

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DANILO VALENCIA AND REYNALDO VALENCIA,
DEFENDANTS-APPELLANTS.**

G.R. No. 58426. October 31, 1984

Ponente: RELOVA, J.

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RELOVA, J.:

Reynaldo Valencia and Danilo Valencia, father and son, respectively, were found guilty of the crime of murder by the then Circuit Criminal Court of San Fernando, Pampanga in Criminal Case No. CCC-V-1657, and sentenced as follows:

"WHEREFORE, the Court hereby renders judgment:

(1) FINDING the accused DANILO VALENCIA y BERNALES and REYNALDO VALENCIA y ROBERTO GUILTY BEYOND REASONABLE DOUBT of the crime of MURDER, defined and penalized under Article 248, Revised Penal Code, the former as PRINCIPAL by DIRECT PARTICIPATION and the latter as ACCOMPLICE, with no mitigating or aggravating circumstance attending the commission of the crime;

(2) IMPOSING upon the accused DANILO VALENCIA y BERNALES, the following penalties:

(a) To suffer imprisonment of RECLUSION PERPETUA; and

(b) To suffer the accessory penalties provided for by law:

(3) IMPOSING upon the accused REYNALDO VALENCIA y ROBERTO, the following penalties:

(a) To suffer the indeterminate sentence of imprisonment of SIX (6) YEARS, ONE (1) MONTH and TEN (10) DAYS of PRISION MAYOR as MINIMUM to FOURTEEN (14) YEARS, TEN (10) MONTHS and TWENTY (20) DAYS of RECLUSION TEMPORAL as MAXIMUM; and

(b) To suffer the accessory penalties provided for by law:

(4) CONDEMNING the accused DANILO VALENCIA y BERNALES and REYNALDO VALENCIA y ROBERTO to pay jointly and severally to the heirs of ARMANDO SALAZAR, the following:

(a) P12,000.00 - for the loss of life of ARMANDO SALAZAR;

(b) P42,000.00 - as unearned income of ARMANDO SALAZAR;

(c) P8,200.00 - for the hospitalization, treatment, medicine, wake and funeral expenses of ARMANDO SALAZAR; and

(d) P10,000.00 - As moral damages; and

(5) CREDITING the said two (2) accused with their full preventive imprisonment if they voluntarily agreed in writing to abide by the same disciplinary rules imposed upon convicted prisoners; otherwise, to 4/5 thereof only."

(p. 25, Rollo)

From the above judgment, both accused appealed to this Court alleging that the trial court erred (1) in holding that appellant Reynaldo Valencia's testimony is not credible because it is a bundle of inconsistencies; (2) in holding that the other witnesses contradicted and impeached the testimony of Reynaldo Valencia; (3) in holding that the injuries sustained by the deceased belie the version of the defense; (4) in holding that there was no motive for the deceased to assault appellant Reynaldo Valencia; (5) in construing the non-production in evidence of the shirt of the appellant Reynaldo Valencia as a circumstance indicative of guilt; (6) in not holding that appellant Reynaldo Valencia was assaulted by the deceased and his companions; (7) in holding that appellant Danilo Valencia was the one who actually clubbed and hacked the deceased while appellant Reynaldo Valencia was embracing the latter; (8) in not holding that the deceased was already prostrate on the ground when appellant Danilo Valencia arrived at the scene; (9) in holding that appellant Reynaldo Valencia falsely assumed sole responsibility for hacking the deceased because of a father's natural love for his son; (10) in holding that appellant Reynaldo Valencia's wounds could have been self-inflicted or inflicted by another at his instance to justify his plea of self-defense; (11) in holding that treachery attended the killing of the deceased; (12) in rejecting the plea of self-defense on the part of appellant Reynaldo Valencia and non-imputability on the part of appellant Danilo Valencia; and, (13) in convicting appellant Danilo Valencia as principal and appellant Reynaldo Valencia as accomplice in the crime of murder instead of acquitting both of them for lack of proof beyond reasonable doubt as to their guilt.

Prosecution evidence shows that in the afternoon of May 14, 1978, about four o'clock, Reynaldo Valencia and his son, Danilo, went to the house of Armando Salazar at Bernales Compound in Bayan, Orani, Bataan. Reynaldo had with him two (2) big stones, While Danilo was carrying a long bolo. When they reached the yard of Salazar's residence, Reynaldo shouted "Putang ina mo Manding, kung tunay kang Lalake, lumabas ka." Salazar came out of his house and just then Reynaldo threw a stone at him. Armando ducked and was not hit. Reynaldo then rushed at Salazar and held his hands behind the back. At that juncture, Danilo approached from behind and struck Salazar many times on the hand with a bamboo staff (buho) and then hacked him with a bolo at the back. Salazar fell to the ground but Danilo continued to hit him several times on the head and on the body. Thereafter, Reynaldo and Danilo left.

The wounded Salazar was brought to the Orani Emergency Hospital for treatment. The following day he was transferred to the Philippine General Hospital in Manila where after sixteen (16) days he died.

Dr. Prospero A. Cabayanan, a Senior Medical Officer of the National Bureau of Investigation, autopsied Armando Salazar and made the report that the cause of death is "hemorrhage, meningeal traumatic." (Exh. D)

After the wounded Armando Salazar was taken away from the scene of the incident, Policeman Gregorio David was notified and arriving at the place he saw Danilo and Reynaldo Valencia who voluntarily surrendered to him a bolo (Exhibit A). Thereafter, the accused-appellants were brought to the municipal building.

Appellants submit that it was Reynaldo alone who killed the deceased Armando Salazar but claim that Reynaldo did it in self-defense only. Reynaldo testified that at the date and time question he went to draw water at the house of a certain Danilo Guinto. Upon reaching the place he saw Salazar being held by his wife Adeling and his brother Rading. Reynaldo shouted and inquired what was happening. Salazar instead of replying suddenly stabbed him with a knife, wounding him below the left nipple. Reynaldo embraced Salazar and used him as shield against Rading and Adeling who were each armed with a bolo and posed to strike him. Notwithstanding, Addling struck him once or twice at the back. Whereupon, he let loose Salazar, turned on Adeling and wrested the bolo from her. Thereafter, he hacked Salazar twice - on the head and on the back. As a consequence, Armando fell on the ground. Adeling fled, followed by Rading.

Danilo denied having wounded Armando Salazar and declared that when he arrived at the place the deceased was already lying prostrate on the ground. The police arrived shortly after and Reynaldo surrendered to them the bolo he used on Salazar and the latter's dagger.

The version of the defense deserves no credit. Appellant Reynaldo Valencia's plea of self-defense cannot be justifiably entertained. Long followed is the rule that in self-defense the burden of proof rest upon the accused. It is his duty to establish self-defense by evidence clear and convincing. He must rely on the strength of his own evidence. It matters not that the People's evidence is weak. For, as well expressed by this Court in the leading case of *People vs. Ansoyon*, 75.Phil. 772, such evidence could not be disbelieved after the accused himself had admitted the killing.

Both appellants, father and son, challenged the deceased to fight and they killed him when he came out. One of the first requisites of self-defense is unlawful aggression. In the case at bar, it was appellant Reynaldo who called out the deceased from his house and provoked him to fight. Coming out, Reynaldo threw a stone at him. The deceased merely fought back but together appellants assaulted him until he fell wounded. The incident was testified to by Adelaida Salazar and Conrado Salazar, wife and brother of the deceased, respectively, and their presence at the place was admitted by Reynaldo Valencia.

Neither is there merit in the defense of Danilo Valencia that when he arrived at the scene of the crime, the victim Armando Salazar was already lying prostrate on the ground. Prosecution witnesses were emphatic in their testimonies that it was he who struck Salazar with a bamboo staff, hacked him with a bolo at the back until the latter fell to the ground. Danilo continuously hit his victim on the head and on the body.

However, the trial court erred in not considering the presence of conspiracy between appellants, father and son, in committing the crime as shown by the circumstances that they arrived together bringing weapons with them and, immediately, after Salazar came out in response to Reynaldo's call, the latter stoned the deceased - thereafter rushed at him, held his hands behind his back and in that position, Danilo stabbed the victim. But, We find that the crime committed was homicide, not murder. From the People's evidence, appellants and victim met face to face after Reynaldo had called Salazar to leave his house and fight. He knew, more or less, what was coming to him. Thus, We find ourselves unable to say that treachery attended in the commission of the crime.

WHEREFORE, finding both defendants-appellants, Reynaldo Valencia and Danilo Valencia guilty beyond reasonable doubt of the crime of homicide, the judgment under review is modified in the sense that each of them is to suffer imprisonment from 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; that the indemnity to the heirs of the deceased Armando Salazar is increased from P12,000.00 to P30,000.00, without subsidiary imprisonment in case of insolvency; and to pay the costs. In all other respects, the judgment of the lower court is AFFIRMED.

SO ORDERED.

Teehankee (Chairman), Melencio-Herrera, Plana, Gutierrez, Jr., and De la Fuente, JJ., concur.

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