

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. REGINO CAMILET, DEFENDANT-APPELLANT.

*G.R. No. 70392. June 30, 1986*

Ponente: FERNAN, J.

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### FERNAN, J.:

Convicted of murder and sentenced to "life imprisonment" by the Regional Trial Court of Iloilo, Regino Camilet interposed this appeal.

The information filed on October 25, 1982 by the Provincial Fiscal in the then Court of First Instance of Iloilo stated thus:

"That on or about the 2nd day of July, 1982 in the Municipality of Leon, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed and with the use of a deadly weapon, a knife, with treachery and evident premeditation and taking advantage of nighttime to better realize his purpose and in utter disregard of the rank [barangay captain] and age [62 years old] of his victim, with deliberate intent and decided purpose to kill, did then and there wilfully, unlawfully and feloniously assault, attack, stab and hit Perfecto Camancho, Sr. who at the time was in the performance of his duty as barangay captain, thereby inflicting upon said Perfecto Camancho, Sr. a stab wound at the left middle inguinal [sic] region [stomach] which directly caused his death immediately thereafter."

At the arraignment on April 20, 1983, Camilet pleaded not guilty.

The prosecution's version of the crime is as follows:

At around 7:00 o'clock in the evening of July 2, 1982, a Baptist prayer meeting was held at the residence of Barangay Captain Perfecto Camancho, Sr. in Coyogan Sur, Leon, Iloilo. After the prayer meeting, the members of the group stayed in that house and whiled away their time conversing with each other.

Shortly before 9:00 o'clock, Dione [Jolly] Camancho, a dumb nephew of Perfect, Sr., arrived crying. By making signs with his hands and fingers. Dione communicated to the group that he was strangled and hit on his buttocks by someone at a certain place. He asked Perfecto, Sr. to go with him to the place where he was attacked to locate the person who choked and hit him.

Although it was a moonlit night, Perfecto, Sr. brought along his flashlight. Accompanied by Dione, Perfecto Camancho, Jr., Rosita Camayo and Cobin [Joven] Cagayao, Perfecto, Sr. went to the place indicated by Dione.

When they had walked a distance of around 150 meters, Camilet suddenly stepped from a grove of banana plants and, without word or warning, stabbed Perfecto, Sr. with a one-foot-long, sharp-bladed knife. Perfecto, Sr. exclaimed "To Reno, ginbuno mo ako" [To Reno, you stabbed me]. Cagayao also heard Perfecto, Sr. say, "You flee."

Perfecto, Jr., who was seven meters behind Perfecto, Sr., stopped in his tracks after he saw his father being stabbed by Camilet. He also saw his father grappling momentarily with Camilet and then both fell down the

ground. He then went to a barangay official to ask for help.

Cagayao, who was around eight feet from Perfecto, Sr., ran away from the scene after he heard Perfecto, Sr. telling them to flee. Rosita, who was eight meters away from Perfecto, Sr., also scampered away after she heard him say that Camilet had stabbed him.

Perfecto, Sr. sustained a stab wound with a 5-centimeter entrance at his left inguinal region. His large intestine, which was injured, protruded. When autopsied, his intra-abdominal cavity revealed a great amount of blood clot [Exhibit A]. He died because of the massive hemorrhage caused by the stab wound [Exhibit B].

The Camancho family incurred expenses in the total amount of P4,520 for the burial and interment of Perfecto, Sr. [Exhibits C and D].

The defense presents another story. Witness Emilio Cachila related in court that on the night of July 2, 1982, while he was on his way home, he saw Perfecto, Sr. and his children, Sherwin, Perfecto, Jr. and Niel. Perfecto, Sr. was standing near the dike along the road. Later on, Camilet arrived, Perfecto, Sr. told Camilet, "Reno, so you are here. I will kill you. Your soul has no value to me."

Camilet, a 43-year old farmer, testified that he was walking along the road to his mother-in-law's house to ask for help in planting rice the following morning when the Camanchos "waylaid" him. Perfecto, Sr. allegedly hit his mouth with a hammer and knocked off five of his teeth. He fell down on the muddy ricefield. As he stood up, Sherwin struck him on the shoulder with the muzzle of an air rifle. He fell down again and received another blow from Sherwin's air rifle. Once again, he fell on the mud. Sherwin hit his left eye which caused it to swell.

Camilet's wife, Thelma, who came to his aid after hearing the shout of Perfecto, Sr., tried to help by lifting Camilet up from the mud. While Thelma was leading him home, he pulled out his one foot-long knife, swung it and hit someone whose identity he did not know. He only learned that he wounded and killed Perfecto, Sr. the following morning. Camilet was brought to the Aleosan General Hospital where his injuries required treatment for ten days.

The trial court discredited Camilet's claim of self-defense. If Perfecto, Sr. really hit Camilet with a hammer, which assault would have constituted unlawful aggression, Camilet would have been rendered unconscious. If Sherwin really attacked him, Camilet would have filed a case against him. And, if it were true that his wife came to his rescue, then the Camanchos would have attacked her as well. During the trial, when Camilet opened his mouth to show the alleged missing teeth, the court observed that he had lost them due to decay.

The trial court found him guilty of murder aggravated by disregard of rank and sentenced him to "life imprisonment". It ordered Camilet to pay the heirs of Perfecto Camancho, Sr. total damages amounting to P35,000.

In this appeal, Camilet alleges that the lower court erred in not holding that he acted in self-defense, and in convicting him. He avers that the injuries he suffered from the Camanchos caused his hospitalization. He prays that he be acquitted of murder.

We agree with the Solicitor General that Camilet's claim of self-defense is devoid of merit. Camilet's testimony that he had a knife with him because he had to prepare his ricefield and at the same time make bamboo stakes for the dike is simply incredible. Those tasks are not performed at night. It is more likely that he was preparing for an encounter with Perfecto, Sr. or any of his children.

It should be noted that prior to the incident described earlier, there was a misunderstanding between the Camanchos and Camilet. According to one of Perfecto's sons, Niel, his land and the land of Camilet's

mother-in-law were adjoining each other. Camilet worked in the latter land. A dispute over a portion of that land was referred to the barangay captain who happened to be Perfecto, Sr.

In the presence of the barangay councilmen, the dispute was settled when Camilet's mother-in-law agreed to turn over the disputed land to Niel. That settlement apparently did not satisfy Camilet. In fact, that morning of July 2, 1982, he passed by that land and warned Niel that he and his family should be careful [TSN, February 27, 1984, pp. 4-6].

Camilet himself related in his sworn statement taken by the police at the Aleosan General Hospital, that in that encounter with the Camanchos, Perfecto, Sr. and Niel challenged him to a fight which he allegedly did not mind at all although they harvested his corn and took the produce away [Exhibit 3].

Camilet's claim that he was attacked in unison by the Camanchos is an attempt at self-exoneration. Considering their number, the Camanchos could have succeeded in killing him, and, his wife who allegedly arrived to help him, would also have been harmed.

That Camilet was hospitalized after that incident is an accepted fact. However, Exhibit 2 shows that he sustained only superficial injuries. Doctor Alejandro C. Caelian, his attending physician at the Aleosan General Hospital, made the following findings:

- "1. Lacerated wound bridge of the nose superficial 2 cm.
2. Contusion and swelling of the supra orbital region, left.
3. Contusion, hematoma, infra orbital region, left.
4. Lacerated wound, superficial 2 cm. lateral angle of the left eye.
5. Conjunctival hemorrhage and swelling of the eyeball, left.
6. Swelling of the mandibular region, left.
7. Depress[ed] portion of the 7th rib posterior to the axillary line."

Doctor Caelian certified that barring, complications, those injuries would heal in seven to ten days.

Those injuries may prove that a scuffle or "grappling" occurred between Perfecto, Sr. and Camilet. It is possible that during that momentary grappling between the two, Perfecto, Sr. hit Camilet with his flashlight. Emilio Cachila's testimony that Perfecto, Sr. "stabbed an instrument" at Camilet [TSN, November 28, 1984, p. 7] was totally ignored by the trial court.

If no unlawful aggression attributable to the victim is established, there can be no self-defense, either complete or incomplete [People vs. Gamut, L-34517, November 2, 1982, 118 SCRA 35]. However, by invoking self-defense, Camilet in effect admitted having stabbed and killed Perfecto, Sr. The rationale for the requirement of clear and convincing proof of self-defense stems from the admission of the accused that he has killed or wounded another which is a felony for which he should be criminally liable [Castañares vs. Court of Appeals, L-41269-70, August 6, 1979, 92 SCRA 567].

The information alleged treachery, evident premeditation, nighttime and disregard of rank and age as aggravating circumstances. The trial court's decision, on the other hand, does not indicate what circumstance qualified the killing to murder but it considers disregard of rank an aggravating circumstance.

As only one circumstance suffices to qualify the killing as murder [People vs. Dueño, L-31102, May 5, 1979, 90 SCRA 23], either treachery or evident premeditation must be proven.

Treachery cannot be appreciated in this case. The testimonial evidence as to the inception of the stabbing is quite nebulous. The prosecution only succeeded in presenting the witnesses' reaction to the assault which indirectly proved its suddenness. However, mere suddenness of an attack is not sufficient to constitute treachery where it does not appear that the aggressor adopted such mode of attack to facilitate the perpetration of the killing without risk to himself [U.S. vs. Namit, 38 Phil. 926; People vs. Torejas, L-29935, January 31, 1972, 43 SCRA 158].

Also, the prosecution failed to discredit Emilio Cachila's testimony that Perfecto, Sr. greeted Camilet when he saw the latter. Furthermore, it should be noted that the fatal wound inflicted on Perfecto, Sr. was in the inguinal region or near the stomach. This shows that the attack was frontal. Treachery does not exist where the victim is facing the assailant when the assault starts [People vs. Casiguran, L-45387, November 7, 1979, 94 SCRA 244].

Likewise, evident premeditation was not established by the prosecution. Although the facts tend to show that Camilet might have harbored ill-feelings towards the Camanchos after they took a portion of the land he was farming and, as he himself stated to the police investigator, they also took the produce from his cornfield, there is no proof that Camilet conceived of killing Perfecto, Sr. Indeed, there is no evidence of [1] the time when he determined to commit the crime, [2] an act manifestly indicating that he has clung to his determination, and [3] sufficient lapse of time between determination and execution to allow him to reflect upon the consequences of his act and to allow his conscience to overcome the resolution of his will had he desired to hearken to its warnings [People vs. Gravino, L-31327, May 16, 1983, 122 SCRA 123].

Nighttime can not be considered aggravating in this case as there is no proof that it was especially sought by Camilet to perpetrate the crime [People vs. Villar, Jr., L-34092, August 21, 1974, 58 SCRA 512]. Neither could disregard of rank be aggravating here because, as correctly observed by the Solicitor General, there is no clear evidence that Camilet committed the crime in disregard of the respect due Perfecto, Sr. as barangay captain.

In the absence of a qualifying circumstance, the fatal stabbing of Perfecto Camancho, Sr. is a homicide, not a murder. Homicide is punishable under Articles 249 and 64[1] of the Revised Penal Code with reclusion temporal medium as there are neither aggravating nor mitigating circumstances. Applying the Indeterminate Sentence Law, the proper penalty is an indeterminate sentence of eight [8] years and one [1] day of prision mayor medium as minimum to sixteen [16] years of reclusion temporal medium as maximum. In accordance with the ruling in People vs. De la Fuente, L-63251-52, December 29, 1983, 126 SCRA 518, the indemnity is pegged at P30,000.

WHEREFORE, the judgment of the trial court as modified. Appellant Regino Camilet is hereby found guilty of homicide and sentenced to eight [8] years and one [1] day of prision mayor medium as minimum to sixteen [16] years of reclusion temporal medium as maximum, and to pay the heirs of Perfecto Camancho, Sr. an indemnity of P30,000. Costs against the appellant.

### **SO ORDERED.**

Feria, (Chairman), Alampay, Gutierrez, Jr., and Paras, JJ., concur.

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