

## THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JOSE BALINAS, JR., APPELLANT.

*G.R. No. 181631. September 30, 2008*

Ponente: TINGA, J.

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### TINGA, J.:

Before us on appeal is the Decision[1] of the Court of Appeals affirming the judgment[2] of the Regional Trial Court[3] of Kabankalan City, Negros Occidental in Criminal Case No. 2000-2445 finding Jose Balinas, Jr. (appellant) guilty of the crime of murder.

Appellant was charged with murder under the following Information:

That on or about the 7[th] day of [January 2000], in the Municipality of Ilog, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bladed weapon, with evident premeditation and treachery and with intent to kill, did then and there, willfully, unlawfully and feloniously attack, assault and stab one COLUMBAN M. SAYSON, thereby inflicting stab wounds upon him which caused his death.[4]

The facts, as narrated by Romeo Mateo (Mateo), the prosecution's lone witness, follow.

On 7 January 2000, Mateo was watching a *cara y cruz* game in Sitio Bailan, Brgy. Dancalan, Ilog, Negros Occidental at around 2:00 a.m. He noticed appellant and the latter's father, Jose Balinas, Sr. (Balinas, Sr.), exchanging words over a bet. Mateo overheard Balinas, Sr. that his bet was P300.00 while appellant was insisting that it was only P200.00. Afterwards, Columban Sayson (Sayson) inquired from Balinas, Sr. about the incident. Upon learning the cause of the argument, Sayson suggested that the difference be taken from the collection.[5] Sensing an impending conflict, Mateo went to a nearby store[6] while appellant went back to his house. Later, he saw Sayson, accompanied by Tongtong Gomez, run into appellant in the store.

Thereat, appellant confronted Sayson about the latter's intervention earlier inside the gambling place. Sayson replied that he wanted to settle things for the sake of peace. Thereafter, Sayson and Gomez left the store but appellant overtook the duo and stabbed Sayson twice on the chest. Appellant immediately ran away while Sayson shouted for help. During the entire stabbing incident, Mateo was situated four arms length from the trio.[7]

Sayson died as a result. The death certificate shows that he died from cardio-respiratory arrest, hypovolemic shock due to stab wounds in the chest and hemothorax and pneumothorax.[8]

Although appellant admitted the stabbing, he invoked self-defense. He related that on 7 January 2000 at around 2:00 a.m., Sayson waylaid him by the store and started beating him. He was hit on the chest, left cheek and other body parts. When Sayson persisted in punching him, appellant fought back and stabbed Sayson. After stabbing him, appellant ran towards his house, told his parents about the incident, and surrendered to the police.[9] In support of his testimony, appellant presented an entry in the police blotter to prove that he voluntarily surrendered. The said entry reiterated appellant's claim that he stabbed Sayson because the latter boxed him

several times.[10]

After a thorough examination of the evidence presented by the parties, the trial court rendered a decision convicting appellant, the dispositive portion of which reads:

WHEREFORE, the Court finds accused Jose Balinas, Jr. y Gomez, guilty beyond reasonable doubt of the crime of murder as charged qualified by treachery and considering the mitigating circumstance of voluntary surrender thereby sentences him to suffer the penalty of imprisonment of reclusion perpetua and to pay the heirs of [the] victim Columban M. Sayson the amount of P50,000.00 by way of indemnity by reason of his death, P15,000.00 by way of moral damages, P40,000.00 by way of actual damages, P150,000.00 by way of loss of income and to pay the costs.

It is further ordered that accused be immediately remitted to the National Penitentiary.

SO ORDERED.[11]

The trial court relied on the testimony of the sole prosecution witness and found him to be candid, categorical and straightforward. Furthermore, it observed that the lack of improper motive on the part of the witness lent greater credence to his testimony. It also discredited appellant's claim of self-defense. It held that such defense was not only uncorroborated by any separate competent evidence but is in itself extremely doubtful. The trial court concluded that the suddenness of the attack on the victim constitutes treachery qualifying the crime to murder.[12]

Appellant filed a Notice of Appeal to this Court on 2 February 2004.[13]

In a Resolution dated 6 September 2004 and pursuant to our ruling in *People v. Mateo*,[14] the case was transferred to the Court of Appeals. The appellate court affirmed in toto the trial court's ruling. Undaunted, appellant filed a notice of appeal.[15]

On 2 April 2008, the parties were required to simultaneously file their respective supplemental briefs but they opted to adopt their briefs passed upon by the Court of Appeals.[16]

Appellant interposes two arguments to exculpate himself from criminal liability. He first invokes self-defense by insisting that it was Sayson, the victim, who initiated the attack. He justifies the use of a bladed weapon as he could not be expected to coolly choose the less deadly weapon in the face of an impending danger. He also avers that he did not give any cause for the aggression of the victim. Appellant also contends that the lower court erred in appreciating the qualifying circumstance of treachery for lack of concrete evidence to prove its presence.[17]

For the appellee, the Office of the Solicitor-General (OSG) argues that appellant failed to corroborate his claim of self-defense. It considers appellant's version of the facts as self-serving and highly suspect. It asserts that treachery attended the commission of the crime considering that the attack on Sayson was sudden and unexpected. Moreover, the OSG points out, the execution of the attack made it impossible for Sayson to defend himself.[18]

The arguments proffered by both parties can be summarized into two issues: (1) whether appellant acted in self-defense and (2) whether the killing was attended by treachery. Essentially, it boils down to the issue of credibility.

It is doctrinal that when the credibility of a witness is in issue, the findings of fact of the trial court, its calibration of the testimonies of the witnesses and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings are accorded high respect if not conclusive effect. This is because the trial court has the unique opportunity to observe the demeanor of a witness and is in the best position to discern whether he is telling the truth. It is likewise settled that when the trial court's findings have been affirmed by the appellate court, said findings are generally conclusive and binding upon this Court.[19]

There appears to be no cogent reason to deviate from the findings of the lower courts with respect to the credibility of the lone eyewitness in the instant case.

Mateo, despite being the lone eyewitness to the crime, gave a positive and categorical account of the incident, thus:

Q:

How long if you can estimate and recall their exchanging of words of Jose Balinas and Columban Sayson?

A:

Just for a short while Jose Balinas, Jr. confronted Columban Sayson why he intervened and then Columban Sayson answered just to settle those things for peace.

Q:

What happened after that?

A:

After some sort of exchanging words Columban said - many talks many mistakes and then he went away together with Tongtong Gomez and then Jose Balinas, Jr. went ahead of them, went around the store and overtook them and then he stabbed Columban Sayson.

Q:

Where was Columban Sayson hit?

x x x

A:

He was hit in front of his body on the chest.

Q:

What was the position of Columban Sayson when he was stabbed by Jose Balinas, Jr.?

A:

When Jose Balinas, Jr. stabbed him for the first time Columban Sayson asked him - Jr., you are going to [kill] me and then Junior answered, I am not joking and then he stabbed him again.

x x x

Q:

What happened to this Columban Sayson after he was stabbed for the second time by Jose Balinas, Jr.?

A:

He shouted for help.

Q:

How about Jose Balinas, Jr.? After his second stabbed [sic] made on Columban Sayson, what did he do, if any?

A:

He ran away, sir.

x x x

Q:

When Columban Sayson was stabbed by Jose Balinas, Jr., how far were you from them?

A:

Very near them.

Q:

How near?

A:

Four (4) arms[,] length.[20]

Time and again, this Court has ruled that the testimony of a sole eyewitness is sufficient to support a conviction so long as it is clear, straightforward and worthy of credence by the trial court.[21]

Mateo is considered a disinterested witness and not a whit of ill-motive was attributed to him by appellant.

In light of the established evidence against appellant, his theory of self-defense falters. While the cardinal rule in criminal law is that the prosecution has the burden of proving the guilt of the accused, the rule is reversed where the accused admits committing the crime, but

only in defense of one's self. In interposing self-defense, appellant admits authorship of the killing and the burden of proof is shifted to him to establish that killing was justified.[22]

Appellant's account of the incident and his subsequent plea of self-defense hardly deserve consideration. His testimony is not only uncorroborated but extremely doubtful. We quote with approval the pertinent portion of the appellate court's decision, to wit:

In the case at bench, We find that based on appellant's version of the events leading up to the killing of Columban, there is no clear and convincing proof that he acted in defense of his life, especially since his life was never in danger in the first place. According to appellant, Columban box[ed] him repeatedly, causing him to almost lose consciousness. However, appellant failed to advance or explain any reason why Columban box[ed] him.

And if it is true that appellant almost lost consciousness because of the beatings he suffered from Columban's fist blows, his claim that he was able to wrest away from this situation and stabbed [sic] Columban twice becomes doubtful. Certainly, a person who almost blacked out would be groggy and have a hard time keeping his balance, let alone stab another to death.

Furthermore, appellant's claim is uncorroborated. He failed to present another witness who could testify to the reasons why Columban would attack appellant, the manner in which he attacked appellant and how the latter was able to bounce back and defend himself by stabbing Columban.

Since Dancalan, Ilog, Negros Occidental was then celebrating its fiesta, there were people on the road and yet not one of them stood up and intervened while the incident was going on. Appellant did not even call anyone on the stand to support his claim. As such, [appellant's] version becomes self-serving and highly suspect.

In contrast, the prosecution had Romeo Mateo who positively [unidentified] appellant as the one who stabbed Columban twice. Romeo is familiar with appellant and he was only about four arms['] length away from the

two when the incident happened. During the entire course of the proceedings in the trial court and even in his appeal brief, appellant never once attempted to ascribe or prove ill will on the part of Romeo Mateo for testifying as he did. The presumption that he is not actuated by any malice or base motive and that he merely testified to help bring Columban's assailant before the bars of justice remain unrebutted.

All told, the trial court correctly gave full weight and credit to the [prosecution's] case which led to the conviction of appellant.[23]

The courts below correctly appreciated the circumstance of treachery. The essence of treachery is the sudden and unexpected attack on an unsuspecting victim by the perpetrator of the crime, depriving the victim of any chance to defend himself or repel the aggression, thus insuring its commission without risk to the aggressor and without any provocation on the part of the victim.[24] While the stabbing was preceded by a brief argument between appellant and Sayson, it cannot be gainsaid that the attack was indeed sudden and unexpected. Moreover, the fact that appellant went around the store in order to catch up with Sayson showed his tenacity to execute the crime.

In line with recent jurisprudence, we find the award of civil indemnity in the amount of P50,000.00 for the death of Sayson correct and proper without any need of proof other than the commission of the crime. We increase the award of moral damages to P50,000.00 in accordance with our ruling in *People v. Sison*. [25] The award of exemplary damages of P25,000.00 is likewise warranted because of the presence of the aggravating circumstance of treachery. Exemplary damages are awarded when the commission of the offense is attended by an aggravating circumstance, whether ordinary or qualifying. [26] Although the prosecution presented evidence that the heirs had incurred expenses, no receipts were presented. The award of temperate damages, in the amount of P25,000.00, to the heirs of the victim is justified. Temperate damages are awarded where no documentary evidence of actual damages was presented in the trial because it is reasonable to presume that, when death occurs, the family of the victim incurred expenses for the wake and funeral.

However, we delete the award of P40,000.00 in actual damages and P150,000.00 for loss of income granted by the trial court for it cannot simply rely on speculation, conjecture or guesswork as to the fact and amount of damages, but is required to depend upon competent proof that the claimant had suffered and on evidence of the actual amount thereof. [27]

WHEREFORE, the appealed judgment is **AFFIRMED WITH MODIFICATION**. Appellant Jose Balinas, Jr. is found **GUILTY** beyond reasonable doubt of murder qualified by treachery and sentenced to suffer reclusion perpetua.

Appellant is ordered to pay the heirs of Columban Sayson the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, P25,000.00 as temperate damages, and P25,000.00 as exemplary damages.

### **SO ORDERED.**

Quisumbing, (Chairperson), Carpio Morales, Velasco, Jr., and Brion, JJ., concur.

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[1] Rollo, pp. 7-12; penned by Associate Justice Agustin S. Dizon, and concurred in by Associate Justices Pampio A. Abarintos and Stephen C. Cruz.

[2] CA rollo, pp. 16-21.

[3] Presided by Judge Henry D. Arles.

[4] Records, p. 1.

- [5] TSN, 6 August 2001, pp. 4-7.
- [6]Id. at 12.
- [7] Id. at 8-10.
- [8] Records, p. 61.
- [9] TSN, 4 June 2003, pp. 4-6.
- [10]Records, p. 80.
- [11] Id. at 90.
- [12] Id. at 89-90.
- [13] Id. at 92.
- [14]G.R. Nos. 147678-87, 7 July 2004, 433 SCRA 640.
- [15] Id. at 92.
- [16] Rollo, pp. 19-26.,
- [17] CA rollo, pp. 61-65.
- [18]Id. at 104-107.
- [19]People v. Beltran, Jr., G.R. No. 168051, 27 September 2006, 503 SCRA 715, 730.
- [20] TSN, 6 August 2001, pp. 9-10.
- [21]People v. Rivera, 458 Phil. 856, 873 (2003).
- [22]People v. Herrera, 422 Phil. 830, 850 (2001).
- [23] Rollo, pp. 9-10.
- [24] People v. Gutierrez, 426 Phil. 752, 767 (2002).
- [25] G.R. No. 172752, 18 June 2008.
- [26]People v. Segobre, G.R. No. 169877, 14 February 2008.
- [27]Villafuerte v. Court of Appeals, G.R. No. 134239, 26 May 2005, 489 SCRA 58.

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