried for help. Concerned citizens immediately rushed Glen to the nearest hospital, which was about 50 to 60 meters away. Nila stayed behind to look after their children. When she checked the vehicle, she found the knife, its scabbard, and the maroon plastic bag left by the assailants at the rear of the vehicle. She gathered the articles and later turned them over to the police officer in charge of the investigation. The maroon plastic bag was found to contain the following items: a National Bureau of Investigation clearance,[6] a police clearance,[7] Social Security System papers,[8] and official receipts,[9] all issued in the name of Araneta, a stainless fork knuckle, and a bunch of keys.

Despite undergoing treatment, Glen succumbed,[10] and his body was brought for autopsy to the Philippine National Police Crime Laboratory. The autopsy revealed that Glen had sustained a fatal stab wound on the left side of his neck originating from the front and going towards the back and downwards towards the center of his body, piercing the apex of the left lung and transecting the left common carotid artery; that the stab wound had been inflicted by a single bladed weapon; and that the immediate cause of his death was the hemorrhage resulting from the stab wound.[11] It was opined that the position of the stab wound would suggest that had the assailant used his left hand, he was probably directly behind the victim; but had he used his right hand, he had to be somewhere to the extreme left of the victim.

During trial, Nila identified Nugas as the person who had sat behind her husband and who had stabbed her husband in the neck, and Araneta as the person who had sat behind her and who had carried the maroon plastic bag that she had later recovered from the backseat.

Other witnesses presented were the investigating police officer, the medico-legal officer who had performed the autopsy, and Atty. Jose S. Diloy, the lawyer who had assisted Araneta in executing a sworn statement pointing to Nugas, his own uncle, as the person who had stabbed the driver of the vehicle they were riding on March 26,

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1997.

The State adduced object and documentary evidence, including the knife, the maroon plastic bag and all its contents, Medico Legal Report No. M-0406-97,[12] and the sworn statement of Araneta.[13]

Evidence of Nugas

Albeit admitting having stabbed Glen, Nugas maintained that he did so in self-defense. He claimed that the Tamaraw FX driven by Glen was a passenger taxi, not a family vehicle; that when he and Araneta boarded the vehicle at Gate 1 in COGEO, Antipolo, about four other passengers were already on board; that he argued with Glen about the fare, because Glen was overcharging; that when he was about to alight in front of Rempson Supermarket, Glen punched him and leaned forward as if to get something from his clutch bag that was on the dashboard; that thinking that Glen was reaching for a gun inside the clutch bag, he stabbed Glen with his left hand from where he was seated in order to protect himself (Inunahan ko na sya); and that when asked why he carried a knife, he replied that he needed the knife for protection because he was living in a squatter's area.

Ruling of the RTC

On August 17, 2000, the RTC convicted Nugas of murder, ruling that his guilt had been established beyond reasonable doubt.

The RTC accorded greater credence to the testimony of Nila because she had consistently narrated the incident. It observed that although Nila had initially made a mistake in identifying who, as between Nugas and Araneta, had stabbed her husband, she had rectified her error upon seeing the two accused together in person; that despite the resemblance of Nugas and Araneta to each other, she had firmly pointed to Nugas as the person who had stabbed Glen; that even granting to be true Nugas' version that Glen had pushed and punched him, his stabbing of Glen could not be a reasonable and necessary means to repel the attack, for, by all standards, fists were no match to knives; that treachery had been duly proved beyond reasonable doubt, because Nugas' position inside the vehicle in relation to Glen, who had sat on the driver's seat, and Nugas' manner of inflicting the fatal blow from behind warranted the inference that Nugas had taken advantage of his position to specially ensure the execution of the felony, without risk to himself arising from any defense that Glen might make.

The RTC disposed thusly:

> WHEREFORE, premises considered, accused MELANIO NUGAS is hereby found guilty beyond reasonable doubt and is hereby sentenced to suffer the penalty of Reclusion Perpetua.
>
> Nugas is hereby further ordered to pay to heirs of Glen Remigio the amount of P80,000.00 for actual damages, P50,000.00 for funeral expenses and P50,000 as death indemnity.
>
> SO ORDERED.[14]

Ruling of the CA

Upon review,[15] the CA affirmed the factual and legal conclusions of the RTC, and declared that Nugas' invoking of self-defense shifted the burden to him to prove the attendance of the elements of self-defense, but he failed to discharge such burden.

Issue

Nugas has now come to the Court to reverse his conviction, and begs us to delve into whether the affirmance by the CA was proper, and whether the attendant circumstance of treachery was duly proven.

Ruling

The appeal has no merit.

By pleading self-defense, an accused admits the killing,[16] and thereby assumes the burden to establish his plea of self-defense by credible, clear and convincing evidence; otherwise, his conviction will follow from his admission of killing the victim. Self-defense cannot be justifiably appreciated when it is uncorroborated by independent and competent evidence or when it is extremely doubtful by itself. Indeed, the accused must discharge the burden of proof by relying on the strength of his own evidence, not on the weakness of the State's evidence,[17] because the existence of self-defense is a separate issue from the existence of the crime, and establishing self-defense does not require or involve the negation of any of the elements of the offense itself.[18]

To escape liability, the accused must show by sufficient, satisfactory and convincing evidence that: (a) the victim committed unlawful aggression amounting to an actual or imminent threat to the life and limb of the accused claiming self-defense; (b) there was reasonable necessity in the means employed to prevent or repel the unlawful aggression; and (c) there was lack of sufficient provocation on the part of the accused claiming self-defense or at least any provocation executed by the accused claiming self-defense was not the proximate and immediate cause of the victim's aggression.[19]

The RTC found that Nugas did not establish the requisites of self-defense. The CA concurred.

The Court upholds both lower courts.

Unlawful aggression on the part of the victim is the primordial element of the justifying circumstance of self-defense. Without unlawful aggression, there can be no justified killing in defense of oneself. [20] The test for the presence of unlawful aggression under the circumstances is whether the aggression from the victim put in real peril the life or personal safety of the person defending himself; the peril must not be an imagined or imaginary threat.[21] Accordingly, the accused must establish the concurrence of three elements of unlawful aggression, namely: (a) there must be a physical or material attack or assault; (b) the attack or assault must be actual, or, at least, imminent; and (c) the attack or assault must be unlawful.[22]

Unlawful aggression is of two kinds: (a) actual or material unlawful aggression; and (b) imminent unlawful aggression. Actual or material unlawful aggression means an attack with physical force or with a weapon, an offensive act that positively determines the intent of the aggressor to cause the injury. Imminent unlawful aggression means an attack that is impending or at the point of happening; it must not consist in a mere threatening attitude, nor must it be merely imaginary, but must be offensive and positively strong (like aiming a revolver at another with intent to shoot or opening a knife and making a motion as if to attack). Imminent unlawful aggression must not be a mere threatening attitude of the victim, such as pressing his right hand to his hip where a revolver was holstered, accompanied by an angry countenance, or like aiming to throw a pot.[23]

Nugas did not credibly establish that Glen had first punched him and then reached for his clutch bag on the dashboard, making Nugas believe that he had a gun there. For one, as the CA pointed out, Nugas admitted not actually seeing if Glen had a gun in his clutch bag.[24] And, secondly, the CA correctly found and declared Nugas' testimony about Glen punching him to be improbable, viz:[25]

> It is also highly improbable that the victim, in relation to accused-appellant Nugas position, can launch an attack against the latter. First, the victim was at the driver's seat and seated between him were his wife and two children. Second, the victim was driving the FX vehicle. Third, accused-appellant Nugas was seated directly behind the victim. All things considered, it is highly improbable, nay risky for the victim's family, for him to launch an attack.

Consequently, Nugas had absolutely no basis for pleading self-defense because he had not been subjected to

either actual or imminent threat to his life. He had nothing to prevent or to repel considering that Glen committed no unlawful aggression towards him.

With unlawful aggression, the indispensable foundation of self-defense, not having been established by Nugas, it is superfluous to still determine whether the remaining requisites of self-defense were attendant. As the Court made clear in People v. Carrero:[26]

> Unlawful aggression is the main and most essential element to support the theory of self-defense and the complete or incomplete exemption from criminal liability; without such primal requisite it is not possible to maintain that a person acted in self-defense within the terms under which unlawful aggression is subordinate to the other two conditions named in article 8, No. 4, of the Penal Code.[27] When an act of aggression is in response to an insult, affront, or threat, it cannot be considered as a defense but as the punishment which the injured party inflicts on the author of the provocation, and in such a case the courts can at most consider it as a mitigating circumstance, but never as a reason for exemption, except in violation of the provisions of the Penal Code. (emphasis supplied)

Treachery is present when two conditions concur, namely: (a) that the means, methods and forms of execution employed gave the person attacked no opportunity to defend himself or to retaliate; and (b) that such means, methods and forms of execution were deliberately and consciously adopted by the accused without danger to his person.[28]

The essence of treachery lies in the attack that comes without warning, and the attack is swift, deliberate and unexpected, and affords the hapless, unarmed and unsuspecting victim no chance to resist or escape, thereby ensuring its accomplishment without the risk to the aggressor, without the slightest provocation on the part of the victim. What is decisive is that the execution of the attack made it impossible for the victim to defend himself or to retaliate. Treachery may also be appreciated when the victim, although warned of the danger to his life, is defenseless and unable to flee at the time of the infliction of the coup de grace.[29]

The CA exhaustively discussed and rightly determined the presence of treachery as a circumstance attendant in the killing of Glen and the improbability of Glen launching an attack against or defending himself from Nugas by reason of their relative positions. We affirm the CA, because there was nothing adduced by Nugas that refuted how the relative positions of Glen and Nugas had left the former defenseless and unable to parry or to avoid the fatal blow of the latter. Verily, Nugas stabbed Glen from behind with suddenness, thereby deliberately ensuring the execution of the killing without any risk to himself from any defense that Glen might make.

WHEREFORE, we AFFIRM the decision promulgated on March 8, 2006 finding MELANIO NUGAS y MAPAIT guilty beyond reasonable doubt of the crime of murder.

The accused shall pay the costs of suit.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Del Castillo, and Villarama, Jr., JJ., concur.

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[1] Rollo, pp. 3-21; penned by Associate Justice Remedios A. Salazar-Fernando, with Associate Justice Hakim S. Abdulwahid and Associate Justice Estela M. Perlas-Bernabe (now a Member of the Court) concurring.

[2] Records, p. 1.

[3] Id., p. 47.

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[4] Id., p. 67.

[5] Id., pp. 144-145.

[6] Records, pp. 196-203 (one original and eight photocopies).

[7] Id., pp. 213-221 (one original and eight photocopies).

[8] Id., pp. 204-212 (one original and eight photocopies).

[9] Id., p. 222 (police clearance and NBI clearance).

[10] Id., p. 228.

[11] Id., p. 226.

[12] Id., pp. 226-227.

[13] Id., pp. 223-224.

[14] Id., p. 170.

[15] Nugas appealed directly to this Court because of the penalty of reclusion perpetua, but the Court referred the appeal to the CA pursuant to People v. Mateo (G.R. Nos. 147678-87, July 7, 2004).

[16] People v. Escarlos, G.R. No. 148912, September 10, 2003, 410 SCRA 463.

[17] Razon v. People, G.R. No. 158053, June 21, 2007, 525 SCRA 284, 297; People v. Tagana, G.R. No. 133027, March 4, 2004, 424 SCRA 620, 634; Marzonia v. People, G.R. No. 153794, June 26, 2006, 492 SCRA 627, 634.

[18] 40 Corpus Juris Secundum, Homicide, § 113, p. 514.

[19] People v. Tagana, G.R. No. 133027, March 4, 2004, 424 SCRA 620, 634-635.

[20] Feria and Gregorio, Comments on the Revised Penal Code, Volume I, 1958 First Edition, Central Book Supply, Inc., p. 124.

[21] People v. Alconga, 78 Phil. 366; People v. Pletado, G.R. No. 98432, July 1, 1992, 210 SCRA 634; People v. Bausing, G.R. No. 64965, July 18, 1991, 199 SCRA 355.

[22] Id.

[23] Gregorio, Fundamentals of Criminal Law Review, 1997 Ninth Edition, pp. 55-56.

[24] Supra, note 1 (at p. 19).

[25] Id.

[26] 9 Phil. 544,546.

[27] Now Article 11, 1, Revised Penal Code.

[28] Luces v. People, G.R. No. 149492, January 20, 2003, 395 SCRA 524, 532-533.

[29] People v. Sison, G.R. No. 172752, June 18, 2008, 555 SCRA 156, 172.

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