

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NOEL CUASAY, ACCUSED-APPELLANT.

G.R. No. 180512. October 17, 2008

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

This is an appeal from the July 31, 2007 Decision[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 00625 which affirmed with modification the March 13, 2003 Decision[2] of the Regional Trial Court (RTC), Branch 40 in Calapan City in Criminal Case No. C-5385, finding accused-appellant Noel Cuasay guilty of murder qualified by treachery. The CA awarded PhP 25,000 as exemplary damages to the heirs of the victim but deleted the award of PhP 50,000 as moral and exemplary damages.

The Facts

The case started with an information charging accused-appellant with the crime of murder as follows:

That on or about the 15[th] day of October 1997, at around 1:00 o'clock in the morning, in Barangay Estrella, Municipality of Naujan, Province of Oriental Mindoro, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with treachery, without any justifiable cause and with the deliberate intent to take the life of EDUARDO ANSULI alias "EDDIE ANSULI" did then and there willfully, unlawfully, feloniously and suddenly attack, assault and stab the said EDUARDO ANSULI with a sharp-pointed instrument thereby inflicting upon the latter mortal wound on the chest, causing his untimely demise.

That in the commission of the aforecited offense, the qualifying circumstance of treachery was attendant.[3]

Accused-appellant pleaded "not guilty" to the charge. During trial, the prosecution presented Rizon Reyes, a councilperson of Barangay Estrella, Naujan, Oriental Mindoro and an eyewitness to the crime. Reyes testified that on October 15, 1997, around 1:00 a.m., he, Eduardo Ansuli, Bronson Albufera, and Rimon Martinez were playing mahjong at the wake of a certain Rosalina Petalpo. Barangay tanods were also present at the wake, about three meters from the mahjong table. At the table, Reyes was seated across Ansuli while accused-appellant and a certain Johnson Suarez were seated at the right side of Ansuli, watching the game. While Ansuli was picking a mahjong tile, Reyes saw accused-appellant about to stab Ansuli so Reyes shouted "huwag." Accused-appellant, however, suddenly stabbed Ansuli with a Swiss-type knife, hitting the latter on the right breast. Accused-appellant thereafter fled towards the residence of barangay captain Librado Teves of Barangay Estrella, Naujan, Oriental Mindoro while Ansuli ran to his house. Around 6:00 a.m. of the following day, Ansuli's dead body was found by the side of the road, approximately 50 meters from the location of the wake. In the same morning, the barangay captain of Nag-iba surrendered accused-appellant to the authorities. Reyes added that he does not know of any reason why accused-appellant stabbed the victim because prior to the incident, accused-appellant was even cracking jokes with them. He said that he does not know if there were ill feelings between accused-appellant and the victim.[4]

Another witness, Flor Paglinawan, a councilperson of Barangay Estrella, testified that when she and accused-appellant were in the terrace of the house of the barangay captain of Nag-iba, accused-appellant admitted to her that he stabbed the victim. The prosecution also presented Leonila Ilagan, a public health nurse at Naujan. She testified on the necropsy report which stated that the victim suffered a stab wound that led to profuse hemorrhage and eventual death. The prosecution dispensed with evidence regarding the civil aspect of the case after the defense admitted the testimony of the victim's mother, Lydia Ansuli.[5]

Accused-appellant, on the other hand, claimed killing Ansuli in self-defense. He alleged that the victim suspected him of stealing Php 20 and because of that, the victim boxed him three times. The victim allegedly scolded him, saying "Putang ina mo. Ang yabang mo manyapat may dala ka lang balisong." Accused-appellant allegedly replied, "Pinsan, hindi ko naman ipinagyayabang ito. Ginagamit ko ito sa pangingsida." Accused-appellant claimed that the victim called him "patay gutom at pulubi" and boxed him at the right shoulder. Thus, he stabbed the victim with his fan knife then ran to the house of the barangay captain.[6]

On March 13, 2003, the RTC rendered judgment, the dispositive portion of which reads:

ACCORDINGLY, finding herein accused Noel Cuasay y Borillo alias "Aping" guilty beyond reasonable doubt as principal by direct participation of the crime of Murder qualified by treachery which is punishable under Article 248 of the Revised Penal Code, as amended by Republic Act No. 7659, and there being no other aggravating or mitigating circumstances present in the instant case, said accused is hereby sentenced to suffer the penalty of RECLUSION PERPETUA with all the accessory penalties provided for by law. The accused is likewise ordered to indemnify the heirs of the victim Eduardo Ansuli, alias "Eddie Ansuli", the amount of P50,000.00 as actual damages; the amount of P50,000.00 as civil indemnity and the additional amount of P50,000.00 as moral and exemplary damages.

The accused shall be credited with the full time during which he had undergone preventive imprisonment provided that said accused [agree] voluntarily in writing to abide with the disciplinary rules imposed upon convicted prisoners, otherwise, he shall be credited in the service of his sentence with only four-fifths (4/5) of the time during which he has undergone preventive imprisonment.

SO ORDERED.[7]

Accused-appellant filed a Notice of Appeal on April 1, 2003 and thereafter filed his brief before this Court on May 4, 2004, docketed as G.R. No. 158055. On December 13, 2004, we remanded the case to the CA in accordance with *People v. Mateo*. [8]

The Ruling of the CA

In his appeal before the CA, accused-appellant prayed for his acquittal based on self-defense, or for conviction for homicide only because of the mitigating circumstance of passion or obfuscation that resulted in incomplete self-defense. He asserted that treachery was not present since the incident was preceded by a heated altercation and there was no intention on his part to attack the victim.

The CA noted that accused-appellant admitted having stabbed the victim; hence, the burden of evidence shifts to him to prove the elements of self-defense. Interestingly, he alone testified to the alleged act of aggression of the victim despite the presence of other witnesses in the wake. The CA also observed that accused-appellant's testimony is not credible, and said that if indeed the victim first hit accused-appellant with three fist blows, as alleged by accused-appellant, it is unlikely that the other mahjong players would not pacify them. The CA also found no merit in the claim of passion or obfuscation since there was no proof of any act on the part of the victim that could have impelled accused-appellant to act with passion or obfuscation. Furthermore, the CA found the presence of treachery because the attack was a surprise on the defenseless victim. As regards damages, the CA

deleted the award for moral damages for lack of proof therefor. The award for exemplary damages, however, was retained and set at PhP 25,000 in view of the attendance of treachery. The dispositive portion of the CA's decision reads:

WHEREFORE, in view of the foregoing, we resolve to AFFIRM the decision appealed from with MODIFICATION that the accused-appellant is ordered to pay the heirs of Eddie Ansuli the amount of P25,000.00 as exemplary damages. The award of P50,000.00 as moral and exemplary damages is DELETED.[9]

Assignment of Errors

In the instant appeal, accused-appellant assigns the following errors on the part of the CA:

THE COURT A QUO GRAVELY ERRED IN NOT CONSIDERING THE JUSTIFYING CIRCUMSTANCE OF SELF-DEFENSE AND THE MITIGATING CIRCUMSTANCE OF PASSION OR OBFUSCATION IN FAVOR OF THE ACCUSED-APPELLANT

ASSUMING ARGUENDO THAT THE ACCUSED-APPELLANT IS CULPABLE, THE COURT A QUO GRAVELY ERRED IN APPRECIATING THE QUALIFYING CIRCUMSTANCE OF TREACHERY.

The Court's Ruling

The appeal has no merit.

It is important to note that accused-appellant admitted stabbing the victim but claimed that he did it in self-defense. When self-defense is invoked, the burden of evidence shifts to the accused to show that the killing was legally justified.[10] Thus, the accused must prove these requisites for self-defense: (1) unlawful aggression on the part of the victim; (2) lack of sufficient provocation on the part of the accused; and (3) employment of reasonable means to prevent and repel aggression.[11]

In this case, the trial court found that accused-appellant failed to prove the requisites of self-defense. Accused-appellant alone testified regarding the alleged fist blows thrown at him by the victim. There was no other testimony to that effect. For accused-appellant's defense to stand, his testimony must be credible. During his direct examination, however, he stated:

Atty. Matibag:

Q: Now, there were many other persons around particularly the three players who were playing mahjong with Eddie Ansuli, what did they do to when Eddie Ansuli boxed you?

A: They just looked at us, sir.[12]

As aptly observed by the trial court, it is unlikely that the spectators will continue their business despite seeing the victim hit accused-appellant. It is unnatural for the players of mahjong and the barangay tanods present to not attempt to pacify them. Accused-appellant could have presented at least one of the witnesses who can support his claim of unlawful aggression by the victim, but he failed to do so. Accused-appellant's testimony is not realistic and, therefore, doubtful.

In contrast, the prosecution witness, Reyes, stated that accused-appellant suddenly attacked the victim. Reyes was able to present a convincing and straightforward account of the incident, particularly the identity of accused-appellant and the suddenness of the attack on the victim. Accused-appellant failed to impeach Reyes' testimony and there was no ill motive imputed against the latter. The trial court was thus correct in believing Reyes' account of the incident. Such finding of fact of the trial court is accorded great weight and respect and will

not be disturbed on appeal.[13] Since accused-appellant failed to prove that there was unlawful aggression on the part of the victim, the claim of self-defense cannot prosper.

Accused-appellant's alternative claim of passion or obfuscation likewise deserves no credit. To be entitled to this mitigating circumstance, the following elements must be present: (1) there should be an act both unlawful and sufficient to produce such condition of mind; and (2) the act that produced the obfuscation was not far removed from the commission of the crime by a considerable length of time, during which the perpetrator might recover his normal equanimity.[14] There was no evidence of unlawful aggression or any act on the part of the victim that could have caused accused-appellant to act with passion or obfuscation. He failed to present any witness or proof that would support his claim. Thus, the trial and appellate courts were correct in overruling the claim for said mitigating circumstance.

As regards the second issue, we agree with the courts' finding of treachery. We held that treachery exists when the offender commits any of the crimes against the person, employing means, methods or forms in the execution thereof which tend directly or specially to ensure its execution, without risk to himself arising from the defense which the offended party might make.[15] In the case at bar, the victim was unarmed and unsuspecting when accused-appellant suddenly stabbed him. Treachery was clearly present in accused-appellant's method.

The appellate court should not have deleted the award of moral damages. In murder cases, the heirs of the victim should be automatically indemnified in the amount of PhP 50,000 as moral damages. No proof is necessary since the emotional and mental suffering of the heirs is apparent.[16]

WHEREFORE, the July 31, 2007 Decision of the CA in CA-G.R. CR-H.C. No. 00625, finding accused-appellant guilty beyond reasonable doubt of the crime of murder with treachery, is **AFFIRMED** in all respects with the **MODIFICATION** that he is hereby ordered to pay the heirs of Eduardo Ansuli the amount of PhP 50,000 as moral damages. The instant appeal is accordingly **DENIED**. No costs.

SO ORDERED.

Quisumbing, (Chairperson), Carpio Morales, Tinga, and Brion, JJ., Concur.

[1] Rollo, pp. 4-15. Penned by Associate Justice Apolinario D. Bruselas, Jr. and concurred in by Associate Justices Bienvenido L. Reyes and Aurora Santiago-Lagman.

[2] CA rollo, pp. 57-66. Penned by Judge Tomas C. Leynes.

[3] Id. at 57.

[4] Id. at 58.

[5] Id. at 59-60.

[6] Id. at 61.

[7] Id. at 65-66.

[8] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.

[9] Supra note 1, at 14.

[10] People v. Dagani, G.R. No. 153875, August 16, 2006, 499 SCRA 64, 73.

[11] Baxinela v. People, G.R. No. 149652, March 24, 2006, 485 SCRA 331, 342.

[12] TSN, April 3, 2001, records, pp. 10-11.

[13] *People v. Francisco*, G.R. No. 141631, April 4, 2003, 400 SCRA 650, 658.

[14] *People v. Malejana*, G.R. No. 145002, January 24, 2006, 479SCRA 610, 625.

[15] *People v. Dumalahay*, G.R. Nos. 131837-38, April 2, 2002, 380 SCRA 37, 46.

[16] *Soriano v. People*, G.R. No. 148123, June 30, 2008; citing *People v. Panado*, G.R. No. 133439, December 26, 2000, 348 SCRA 679.

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