

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANTONIO DANIEL Y VERONA, DEFENDANT-APPELLANT.

G.R. No. 66551. April 25, 1985

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal from the decision of the Regional Trial Court at Quezon City, Branch LXXXIX convicting Antonio Daniel y Verona of the crime of MURDER.

The information dated January 25, 1982, charged the defendant-appellant as follows:

"That on or about the 21st day of January, 1982, night time purposely sought to facilitate the commission of the crime, in Quezon City, Philippines, the above-named accused, did, then and there, wilfully, unlawfully and feloniously, with intent to kill, with evident premeditation and treachery and without any justifiable cause, assault, attack and employ personal violence upon the person of GEORGE ANGCAHAS Y ALTEA, by then and there stabbing the latter on the chest with the use of a sharp/ bladed and/or pointed instrument, thereby inflicting upon said victim serious and mortal wounds which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of said GEORGE ANGCAHAS Y ALTEA in such amount as may be awarded to them under the provisions of the New Civil Code."

The evidence for the prosecution is summarized in the People's brief as follows:

"At about 9:30 in the evening of January 21, 1982, William Osorio, 24 years old, and resident of 233 Mariveles Street, La Loma, Quezon City, was in front of Lita Ferrer's store located in the same locality. He was then conversing with his friends Rolando Bautista and Eduardo Quimbol. While he was thus conversing with his friends, he saw appellant Antonio Daniel running after George Angcahas along Mariveles Street. They were going towards A. Bonifacio Street. When appellant overtook George Angcahas, appellant placed his left hand over the shoulder of George Angcahas, raised his right hand and stabbed George Angcahas on the left chest (pp. 2-3, TSN, September 6, 1982). He saw the actual stabbing (p. 5, TSN, September 6, 1982). He knows appellant whom he identified inside the courtroom (p. 2, TSN, September 6, 1982).

"Also on the same occasion, time and place, Domingo Cañesa, 20 years old, and a resident of 233 Mariveles Street, La Loma, Quezon City, was seated alone inside a jeep parked at Mariveles Street. There was light from an electric post. He saw appellant running after George Angcahas. He was not able to see if appellant was able to catch up with George Angcahas because they suddenly turned right to a lumberyard (pp. 2-3, TSN, September 13, 1982).

"The stabbing victim, George Angcahas, was brought to the Chinese General Hospital, but was dead on arrival (p. 3, TSN, June 22, 1982).

"Appellant was apprehended by the police at Sapang Palay on January 24, 1982 or three (3) days after the stabbing incident (p. 10, TSN., November 15, 1982.) After having been apprised of his constitutional rights, appellant voluntarily gave a written statement at the police precinct (pp. 5-6, TSN, June 22, 1982; Exhibits "F", "F-1" to "F-7"). Appellant admitted having stabbed and killed the victim George Angcahas (p. 5, TSN, June

22, 1982; Exhibits "F", "F-1", "F-4", "F-5"; p. 5, TSN, November 15, 1982)."

On January 28, 1982, the body of the deceased was autopsied by Lt. Col. Gregorio C. Blanco, Chief, Medico-Legal Branch of the P.C. Crime Laboratory. The autopsy revealed the following post-mortem findings:

GENERAL:

Fairly developed, fairly nourished male cadaver in rigor mortis with postmortem lividity over the dependent portions of the body. Conjunctivae, lips and nailbeds are pale. There is a needle puncture mark at the middle 3rd of the left forearm.

HEAD, TRUNK AND EXTREMITIES:

- (1) Contusion, parietal region, measuring 3 by 2 cm., 2 cm left of the midsagittal line.
- (2) Abrasion, frontal region, measuring 4.5 by 3 cm, 3.8 cm right of the anterior midline.
- (3) Stab wound, left mammary region, measuring 1 by 0.3 cm, 15.5 cm from the anterior midline, 15 cm deep, directed upwards, posteriorwards and medialwards, piercing the pericardial sac and 1st left intercostal space, lacerating the upper lobe of the left lung.
- (4) Abrasion, proximal phalange of the left thumb, measuring 0.5 by 0.4 cm.
- (5) Abrasion, middle phalange of the left middle finger, measuring 0.6 by 0.5 cm.
- (6) Abrasion, left knee, measuring 1.3 by 0.6 cm, 2.5 cm lateral to its anterior midline.
- (7) Abrasion, left knee, measuring 1 by 0.6 cm, 2.5 cm lateral to its anterior midline.

There are 1,500 cc of blood and blood clots accumulated in the thoracic cavity.

Stomach is 1/2 full of partially digested food particles consisting mostly of rice.

REMARKS:

Cause of death is cardio-respiratory arrest due to shock and hemorrhage secondary to stab wound of the trunk."

The defendant-appellant on the other hand admits having killed the deceased, but claims that he did so in self-defense. The defense evidence is summarized as follows:

"On the other hand, accused-appellant testified that on or about 9:30 o'clock in the evening on January 21, 1982 between the hours of 9:30 and 10:00 o'clock in the evening he was walking along Mariveles Street, Quezon City peddling 'taho' (TSN, page 2, Oct. 25, 1982). While he was walking, George Angcahas called him and asked if he still had taho. After giving taho to George Angcahas, the latter demanded from him the amount of P2.00 but he refused (TSN, page 2, Nov. 15, 1982). George Angcahas became angry because of his refusal to give P2.00 and the former suddenly drew a knife from his waistline and stab him. However, he immediately saw the thrust and was able to parry it. They then grappled for the possession of the knife and in the process rolled on the ground. In the process of the struggle the knife pierced the chest of George Angcahas (TSN, page 3, Nov. 15, 1982). Seeing the knife stuck (sic) at Angcahas' body, he became afraid and ran away towards Bonifacio Road. He admitted that he was forced to sign his signature in Exhibits 'F' and 'F-1'. He testified that he killed the victim because he drew a knife and then tried to kill him. (TSN, page 5, Nov. 15, 1982). He further declared that he was not allowed to read the document and was just forced to sign it (TSN, pages 8-9, Nov. 15, 1982)."

In its decision dated February 28, 1983, the trial court found the qualifying circumstance of evident premeditation to be present and convicted the defendant-appellant for murder as follows:

"ACCORDINGLY, judgment is hereby rendered convicting the accused, ANTONIO DANIEL Y VERONA alias 'Lingling' beyond reasonable doubt of the crime of Murder as charged in the information and as defined and penalized in Article 248 of the Revised Penal Code, and in accordance there with, there being no aggravating or mitigating circumstances which attended the commission of the offense, the said accused is sentenced to suffer the penalty of reclusion perpetua, with all the accessory penalties provided for by law; to indemnify the heirs of George Angcahas y Altea the sums of: P12,000.00, as compensatory damages; P10,000.00, as moral damages; P50.00 daily, from January 21, 1982 and for 33 years thereafter until the victim would have reached 65 years of age if he were alive considering that he died at the age of 32 years, for loss of earning capacity and, P9,464.05, for hospitalization expenses; and, to pay the costs.

"The accused being detained, he is credited with the full extent of the period under which he was under detention, considering the practice in the Quezon City Jail for all detention prisoners to agree in writing that they will be governed by the same rules concerning convicted prisoners."

The defendant-appellant raises the following assignments of errors in his brief:

I

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF MURDER DEFINED IN ARTICLE 248 OF THE REVISED PENAL CODE.

II

THE COURT A QUO ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE LATTERS CLAIMED (SIC) FOR SELF-DEFENSE THUS WARRANTING HIS ACQUITTAL.

Relative to the first assignment of error, the defendant-appellant argues that his conviction is unwarranted considering that his guilt was not proven beyond reasonable doubt. Defendant-appellant states that prosecution witnesses Domingo Ceñesa and William Osorio failed to substantiate the murder charge against him.

The defendant-appellant's contention is without merit. William Osorio categorically testified that he saw the defendant-appellant chase and stab George Angcahas. William Osorio testified that:

"Q In the evening of January 21, 1982, at about 9:30 thereof, where were you?

"A I was in front of the store of Lita Ferrer.

(TSN, Sept. 6, 1982, p. 2)

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"Q While in front of Lita's store conversing with friends thus mentioned at that time, do you know if anything unusual occurred?

"A Antonio Daniel was running towards A. Bonifacio Street.

"Q Along what road was he running towards Bonifacio?

"A

Mariveles Street, sir.

"Q How far were you then from Antonio Daniel then running along Mariveles Street?

"A About three (3) arms length, sir.

"Q What happened then as Antonio Daniel was running along said street going towards the direction of Bonifacio Street?

"A I saw Antonio Daniel running towards A. Bonifacio after George Angcahas, placing his left hand over the shoulder of Angcahas, raising his right hand and stabbing Angcahas.

(TSN, Sept. 6, 1982, pp. 2-3)

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COURT:

"You saw the actual stabbing?

"A Yes, your Honor.

Domingo Ceñesa corroborated William's testimony to the effect that at about 9:30 o'clock in the evening of January 21, 1982, he saw the defendant-appellant running after George Angcahas along Mariveles Street going towards A. Bonifacio Street. He testified thus:

FISCAL:

"With the permission of this Honorable Court. Mr. Witness, in the evening of January 21, 1982, where were you?

"A I was sitted on a jeep parked at Mariveles Street.

"Q Mariveles St., located in Quezon City?

"A Yes, sir.

(TSN, September 13, 1982, p. 2)

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"Q

Now, sitting inside the passenger jeepney parked along Mariveles St., Quezon City, do you know if anything unusual occurred on or about 9:30 o'clock in the afternoon of January 21, 1982?

"A

I saw Antonio Daniel running after George Angcahas.

"Q

How did you happen to know that accused Daniel was running after George Angcahas at that time?

"A

Because Antonio Daniel and George Angcahas passed by me and Antonio Daniel was running after George Angcahas because there was a light at the electric post.

(TSN, September 13, 1982, pp. 2-3)

Furthermore, the testimony of William Osorio is confirmed by the autopsy findings (Exhibits "C" to "C-2") particularly as to the nature and location of the stab wound sustained by George Angcahas.

The defendant-appellant next contends that his extrajudicial confession upon which the judgment of conviction was based is inadmissible as evidence against him as the same was obtained through force and intimidation. To substantiate this claim, the defendant-appellant testified as follows:

"Q Did you issue any statement during that investigation?

"A I did not.

"Q Mr. Witness, the prosecution offered as evidence a statement purported to be signed by you, I am referring to Exhibits F and F-1, if I will show you this statement, Mr. Witness, do you still insist with your statement denying that you have not issued any statement?

"A I was not the one who said those things there.

"Q I am showing to you a signature purported to be the signature of Antonio Daniel, will you go over this and tell the Honorable Court whose signature is this Mr. Witness?

"A I was just asked to sign this document.

(TSN, November 15, 1982, p. 4)

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"Q Will you state the circumstances of your affixing these signatures?

"A They forced me to sign this statement, Exhibits F and F-1.

(TSN, November 15, 1982, p. 5)

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"Q

Now, when you - if you said that the statement contained in this document are not true why did you still affix your signature?

"A I was not asked to read the document, I just signed my name.

"Q Why did you just sign your name in this document?

"A They forced me to sign it, sir."

(TSN, November 15, 1982, pp. 8-9)

We have carefully reviewed the records of the case and we find that there is no showing nor indication that the defendant-appellant was forced to sign Exhibits F and F-1. The statements that were given jibe with the testimonies introduced later during the trial. In fact, no evidence was presented that the confession was obtained as a result of violence, torture or intimidation. In *People v. Villanueva* (128 SCRA 488), we held that:

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"x x x where the defendants did not present any evidence of compulsion or duress nor violence on their persons; where they failed to complain to the officers who administered the oaths; where they did not institute any criminal or administrative action against their alleged intimidators for maltreatment; where there appeared to be no marks of violence on their bodies; and where they did not have themselves examined by a reputable

physician to buttress their claim, all these were considered by this Court as factors indicating voluntariness. x x x"

The defendant-appellant also submits that he was not informed of his constitutional rights. He argues that it is of judicial notice that most detainees are unlettered and are not aware of their constitutional rights and even if they are, the intimidating and coercive presence of the officers of the law in such an atmosphere overwhelms them into silence.

The records show that the defendant-appellant was apprised about his constitutional rights. However, he questions the adequacy of the investigator's compliance with Section 20, Article IV of the Constitution which provides, in part, that "any person under investigation for the commission of an offense shall have the right to remain silent and to counsel, and to be informed of such rights."

For the resolution of this appeal, there is no need to go into the above constitutional issue raised by the defendant-appellant. There is no question that Antonio V. Daniel killed George Angcahas. He admits the killing. There is clear testimony as to how the killing was effected. This brings us to the second assignment of error.

Anent the second assignment of error, the defendant-appellant admits having killed the deceased, but claims that he did so in self-defense. To prove that he killed the victim in self-defense, the defendant-appellant claims that - "after Angcahas ate the 'taho' of appellant he extorted money from the latter and when the extortion attempt failed, Angcahas took his knife from his waist and thrust it at the appellant. The two grappled for possession of the weapon, and in the process, the fatal weapon pierced the chest of the victim."

When a person is accused of killing another and he interposes self-defense to justify the act, the fact of killing is necessarily admitted (*People v. Libardo*, 127 SCRA 541). In other words, it is then incumbent upon him to show that the requisites of self-defense are present. In *People v. Mationg*, (113 SCRA 167), we held that:

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"x x x It is fundamental, that for self-defense to prosper, appellant must rely on the strength of his own evidence and not on the weakness of that of the prosecution, for even if that were weak it could not be disbelieved after the accused himself had admitted the killing. Appellant's plea must be established by a clear and convincing evidence and not of doubtful veracity, otherwise the conviction of the accused becomes imperative."

We sustain the trial court's finding. The defendant-appellant's evidence does not convincingly prove that he acted in self-defense. The trial court ruled that:

"This Court is not persuaded. For, if it is true as claimed by the accused, that in parrying the knife of the victim he held with his left hand, then later with both his hands, the victim's right hand with the knife, at which position they then rolled on the ground, the victim would not have sustained a stab wound at the left chest which, according to the medico-legal necropsy report of Lt. Col. Blanco, was directed upwards, posteriorwards and medialwards since if they, indeed, grappled for the possession of the knife while rolling on the ground, in all probability the knife will be held by both the victim and the accused with both their hands extended above their heads, and not against their bodies in order to avoid being wounded by it."

This finding is substantiated by the testimony of Dr. Gregorio Blanco, the medico-legal officer who examined the body of the deceased:

"Q Of the injuries sustained by victim Angcahas, what would have caused his death?

"A The cause of death here is stab wound which I said previously that it is the left mammary region.

(TSN, April 27, 1982, p. 4)

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"Q

Likewise, judging from the nature and extent of the stab wound, what could have been the position of the victim when said stab wound was inflicted upon his person?

"A I would say again that the assailant would be in front of the victim.

"Q What about the victim, what was his position at the time?

"A Standing position facing the assailant.

(TSN, April 27, 1982, p. 5)

The testimonies of the eyewitnesses show that the victim was running away from the defendant-appellant when the latter overtook and stabbed him. A witness saw the actual stabbing after the appellant had over-taken the victim.

Furthermore, the question of whether or not the appellant acted in self-defense and killed the deceased is a question of fact (*People v. Dofiles*, 130 SCRA 603). In this respect, the trial court found the prosecution witnesses to be more credible than those of the defense. We find nothing in the records of the case nor in the arguments on appeal which will justify a reversal of such findings.

Evident premeditation was not sufficiently established. To properly appreciate evident premeditation, it is necessary to establish with proof, as clear as the evidence of the crime itself - (1) the time when the offender determined to commit the crime; (2) an act manifestly indicating that the culprit had clung to its determination; and (3) a sufficient time elapsed between the determination and the execution to allow him to reflect upon the consequences of his act (*People v. Guiapar*, 129 SCRA 539).

In the case at bar, there is no evidence to show the defendant-appellant's preconceived plan to kill the victim. The events which preceded the stabbing incident were not brought out during the trial. Hence, evident premeditation cannot be considered to qualify the killing as murder. It is only homicide.

The next issue is the correctness of the amount of damages as indemnity for the loss of earning capacity of the deceased imposed by the trial court. The court erred when it ordered the defendant-appellant to pay the heirs of George Angcahas the sum of P50.00 daily, from January 21, 1982 and for thirty-three (33) years thereafter until the deceased would have reached the age of 65.

The amount of loss of earning capacity is based mainly on two factors: (1) the number of years on the basis of which the damages shall be computed; and (2) the rate at which the losses sustained by the respondents should be fixed (*Villa Rey Transit, Inc. v. Court of Appeals*, 31 SCRA 511).

The deceased was single and thirty-two years of age at the time of his death. He was earning P50.00 daily as driver of a passenger jeepney.

By applying the formula $\frac{2}{3} \times (80-32) = \text{Life Expectancy}$, the normal life expectancy of the victim would be thirty-two years. Although there is no evidence as to the condition of the victim's health at the time of his death, we must take into account the fact that drivers of passenger jeepneys cannot continue the backbreaking pace and unnerving nature of their work for those many years. It is thus reasonable to make allowances for these circumstances and reduce the life expectancy of the deceased to 25 years (See *Davila v. Philippine Airlines*, 28 SCRA 497).

Relative to the second factor, we held in *Villa Rey Transit, Inc. v. Court of Appeals* (31 SCRA 511), that:

"At this juncture, it should be noted, also, that We are mainly concerned with the determination of the losses or damages sustained by the private respondents, as dependents and intestate heirs of the deceased, and that said damages consist, not of the full amount of his earnings, but of the support they received or would have received from him had he not died in consequence of the negligence of petitioner's agent. In fixing the amount of that support, We must reckon with the 'necessary expenses of his own living', which should be deducted from his earnings. Thus, it has been consistently held that earning capacity, as an element of damages to one's estate for his death by wrongful act is necessarily his net earning capacity or his capacity to acquire money, 'less the necessary expense for his own living. (*Pitman v. Merriman*, 117 A. 18, 19, 80 N.H. 295) Stated otherwise, the amount recoverable is not loss of the entire earning, but rather the loss of that portion of the earnings which the beneficiary would have received. (*Lynch v. Lynch*, 195 A. 799; *Lockerman v. Hurlock*, 125 A. 482, 2 W.W. Harr. 479; *Lemmon v. Broadwater*, 108 A. 273, 7 Boyce 472; *Louisville & N.R.R. Co. v. Reverman's Adm'x*, 15 S.W. 2d 300; *Heppner v. Atchison, T. & S.F. Ry. Co.*, 297 S.W. 2d 497; *Darnell v. Panhandle Coop. Ass'n* 120 N. W. 2d 278 175 Neb. 40) In other words, only net earnings, not gross earnings, are to be considered (*Meehan v. Central R. Co. of New Jersey*, D.C.N.Y., 181, F. Supp. 594) that is, the total of the earnings less expenses necessary in the creation of such earnings or income (*Frasier v. Public Service Interstate Transp. Co.*, C.A.N.Y., 244 F. 2d. 668) and less living and other incidental expenses."

It is reasonable to fix the deductible living and other incidental expenses of the deceased at the sum of Eight Hundred (P800.00) Pesos monthly or Nine Thousand, Six Hundred (P9,600.00) Pesos annually. Likewise, it is difficult to conclude that, George Angcahas, if he were alive, would drive a passenger jeepney everyday for the next thirty-two (32) years. It is more than reasonable to fix at twenty (20) days a month Angcahas' working days. Thus, the loss sustained by the heirs of the deceased maybe roughly estimated at Two Hundred Pesos (P200.00) every month or Two Thousand, Four Hundred Pesos (P2,400.00) annually or Seventy Six Thousand, Eight Hundred Pesos (P76,800.00) for thirty-two years.

WHEREFORE, the decision appealed from is hereby MODIFIED, in that the defendant-appellant is held guilty of HOMICIDE only. Considering that there are no mitigating and aggravating circumstances, Antonio Daniel is hereby sentenced to suffer an indeterminate penalty of EIGHT (8) YEARS and ONE (1) DAY of prision mayor as minimum to SEVENTEEN (17) YEARS, FOUR (4) MONTHS and ONE (1) DAY of reclusion temporal as maximum. The defendant-appellant is likewise ordered to pay the heirs of the deceased George Angcahas the sum of SEVENTY-SIX THOUSAND, EIGHT HUNDRED PESOS (P76,800.00) for loss of earning capacity and a straight death indemnity for THIRTY THOUSAND PESOS (P30,000.00) instead of the separate indemnifications for the death of the victim imposed by the lower court.

SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Plana, Relova, De La Fuente, and Alampay, JJ., concur.

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