

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FERNANDITO SICAT Y SALAK, DEFENDANT-APPELLANT.

G.R. No. 89278. September 04, 1992

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal from the decision of the Regional Trial Court of Tarlac, Branch 64, the dispositive portion of which reads:

“WHEREFORE, the Court finds accused Fernandito Sicat y Salak guilty beyond reasonable doubt of the crime of Parricide as defined and penalized in 246 (sic) of the Revised Penal Code and hereby sentences him to suffer a penalty of reclusion perpetua with the accessories provided by law and with credit for preventive imprisonment undergone in accordance with Article 29 of the Revised Penal Code as amended by Rep. Act No. 6127 and further amended by Batas Pambansa Blg. 85; to indemnify the heirs of Aida Sicat the amount of Thirty Thousand (P30,000.00) Pesos as death indemnity and Ten Thousand (P10,000.00) as moral damages and to pay the costs.”

“Considering however that from the observation of the Court, accused Fernandito Sicat appears to be a gentle person and there is a bright future for him if given another opportunity to lead a peaceful life as he is only a victim of circumstances not of his own making, it is strongly recommended that an executive clemency be extended to him. Furthermore, his children need his guiding presence.

“For this purpose, let therefore a copy of this Decision be forwarded to the President of the Philippines, Malacañang Palace, Manila, through the Honorable Secretary of Justice, Manila, for consideration.” (Rollo, p. 20)

The information filed against the accused alleges:

“That on or about December 11, 1988, in Brgy. Cubcub, Municipality of Capas, Province of Tarlac, Philippines and within the jurisdiction of this Honorable Court, the said accused, Fernandito Sicat y Salak, did then and there willfully, unlawfully and feloniously and with evident premeditation, that is, having conceived and deliberated to kill his legal wife, Aida Sicat y Frayna, attack, assault and slash her throat with an improvised knife (a cut and sharpened iron saw 7 inches in length) inflicting wound on her left chest, and slash wound on her throat which directly caused her instantaneous death.” (Rollo, p. 4)

The prosecution evidence upon which the trial court based its finding of guilt beyond reasonable doubt is as follows:

The evidence for the prosecution buttressed mainly through the testimonies of Pat. Nestor Allado of the Integrated National Police, Capas Police Station, Capas, Tarlac, Capas Mayor Hermes S. Frias, Dr. Roberto Cecilio, Municipal Health Officer, Bamban, Tarlac and Helena Frayna, mother of the victim, is to the effect that at about 7:30 o’clock in the morning of December 11, 1988, Pat. Nestor Allado was on duty at the headquarters of the Capas Police Station, Capas, Tarlac when he was informed by a certain Alvin Yusi that accused Fernandito Sicat slashed his throat; that upon receiving the report, Pat. Allado and Pat. Rolly Cortez

proceeded to the place of the accused at Brgy. Cubcub, Capas, Tarlac and upon arriving thereat, the police officers asked the accused to surrender peacefully; that the plea of the police officers having fallen on deaf ears, the latter enlisted the help of Mayor Hermes Frias who was then hearing mass at Capas Catholic Church; that the mayor immediately proceeded to the house of the accused together with the two police officers and other individuals; that upon reaching the bungalow-type house of the accused, the mayor instructed the accused to show up and at the same time asked for the whereabouts of his wife; that the accused then went to the window and retorted that he killed his wife, that the Mayor then exhorted the accused to throw the death weapon and to surrender peacefully with the assurance that no harm would befall on him; that after a long pause, the accused finally decided to give up by throwing a blood-stained improvised knife (Exhibit C) on the ground and immediately stepped out of his house; that the mayor noticed that there was a gaping wound on the right side of the accused's neck prompting the former to immediately instruct his nephew to get an ambulance and rush the said accused to the Tarlac Provincial Hospital in Tarlac, Tarlac for medical emergency treatment; that at the said hospital, the accused was treated for the injuries that he sustained; that in the meantime, the mayor and the police officers entered the house of the accused; that inside the bedroom, the group saw the lifeless body of Aida Frayna Sicat sprawled on the bed with a slit throat; that the cadaver was brought to the Funeraria Mallari in Capas where Dr. Roberto S.J. Cecilio performed an autopsy and thereafter prepared his report (Exhibit A) with the following findings:

1. WOUND, STAB, 0.7 cm., 1/2" AWAY FROM THE STERNUM, PENETRATING, WITH ONE SHARP EXTREMITY, LEVEL OF THE 6TH. ICS. HORIZONTAL, DIRECTED SUPERIORLY, CHEST, LEFT.
2. WOUND, STAB, #2. 0.2 cm., NON-PENETRATING, LEVEL OF THE 6TH. RIB, MID-CLAVICULAR LINE, CHEST, RIGHT.
3. WOUND, INCISED, 1.2" IN LENGTH, HORIZONTAL, SUBMENTAL TRIANGLE.
4. WOUND, INCISED, 1.8" IN LENGTH, ANTEROLATERAL ASPECT, NECK, LEFT, SEVERING THE UNDERLYING MUSCLES, ARTERIES, VEINS AND NERVES.
5. HEMOTHORAX, LEFT.
6. LACERATED LUNG TISSUE, LEFT.

"After preparing the autopsy report, the said doctor prepared the death certificate (Exhibit B) which showed the cause of death as 'Irreversible shock Hemorrhage severe multiple stab wounds and Incised Wounds.' Meanwhile, Pat. Allado also prepared an initial investigation report on the incident (Exhibit G) and then turned over the active, investigation of the case to another police officer." (Rollo, pp. 11-13)

The appellant while admitting the stabbing, however, claims self-defense. His testimony is as follows:

"That he is 36 years old widower, jobless and a resident of Brgy. Cubcub, Capas Tarlac; that on December 10, 1988, he asked permission from his wife, Aida Frayna Sicat, to visit his compadre, Al Mallari, at the latter's house within the neighborhood; that when he failed to see his compadre, he decided to go to Angeles City to see a movie; that he stayed in Angeles City up to 9:00 p.m. of the same day although he did not see a movie; that thereafter, he decided to go home and arrived at their place at past 9:00 p.m. already; that after he entered his house, he opened the door of the room occupied by him and his wife; that to his surprise, he caught his wife lying on the floor with another man and that both of them were naked; that the stranger suddenly took his clothes and jumped out of the window; that he chased the intruder but he was not able to overtake him; that he returned to his wife and confronted her about the presence of the man; that his wife who was still undressed at that time remained silent; that because of the presence of his minor children, he did not take any drastic action against his wife; because of his fear that the stranger might return and inflict harm on him, he thought of spending the night with his wife and two children (the other two children staying with his mother-in-law in Bicol) in the house of his mother; that because he and his wife were quarrelling, his mother left the place to

sleep in the house of their neighbor; that at about 3:00 a.m. of December 11, 1988, he felt a searing pain on his neck, that he opened his eyes and saw his wife near the bed with her right hand smeared with blood; that he instinctively stood up and saw a knife under the bed; that believing that he was already betrayed by his wife and the latter still wanted to take his life, he got blinded with rage; that he picked up the knife and in one fatal stroke, slashed the throat of his wife resulting in her instantaneous death; that having lost all hope for the future, he decided to end his life by cutting his wrist; that thereafter, he lost consciousness; that at about 5:00 a.m. of the same day, he noticed many people milling within the premises; that he heard the voice of the mayor of Capas exhorting him to get out of the house so that his wound would be treated; that the mayor further assured him that he will help him in his problem; that after hearing the mayor, he went out of the house and approached the mayor and his companions; that he was brought to the Tarlac Provincial Hospital where he was treated of his injuries (Exhibit C); that thereafter, he was booked and arrested accordingly and locked at the Capas Municipal Jail; that one year prior to the occurrence of the incident here involved, he suspected his wife of having an illicit affair with another man but he did not give the matter a serious thought because he did not have any evidence to support his suspicion; that his suspicion is based on the fact that his wife who was then teaching at the High School Department of the Dominican School in Capas, Tarlac used to arrive home from school late; that when he asked his wife where she had been, the latter could not give the exact place and the name of the owner of the house where she was supposed to have come from;

That he met his wife when he was taking a course in mechanical engineering at the FEATI University in Manila in 1970; that at that time, his wife was then taking a course in computer science at a school in Cubao, Quezon City; that he courted his wife and they became eventually engaged and married in 1976 before the Municipal Mayor of Capas; that out of their union, four children were born, namely, Oliver 11 1/2 years old, Jesse James, 9 years old, Francis John, 6 1/2 years old and Fernandito, Jr., 3 years old; that Francis John and Fernandito, Jr. were then staying with him and his late wife while the two other children are entrusted to the custody and care of his mother-in-law, Floria Frayna, who is residing in Sorsogon; that sometime in 1982, he worked in Saudi Arabia for about 10 months; that after the termination of his work, he returned to the Philippines where he was unemployed for about a month; that after being idle for about one month, his former employer recalled him for re-employment; that he worked for another six and one-half months in Saudi Arabia and, thereafter, he returned to the Philippines to find himself unemployed once more until the incident happened.” (Rollo, pp. 13-16)

The appellant raises the sole assignment of error that:

“THE TRIAL COURT GRAVELY ERRED IN APPLYING ARTICLE 246 OF THE REVISED PENAL CODE AGAINST THE ACCUSED-APPELLANT.” (Appellant’s Brief p. 6)

The appellant admits to the killing of his wife (TSN, April 5, 1989, pp. 2 and 7) but contends that the killing was done in self-defense. He should, therefore, be acquitted of the crime of parricide.

The appellant states that the elements of self-defense namely: (1) unlawful aggression; (2) reasonable necessity of the means employed to prevent or repel the unlawful aggression; and (3) lack of sufficient provocation on the part of the person defending himself are all present in the instant case. The appellant asserts that without provocation on his part, wife slashed his throat while he was sleeping. Upon waking up, he then grabbed the knife used by his wife and then slashed her neck in order to repel the latter’s unlawful aggression.

This contention of the appellant does not engender belief. It is not supported by the records. We find the appellant guilty of the crime of parricide beyond reasonable doubt.

It is a well-established rule that if an accused invokes self-defense, it is incumbent upon him to prove by clear and convincing evidence that he acted in self-defense. (People v. Arroyo, 201 SCRA 616, 625 [1991]). The accused is duty bound to prove by clear and convincing evidence the essential requisites of this justifying circumstance, the

onus probandi having shifted to him. (See *People v. Lacao, Sr.*, 201 SCRA 317, 326 [1991]) In the case at bar, the appellant failed to prove his allegations.

The appellant asks the Court to accept his story that his wife unlawfully attacked him by slashing his throat while he was sleeping because of his wife's feeling of resentment against him upon his discovery of her unfaithfulness and their subsequent quarrel.

In the case at bar, the appellant had more reason to kill his wife rather than his wife to kill him.

We agree with the trial court's observation, to wit:

“x x x that the victim was killed by her husband because of intense jealousy and a feeling of insecurity caused by the fact that the latter's wife was practically the breadwinner of the family. And because of a remorse conscience, the accused tried to take his life by slashing his throat and left wrist with an improvised knife.” (Rollo, p. 19)

Self-defense is further negated by the manner of infliction and the number of physical injuries sustained by the appellant's wife. (See *People Nabayra*, 203 SCRA 75, 82 [1991]) The appellant's wife suffered six (6) stab wounds, two (2) of which were fatal wounds (TSN, February 21, 1989, pp. 5-6). The stabbing of the wife was not even necessary. The appellant himself testified that when he woke up, his wife did not even have the knife in her hands. He just saw his wife's bloodied right hand and the knife under the bed. (TSN, April 5, 1989, pp. 6-7) But he still picked up the knife and inflicted the six (6) stab wounds. The theory that self-defense was just an afterthought is further strengthened by the appellant's failure to surrender at once to the mayor. It took the appellant, more or less, an hour to come out of his house and give himself up. (TSN, March 16, 1989, p. 4) He also did not relate his claim of self-defense at once to the proper authorities. (TSN, April 5, 1989, p. 17)

The appellant, having failed to prove by clear and convincing evidence that he killed the victim in self-defense, must now be convicted of the crime of parricide.

Parricide is committed when any person kills his father, mother or child, whether legitimate or illegitimate, or any of his ascendants, or descendants, or his spouse. (Article 246, Revised Penal Code) The marriage between the appellant and the victim, having been admitted in the pre-trial conference, makes the killing of the victim fall under the crime of parricide.

The mitigating circumstances of passion and obfuscation and voluntary surrender are not appreciated in this case.

The appellant contends that when his wife unlawfully attacked him, he went berserk. His wife's unfaithfulness to him coupled with her desire to kill him and his nervousness prompted him to slash her throat.

There can be no passion and obfuscation when more than five (5) hours had lapsed between the discovery of his wife's unfaithfulness and the killing of his wife. (See *People v. Aguilando, et al*; 92 Phil. 583, 588 [1953]; *People v. Matbagon*, 60 Phil. 887, 890 [1934]; *U.S. v. Sarikala*, 37 Phil. 486, 490-491 [1918]) The appellant had enough time to reflect and gain control of his self.

Likewise, there is no voluntary surrender as it was the police officers and later on, the mayor who went to the house of the appellant to ask him to give up.

The trial court recommended that executive clemency be extended to the appellant. This Court, bearing in mind that the trial court had every chance to observe the behavior of the appellant, respects its recommendation.

However, the indemnity to the heirs of the victim is raised to P50,000.00 in line with jurisprudence.

WHEREFORE, the appealed decision is hereby AFFIRMED with the aforesaid modification.

SO ORDERED.

Bidin, Davide, Jr., and Romero, JJ., concur.

Feliciano, J., on leave.

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