

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ROLANDO PICARDAL Y DEL MONTE AND ROMEO PICARDAL Y DEL  
MONTE, ACCUSED-APPELLANTS.**

*G.R. No. 72936. June 18, 1987*

Ponente: PARAS, J.

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**PARAS, J.:**

This is an appeal from the decision of the Regional Trial Court\* of Quezon City, Branch XCVIII, promulgated on October 8, 1985 (Rollo, p. 36) convicting the accused-appellants of the crime of murder, the decretal part of said de-cision reading:

"WHEREFORE, the Court finds the accused, ROLANDO PICARDAL y DEL MONTE and ROMEO PICARDAL y DEL MONTE, GUILTY beyond reasonable doubt of the crime of murder as charged in the information and hereby sentences each to the penalty of reclusion perpetua. Both accused are ordered to indemnify, jointly and sever-ally, the heirs of Jose Santiago y Quiapo in the sum of P11,500.00 as actual or compensatory damages and P30,000.00 as moral damages, without subsidiary impri-sonment in case of insolvency; and to pay the proportionate costs". (Rollo, p. 41).

Accused-appellants were indicted for Murder at the above-mentioned court in an information (Rollo, p. 5) filed by the Assistant City Fiscal, alleging:

"That on or about the 30th day of December, 1982, in Quezon City, Philippines, the above-named accused, conspiring together, confederating with and mutually helping one another, with intent to kill, with evident premeditation and treachery, did, then and there, wilfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of one JOSE SANTIAGO y QUIAPO, by then and there stabbing with one (1) double-bladed deadly weapon in the different parts of the body, inflicting upon him eight (8) serious and mortal wounds which was the direct and immediate cause of his death, to the damage and prejudice of the heirs of the victim in such amount as maybe awarded to them under the provisions of the Civil Code."

The facts as found by the trial court are as follows:

In the evening of December 30, 1982 Diosdada Francisco and her husband Jose Santiago y Quiapo went to the residence of the Barangay Captain of Baesa, Quezon City to ask him to settle a domestic squabble between the spouses. After the Barangay Captain succeeded in ironing out their differences, they decided to go home but since the barangay tanods were having a sort of merrymaking at the residence of the Barangay Captain because of the induction of the newly elected officers of the barangay, they stayed for a while to converse with the barangay tanods. Jose Santiago was prevailed upon to take some beer. Thereafter, they left the place to go home, walk-ing along Howmart Road, but on their way, almost near their house, three men - Rolando Picardal, Romeo Picardal and Alfredo Picardal alias Romeo del Monte - without any provoca-tion blocked their way. Rolando Picardal immediately put an arm on the shoulder of Jose Santiago and at the same time stabbed him. Romeo Picardal, on the other hand, went around Jose Santiago and held the latter's hands behind, forcing the latter to face Rolando Picardal who continued to stab the victim several times with a double-bladed weapon measu-ring about one (1)

foot, including the handle. In her confusion Diosdada Francisco kept on shouting for help while she ran back to the house of the Barrio Captain, about 200 meters away from the scene of the stabbing incident. Barangay tanods responded to her call for assistance but when they arrived at the scene of the crime, both Romeo Picardal and Rolando Picardal were no longer there. They gave chase to the two suspects and caught Rolando Picardal still holding the knife and shouting to his brother Romeo, to continue running and escape. Romeo Picardal was apprehended at his house. Both men were brought to the police precinct by the apprehending barangay men where they gave their separate statements. (Decision, Criminal Case No. Q-23052, Rollo, pp. 54-59; Appellee's Brief, pp. 1-4).

The victim's death was attributed to Hemorrhage acute, severe, secondary to stab wounds (Autopsy Report; Exhibits, p. 7).

Among other things, the evidence presented by the prosecution at the hearing include: (1) the testimonies of: (a) Diosdada Francisco-Santiago, the sole eye witness of the prosecution; (b) Patrolman Melencio Lim; (c) Benjamin de Castro, a barangay tanod; (d) Domingo Sus, team leader of the barangay tanod; and (e) Dr. Nieto Salvador, a medico-legal officer of the National Bureau of Investigation; (2) documentary evidence such as: (a) autopsy report; (b) diagram showing where the stab wounds were located; (c) salaysay of Diosdada Francisco-Santiago; (d) Pinagsamang Salaysay ni Benjamin de Castro and Manuel K. de la Cruz; and (3) Physical evidence - the fatal weapon used in stabbing the victim.

The trial court finding that the prosecution has established with moral certainty that the deceased was a victim of conspiracy between brothers Rolando and Romeo Picardal who stabbed the former to death, convicted both accused of murder as charged and sentenced them to the penalty of reclusion perpetua. (Decision, Criminal Case No. Q-23052; Rollo, p. 41).

Both of them appealed. In an Order dated October 9, 1985, the appeal was approved by the trial court and the entire record of the case was forwarded and received by the Court on December 4, 1985 (Rollo, p. 1).

In the resolution of January 22, 1986 the Court ACCEPTED the appeal (Rollo, p. 42).

The brief for the Appellants was filed with the Court on June 26, 1986 (Rollo, p. 53) and admitted by the Court in its Resolution dated August 4, 1986 (Rollo, p. 60). The Brief for the Appellee was filed with the Court on October 9, 1986 (Rollo, p. 64).

As of this date the Reply Brief has not yet been received by this Court.

No Reply Brief was filed.

## ASSIGNMENT OF ERRORS

### I

THE COURT A QUO ERRED IN FAVORABLY CONSIDERING THE TESTIMONIES OF THE PROSECUTION WITNESSES NOTWITHSTANDING THAT THE SAME ARE NOT CREDIBLE AND NOT IN ACCORD WITH THE ORDINARY COURSE OF THINGS.

### II

THE COURT A QUO ERRED IN CONVICTING THE ACCUSED NOTWITHSTANDING THAT THEIR GUILT HAS NOT BEEN PROVED BEYOND REASONABLE DOUBT.

The appeal is devoid of merit.

The accused Rolando Picardal pleaded self-defense. It is a well-established principle that where the accused has admitted that he is the author of the death of the deceased, it is incumbent upon the appellant, to avoid criminal liability, to prove this justifying circumstance claimed by him - self-defense - to the satisfaction of the court. To do so he must rely on the strength of his own evidence and not on the weakness of the prosecution, for even if that were weak it cannot be disbelieved after the accused himself has admitted the killing. (People v. Ansoyon, 75 Phil. 772 /1946/; People v. Silang Cruz, 53 Phil. 635 /1929/). Otherwise stated, the burden of proof is shifted from the prosecution to the accused and it is the duty of the latter to establish self-defense by evidence clear and convincing. (People v. Valencia, 133 SCRA 82 /1984/; People v. Urbistondo, et al., 132 SCRA 268 /1984/; People v. Pasco, Jr., 137 SCRA 137 /1985/).

Thus, self-defense, being an affirmative allegation, it is incumbent upon the accused to prove clearly and sufficiently its elements, otherwise the conviction of the accused is imperative. (People v. Plandez, 132 SCRA 69 /1984/).

The three requisites of self-defense and defense of relatives and strangers as stated in par. 1 of Article II of the Revised Penal Code are as follows: (1) unlawful-aggression; (2) reasonable necessity of the means employed to prevent or repeal it; and (3) lack of sufficient provocation on the part of the person defending himself.

In the case at bar, the theory of self-defense will not prosper where clearly, the first requisite thereof which is unlawful aggression (People v. Valencia, supra) is not even present.

For one thing, the prosecution witness testified that appellant Rolando without any provocation, stabbed the victim with a double-bladed knife (Hearing, June 29, 1983, pp. 3-5). In contrast, the accused would have the court believe that it was the victim who was the unlawful aggressor. He testified that when he went out to buy viand at Cecil Can-teen, he was hit on the head by the victim with a piece of wood but he was able to escape from the latter and his group. However, thirty (30) minutes later, he returned to get the viand from his friend. It was then that he met again the victim and his group who were about to hit him again. As the victim was about to stab him, he allegedly got hold of a sharp object and hit the victim instead.

The absence of unlawful aggression is readily apparent from the fact that Rolando by his own testimony had already escaped from the supposed aggression when thirty minutes later, he returned. The incredibility of Rolando's testimony was correctly observed by the trial court which refused to give credence to the fact that the accused would return to the scene of the incident unless he was really looking for trouble. (Decision, Criminal Case No. 23052, Rollo, p. 57).

No less important is the absence of evidence that the deceased was in fact armed at the time of the incident, except for the uncorroborated version of the accused Rolando Picardal that the victim had a double-bladed weapon which he was able to wrest away and used in continuously stabbing the latter eight (8) times. (Hearing, January 17, 1985; TSN pp. 11-12).

However, as to how it was possible for him to do so with four (4) other companions of the victim allegedly encircling him, appears incredible especially considering the fact that the accused who claims to be the victim of an aggression was unscathed while his adversary sustained serious wounds whose nature and location belie the claim of self-defense. (People v. Garachico, 113 SCRA 131 /1982/; People v. Ganut, 118 SCRA 35 /1982/).

On the other hand, the defense put up by appellant Romeo Picardal is alibi, claiming that it was impossible for him to participate in the commission of the offense because at or about the time of the incident in question he was inside his house sleeping. (Hearing of February 20, 1985, TSN, p. 2).

Appellant Romeo Picardal and his co-appellant were positively identified by the wife of the victim, Mrs.

Diosdada Francisco Santiago as the assailants (Hearing of June 29, 1983, TSN, pp. 3-4).

In a long line of precedents, it has been established that alibi is worthless in the face of positive identification by the prosecution witness. (People v. Martinez, 127 SCRA 260; People v. Pueblas, 127 SCRA 746; People v. Mesias, Jr., 127 SCRA 792; People v. Davies, 131 SCRA 286; People v. Tajon, 128 SCRA 656; People v. Lagazon, 129 SCRA 333; People v. Munar, 131 SCRA 44; People v. Campesino, 131 SCRA 56). In fact the Supreme Court strongly stated in People v. Plandez (132 SCRA 70 /1984/ that it is generally accepted "that alibi - the much abused sanctuary of felons and which is considered as an argument with a bad reputation, cannot prevail over the positive testimonies of the prosecution witnesses. It is, to say the least, the weakest defense and must be taken with caution being easily fabricated."

In the case at bar where it was established at the hearing that the scene of the crime was within the vicinity of the residence of both the appellants and the victim who lived in the same house in Howmart Road, Baesa, Quezon City (Hearing of June 29, 1983, TSN, p. 5) in adjacent rooms with only a partition between them (Hearing of February 20, 1985, TSN pp. 9-10), there is even less likelihood that alibi can overcome the testimony of the prosecution witness who under the circumstances knew the accused personally and who had no reason nor evil motive to falsely impute to the accused the commission of such a serious offense as murder. (People v. Tiengo, 133 SCRA 291 /1984/; People v. Arbois, 138 SCRA 24 /1985/).

In the same manner, it has been repeatedly held that alibi is not a proper defense where it was not impossible for the accused to be at the scene of the crime. (People v. Atanacio, 128 SCRA 22; People v. Pizarro, 131 SCRA 286 /1984/; People v. Urgel, 134 SCRA 483 /1985/).

Finally, there appears to be no reason to discredit the testimony of Diosdada Santiago, the victim's wife which as found by the trial court was a clear, positive and affirmative declaration, depicting a full account of what actually transpired. Her narration is fully corroborated by the medical findings of the NBI doctor who conducted the autopsy on the corpse of the victim. (Hearing of October 31, 1984, TSN pp. 262-266).

She was consistent in her statement to the police (Exhibit "A") and in her testimony in court (Hearing of June 29, 1983, TSN pp. 3-11) as to how her husband was stabbed to death and how she shouted and ran back to the house of the barangay captain for help. Her testimony here was corroborated by the testimony of barangay tanod Benjamin de Castro who with the barangay tanods went after the accused Rolando Picardal whom they found being mauled by the barrio people for having stabbed the victim. They found him prostrate on the ground with a double bladed weapon six inches long including the handle beside him (Hearing of January 25, 1984, TSN pp. 3-5). The description of that weapon fits the description of the weapon described by the victim's wife which was used in the stabbing of her husband by the accused.

As above stated Diosdada Santiago identified the assailants of her husband as Rolando and Romeo Picardal (Hearing of June 29, 1983, TSN p. 4). Her identification was positive and categorical and there can be no doubt as to her ability and opportunity to make the correct identification as the place of the incident was well lighted by an electric bulb in an electric post 4 to 5 meters away and by the lights of the houses along the road 2 meters away. (Ibid., p. 5).

Likewise, Diosdada Santiago could not have been mistaken as to the identity of both appellants who lived in the same house occupied by her husband and herself with only a partition to separate the quarters.

It is also to be noted that Diosdada Santiago immediately revealed her husband's assailants to the barangay tanods to whom she ran for help and on the same night of the incident she immediately executed a sworn statement before Pat. Melencio Lim of the La Loma Substation, Quezon City Police where she identified both

appellants as the persons responsible for the death of her husband. (Hearing of June 29, 1983, RSN pp. 8-9; Hearing of October 25, 1983, TSN pp. 3-4). Under such circumstances, the Court has ruled that said actuations of the wife make her testimony credible. (People v. Pueblas, 127 SCRA 754 /1984/).

It is claimed that prosecution witness Santiago's testimony that appellant Romeo Picardal was apprehended in the latter's house after the stabbing incident is not in "consonance with human experience." The defense contends that if appellant Romeo Picardal had also participated in the commission of the offense, it would be more logical for him to take flight to avoid arrest instead of taking refuge in his own home (Appellant's Brief, p. 5).

It will be recalled that the scene of the crime is in the vicinity of his house, so that when he was being pursued by the barangay tanods he had no other alternative but to take refuge therein. In fact, when he was found by the ba-rangay tanods in his room, he was not sleeping peacefully but was perspiring and gasping for breath "hinal kabayo", (Hear-ing of April 11, 1984, TSN p. 5). Had he been innocent, his normal reaction would have been not to flee from the scene of the crime but to offer assistance to the victim.

The rule is well settled that the conclusions of fact of the trial judge are entitled to great weight. (People v. Atanacio, 128 SCRA 22 /1984/) and that his findings on the credibility of witnesses cannot be disturbed on appeal for he was in a position to ascertain which of the witnesses were more credible. (People v. De Leon, 128 SCRA 121; People v. Olalia, 128 SCRA 139; People v. Mesias, Jr., 127 SCRA 746; People v. Cabanlig, 128 SCRA 230).

PREMISES CONSIDERED, the assailed decision is hereby AFFIRMED.

**SO ORDERED.**

Fernan, (Chairman), Gutierrez, Jr., Padilla, Bidin, and Cortes, JJ., concur.

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\* Penned by Judge Remigio E. Zari.

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