

P/CPL. EAUSTO ANDAL, PETITIONER, VS. SANDIGANBAYAN AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.*G.R. No. 60159. November 06, 1989*

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-60159/>**PADILLA, J.:**

The petitioner, Fausto Andal, a member of the Batangas Integrated National Police, has appealed to this Court the decision[*] of the Sandiganbayan in Criminal Case No. 2521 which found him guilty of the crime of Homicide and sentenced him to suffer the penalty of one (1) year of prision correccional; to indemnify the heirs of the victim in the amounts of P12,000.00 and P20,000.00, as moral damages; and to pay the costs.

In his petition for review, the petitioner alleges that the Sandiganbayan erred in rejecting his plea of self-defense, on the ground that the initial unlawful aggression on the part of the victim ceased after the petitioner had disarmed him.

We find no merit in the petition for it raises only factual issues. The record of this case shows that the herein petitioner, Fausto Andal, then a corporal in the Batangas Integrated National Police, whose duty shift was from 4:00 o'clock in the afternoon to 12:00 o'clock midnight, was on patrol aboard a tricycle driven by Police Pfc. Casiano Quinio in the evening of 25 September 1980. At about 7:00 o'clock that night, he went to the pier located at Sta. Clara, Batangas City, to check on one of his men, Pfc. Maximo Macaraig, who was stationed there, because the said Macaraig had failed to report to police headquarters for briefing.

Upon reaching the police checkpoint at the pier, and upon seeing Macaraig, petitioner asked Macaraig why he did not pass by police headquarters for briefing before proceeding to his post. Macaraig replied that he did not have to report to police headquarters since he already had his orders. Sensing trouble, Quinio drove away his tricycle. Macaraig, however, followed them and told the petitioner: "You report, supsup ka." Petitioner kept his cool and did not say anything. But, Quinio went to Macaraig to pacify him. Thereafter, petitioner and Quinio went back to the poblacion of Batangas City.

At about 11:00 o'clock that night, petitioner and Quinio parked their vehicle in front of the Philbanking Building at P. Burgos Street, Batangas City. Quinio alighted from the tricycle and joined Pat. Andres Perez and Pat. Pedro Banaag who were seated on a bench. The petitioner also alighted from the tricycle and stood at the sidewalk near the bench. After a few minutes, Macaraig arrived and went straight to the petitioner. He was furious this time and demanded why the petitioner had embarrassed him in front of so many people. The petitioner denied the charge and called Quinio to clear up matters with Macaraig. Quinio told Macaraig that the petitioner did not utter defamatory words against him and asked him to forget the incident. ("Pasensiyahan na kayo, hindi kayo magkakaiba") Macaraig did not say anything. But, he returned to the petitioner and challenged him. Quinio again tried to pacify Macaraig and brought him across the street. Still, Macaraig refused to be pacified and went to the petitioner with a drawn gun in his hand.

Pointing the gun menacingly at the petitioner, Macaraig said: "Bumunot ka, bumunot ka." Petitioner, however,

refused to fight, saying: "I cannot fight you because we are both policemen." Macaraig, nevertheless, fired his gun pointblank at the petitioner, hitting the latter in the middle aspect, lower right knee. Petitioner then lunged at Macaraig and they grappled for possession of the gun. Petitioner was able to wrest the gun from Macaraig. Thereafter, two (2) successive shots were fired and Macaraig fell to the ground. He was brought to the hospital but he was dead on arrival.

The factual issue hinges on what transpired after the petitioner had wrested the gun from the deceased until the two (2) shots were fired, which caused the death of Macaraig. The findings of respondent court on this factual issue are to this effect:

"The pivotal question is: Was there an appreciable time lapse between the first aggression, i.e., when deceased shot accused on his knee and the time accused resorted to force by way of firing the two shots at the deceased? The facts unfolded indicate that there was. This is what happened after accused had grabbed the gun: (1) He asked deceased, "Why did you fire at me?" (2) He even turned his head towards his son and instructed him just to stay in the jeep. (3) His son, Domingo Andal, challenged deceased to a fight "sportsman like." (4) Deceased moved backward — 2 meters away from accused. (5) Pfc. Quinio even thought the trouble was over as he started to get his tricycle."[1]

The petitioner contends that after he had taken possession of the gun from Macaraig, the latter tried to grab the gun back and, in the scuffle, the gun went off twice, hitting the deceased. But, this claim was not given credence by the respondent court which said:

"The theory of the defense that the two shots were fired while accused and deceased were grappling for the possession of the gun, is fictitious. When Pat. Perez heard the two shots, deceased was 'more or less' two meters from the accused (p. 38, TSN sess., id.). This jibes with the testimony of Pat. Quinio that after accused had wrested the gun from deceased, the latter 'somewhat backout' (p. 76, TSN sess., id.). More important, immediately after the two shots, accused was holding the gun with his right hand and as demonstrated in Court, said 'right hand stretched downward' (p. 77, TSN sess., id.). This demonstration is given credence by corroborative physical evidence. According to Dr. Luis Aclan who examined the body of deceased, the trajectory of the bullet was downward (see Exh. 'B-I'), with the right armpit (No. 3) as the point of entrance and the back of the body the point of exit (No. 5). The other slug had its point of entrance at No. 2 in Exhibit 'B-I'."[2]

In its resolution, denying the petitioner's motion for reconsideration of the decision, the respondent court also said:

"It can not be correctly held, to quote the words of accused in his motion, that 'it was precisely when the two protagonists were grappling for the possession of the gun that the two shots were suddenly fired resulting to the fatal wounding of the deceased.' This would be contrary to the testimony of Pat. Perez, a witness whose credibility the defense does not impugn. According to Pat. Perez, deceased was 'more or less' two meters from the accused when he heard two gun shots. Immediately after they were fired, this witness looked at the direction where they came from. He saw accused holding a gun with his right hand stretched downward. Under such scenario — with a distance of two meters apart and the hand of accused holding the gun stretched downward — it is clear that deceased and accused were not grappling for the possession of the gun at the time the two shots were fired."[3]

In a petition for review under Rule 45 of the Rules of Court and Section 7 of P.D. 1610 creating the Sandiganbayan, the factual findings of the Sandiganbayan are entitled to great respect and only questions of law may be raised in the Supreme Court.[4]

Moreover, well settled is the rule that when the resolution of a factual issue hinges on the credibility of witnesses, the findings of fact of the trial court will not be disturbed, unless it has plainly overlooked certain facts of

substance and value which, if considered, might affect the result of the case. Herein petitioner failed to demonstrate that his case falls under the exception which would justify this Court to overturn the findings of fact of the trial court, as heretofore cited and summarized thus —

"Stated briefly, the initial illegal aggression staged by deceased had ceased after he was disarmed by accused. By then, accused a taller and bigger man than deceased had the upperhand. He was in possession of the gun of deceased while the latter was unarmed. In fact, it was probably because of this circumstance that deceased moved backward. Aside from accused, his son who dared to fight deceased was there, not to say Pat. Perez and Quinio, all under his supervision. Patently, there was no further threat to the life and limb of accused.

"Absent the element of unlawful aggression, there is no self-defense complete (Art. II, par. 1) or incomplete (Art. 13, par. 1, RPC)."[5]

We agree with the Sandiganbayan that the petitioner failed to prove the defense he had raised. The primordial requisite of self-defense is unlawful aggression. And for unlawful aggression to be present, there must be a real danger to life or personal safety. In the instant case, there was no imminent and real danger to the life or limb of the petitioner when he shot the deceased, since the latter had already been disarmed. As former Chief Justice Aquino states in his book on Criminal Law:

"In order to justify self-defense, it is essential that the attack upon defendant be simultaneous with the killing, or preceded the latter without an appreciable interval of time. (Ferrer, 1 Phil. 56),

X X X

X X X

X X X

"The harm caused by one person to another who offended or caused him injury, sometime after he suffered such offense or such injury, does not constitute an act of self-defense, but an act of revenge. (Banzuela, 31 Phil. 564).[6]

In imposing on the appellant the penalty of just one (1) year of prison correccional, the respondent Court held (which we here affirm):

"In *People vs. Oanis and Galanta* (74 Phil. 257), the court set forth two requisites in order that fulfillment of duty and exercise of a right[7] may be considered as justifying circumstance, namely: (a) that the offender acting [sic] in the performance of a duty or in the lawful exercise of a right; and (b) that the injury or offense committed be the necessary consequence of the due performance of such duty or in the lawful exercise of such right or office. If one is absent, accused is entitled to the privileged mitigating circumstance of incomplete fulfillment of duty or lawful exercise of right or office."[8]

X X X

X X X

X X X

"It is evident that accused was acting in the performance of his duty as supervisor of deceased and policemen when the events that led to the shooting occurred. His attempt to discipline his men was resented by deceased who was one of them. Such attitude did not diminish with the passage of hours; instead, deceased's rage

heightened to violence. He not merely uttered verbal insults to his superior but actually drew his gun and shot him. Fortunately, the latter overpowered deceased. Unfortunately, accused did not stop at that point. He used unnecessary violence against the defenseless person of the deceased. Thus, he exceeded the limits of his authority."[9]

"Article 69 of the Revised Penal Code vests discretion to [sic] the court in lowering the penalty either by one or two degrees whenever incomplete justifying circumstance exists in a given case like the case at bar. The laudable patience of accused in not retaliating despite repeated insults by a subordinate, his length of service in the government (since 1957), and most important, his obsession to inculcate discipline in his men, to OUR mind, entitle accused to a two-degree reduction of the penalty prescribed by law. Our attitude is a signal to the men in uniform that while WE condemn felonious violence, WE support efforts to maintain discipline in the service."[10]

WHEREFORE, the petition is hereby DENIED and the decision of the respondent Sandiganbayan is AFFIRMED. With costs.

SO ORDERED.

Fernan, C.J., Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Bidin, Sarmiento, Cortes, Grino-Aquino, Medialdea, and Regalado, JJ., concur.

Narvasa, J., concur in the result.

[*] Penned by Justice Buenaventura J. Guerrero, with the concurrence of Justices Manuel R. Pamaran and Moises C. Kallos.

[1] Decision, p. 10, Rollo, p. 41.

[2] Decision, pp. 11-12; Rollo, pp. 42-43.

[3] Resolution, pp. 1-2; Rollo, pp. 71-72.

[4] *Penaverde vs. Sandiganbayan*, G.R. Nos. 63271-74. Aug. 30, 1983, and *Hermita vs. Sandiganbayan*, G.R. Nos. 63833-36, Aug. 30, 1983, 124 SCRA345, 351.

[5] Decision, p. 12, Rollo, p. 43.

[6] Aquino, *The Revised Penal Code*, Vol. I, 1987 Ed., pp. 140-141.

[7] Among the justifying circumstances under Art. 11, RPC, is

"5. Any person who acts in the fulfillment of a duty or in the lawful exercise of a right or office."

[8] Decision, p. 13, Rollo, p. 44.

[9] Decision, p. 14, Rollo. pp. 45-46.

[10] Decision, p. 15, Rollo. p. 46.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.