

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROGER AREVALO AND EDGAR BLANCAFLOR,
ACCUSED-APPELLANTS.**

G.R. No. 93406. October 07, 1992

Ponente: NARVASA, J.

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NARVASA, J.:

This appeal seeks the reversal of the judgment of the Regional Trial Court of Masbate[1] in Criminal Case No. 5513, dated February 14, 1990, finding Roger Arevalo and Edgar Blancaflor guilty beyond reasonable doubt of the crime with which they were charged, the murder of Reynaldo Hernandez. Blancaflor was thereby sentenced to reclusion perpetua and Arevalo, in view of the mitigating circumstance of voluntary surrender appreciated in his favor, to an "indeterminate sentence of TEN (10) YEARS of Prison Mayor as minimum to EIGHTEEN (18) YEARS of reclusion temporal as maximum." The judgment also ordered both accused "to indemnify the heirs of the deceased, jointly and severally, (in) the amount of Thirty Thousand (P30,000.00) Pesos, without subsidiary imprisonment in case of insolvency, and to pay the cost." [2]

The information which initiated the criminal action against Arevalo and Blancaflor alleged that in the evening of April 3, 1988, at Balud, Masbate, both accused, "confederating together and helping one another, with intent to kill, evident premeditation, treachery, superiority of strength and taking advantage of nighttime, did ** wilfully, unlawfully and feloniously attack, assault, shoot with (a) gun and stab with a machete, one Reynaldo Hernandez, hitting him on ** different parts of his body, thereby inflicting wounds, which caused his instantaneous death."

In proof of these allegations, the State called four (4) witnesses to the stand, namely: Dr. Jovellano Aguilar, Jr. -- who did the autopsy of the deceased Reynaldo Hernandez; Police Corporal Harry Estrella -- to whom Roger Arevalo surrendered; and two (2) eyewitnesses: Honorato Navarro -- the owner of the house in which the slaying took place; and Pasolita Catalan -- who was in the house at the time of the occurrence. The facts established by the evidence of these witnesses are hereunder summarized.

In celebration of the graduation from high school of his son, Fernando, Honorato Navarro gave a party at his home in the municipality of Balud, Masbate Province, in the evening of April 3, 1988. One of the invited guests was Reynaldo Hernandez, who came at about 7 o'clock. Honorato seated him on a bench in the upper story of the house, near a window, and gave him a glass of tuba.

Also invited were Honorato's parents, Pito Basal, Vicing Basal, Inday Mangaarin, Pasolita Catalan and her husband, Sofronio Catalan, as well as the two accused, Roger Arevalo and Edgar Blancaflor, and their spouses. Roger and Edgar did not go upstairs.

At about 8:30 o'clock that night, the guests were startled by the sound of a shot. Honorato Navarro, who was then seated beside Reynaldo Hernandez, at once noticed that Reynaldo had been shot on the right side of the head. He jumped up from the bench and went to the door. He saw Roger Arevalo, who was standing in the yard, about one and a half meters lower than the second story of Honorato's house. Arevalo was holding a gun, about two feet

long, with the barrel pointed upward. At this point, Honorato realized that he himself had also been wounded because blood was dripping from his head, and he felt dizzy. He called out to his father to bring him to the hospital. As he was being helped out by his father, he saw Reynaldo Hernandez prostrate on the floor. He later learned that Reynaldo had died.

When the shot rang out, Pasolita Catalan, another guest, was sitting near the door. She saw Reynaldo Hernandez begin to slump towards the floor. She also saw Edgar Blancaflor at the window beside which Reynaldo had been sitting, and saw Edgar stab Reynaldo at the right side of the neck with a knife. She also noticed Roger Arevalo standing by the door, holding a gun. Roger was trying to get in but Pasolita blocked the doorway and prevented him from entering the room. Reynaldo fell to the floor.

The wives of Roger Arevalo and Edgar Blancaflor then came and brought them away from the place. It appears that Edgar and Roger are brothers-in-law, Roger's younger sister being Edgar's wife.

Dr. Jovellano Aguilar, Jr., the municipal health officer of Balud, conducted a post-mortem examination of the victim, Reynaldo Hernandez. He testified that Reynaldo had been shot in the head with a shotgun, which caused an injury "so devastating (that) the lower mandible was fractured into pieces," and some pellets pierced the brain. Reynaldo had also been stabbed in the neck, the injury being a "through and through wound," hitting a "big artery." Both wounds were fatal; either would have produced death. In the death certificate, Dr. Aguilar entered the cause of death as shock, secondary to brain injury due (to) shotgun wound, face and hemorrhage due to stab wound."

Pasolita Catalan and her husband, Sofronio, reported the killing to Police Corporal Harry Estrella at his house in Balud. After obtaining permission from the station commander, Corporal Estrella went to the scene of the crime to conduct an investigation. He came upon Reynaldo Hernandez in the house of Honorato Navarro, lying on the floor, near the door of the small balcony. No one else was in the house. He caused the body of Reynaldo to be brought to his family's house. He next went to look for Roger Arevalo and Edgar Blancaflor but could not find them that night.

The following day, Roger Arevalo's wife went to Estrella and told him Roger wished to surrender but was fearful of retaliation by the victim's relatives. Estrella then accompanied Roger's wife to Biulan, Balud, Masbate, where he found Roger, at his cousin's house. He brought Roger to the police station and there interrogated him. Roger allegedly stated "that he was the one who shot" Reynaldo Hernandez.

Both the accused testified in their defense. Edgar Blancaflor denied having gone to the house of Honorato Navarro on April 3, 1988, insisting that from 6:00 o'clock in the morning of that day, up to 6:00 o'clock in the morning of April 4, 1988, he was in his house at the poblacion, Balud, Masbate.

For his part, Roger Arevalo admitted that it was he who shot and stabbed Reynaldo ("Rene") Hernandez, but asserts he did so in self-defense. According to him, after deciding to go home from the party, and as he was stepping out of the kitchen door on the ground floor of Honorato Navarro's house, he felt two knife thrusts in the back. He looked back and saw that it was Rene who had wounded him (with a ten-inch knife) and was even then at the point of stabbing him yet a third time. He quickly drew his own knife and thrust it at Rene, hitting him on the left side of the neck. Roger saw that Rene was also holding a gun. He wrested the gun away from Rene, ran up and then down the house, and sought to take cover at one side of it. However, he soon saw that Rene had caught sight of him, and from a window in the upper floor was poised to "spin" (throw) a bolo at him. So he shot Rene.

Asked "why, despite the fact that you have not done anything bad, and you have not done anything that could provoke ** a fight between you and Rene Hernandez, ** he stabbed you?" Roger Arevalo gave the following

intriguing answer: "Rene Hernandez killed my father (Felipe Arevalo) and he was imprisoned," but that this notwithstanding, he "did not harbor (any) ill feeling against ** Rene Hernandez" because "I have my family."

The Trial Court rejected Roger Arevalo's claim of self-defense, and Edgar Blancaflor's defense of alibi. It held their testimony unworthy of credit and ruled the prosecution's proofs to have established beyond reasonable doubt that both said accused had conspired to kill Reynaldo Hernandez and had carried out their objective with alevosia. It thus rendered judgment in the manner already described in the opening paragraph of this opinion.

The review of the evidence painstakingly made by this Court impels agreement with the conclusions reached by the Trial Court.

The record of the testimony of the prosecution witnesses discloses that frankness, cohesiveness, and absence of dissemblance and inconsistency which have come to be the recognized features of truthfulness. The eyewitnesses' account of the killing of Reynaldo Hernandez is simple and direct: while Reynaldo was sitting on a bench in the sala of the house of Honorato Navarro, he was shot in the face by Roger Arevalo; the same blast from the shotgun also injured Honorato; and as Reynaldo was slumping to the floor, Edgar Blancaflor, who had climbed the window beside which Reynaldo had been seated, stabbed him in the neck. Said account is entirely consistent with the medical expert's description of the wounds found on the victim's cadaver.

The testimony of the accused-appellants is not, unfortunately, of the same nature as that of the government witnesses.

Roger Arevalo's testimony, generally to the effect that he had acted in legitimate defense of his person, contains suspicious and debilitating elements. His story is that, to protect himself from a sudden, unprovoked attack of Reynaldo Hernandez -- as a result of which he had in fact already sustained two (2) wounds in the back - -he had stabbed the latter in the neck. Now, according to Dr. Villasis, the post-mortem physician, the wound thus inflicted was a grievous one, one which had penetrated the neck "through and through" and severed a big artery, causing massive hemorrhage. From such a wound, almost instantaneous physical debilitation would have ensued, and death would have occurred in a matter of moments. This renders highly suspect Edgar's claim that that neck wound notwithstanding, Reynaldo still had sufficient life and vitality in him to wrestle with him for possession of the shotgun, search for him while he (Edgar) sought to take cover by the side of the house, and having spotted him, provide himself with a bolo and prepare to hurl it ("spin it") at him.

Roger Arevalo's story also fails to explain why Honorato Navarro was also injured by the same discharge from the shotgun. And there are unusual circumstances attending his contention that he had been wounded in the back by Reynaldo Hernandez.

Roger testified that he was treated for stab wounds in the back at the Mandaon Medicare Community Hospital, having in truth been confined there for several days. In relation to that declaration, he marked in evidence a medical certificate purportedly signed by the hospital's Chief, Dr. Napoleon M. Villasisto, which stated that he was treated therein "from April 4, 1988 to April 11, 1988." Obviously to substantiate this alleged occurrence, the defense then caused a subpoena to be served on Dr. Villasis, dated August 18, 1989, commanding his appearance on the 19th of September, 1989 at 8:30 o'clock in the morning. The caption of the subpoena of course, set out the full names of both accused: "ROGER AREVALO and EDGAR BLANCAFLOR." But after receiving this subpoena, Dr. Napoleon Villasis declined to testify, alleging that he had no knowledge of the case. As much is shown by the handwritten return of the subpoena, made by Pat. Rolly R. Ancao, INP, which reads: "Dr. Napoleon Villasis -- properly contacted but refuse to sign* alleg*(ing) that he has no knowledge about this case" There is no question that Roger Arevalo and his counsel came to know of that return, setting out Dr. Villasis' disavowal of any knowledge about the case of Roger Arevalo; yet the latter made no further effort to procure Dr. Villasis'

appearance in court. Hence, the record reveals not only an absence of corroboration of Roger's contention that he had been attacked by Rene Hernandez, but also a not insignificant indication of the falsity of the medical certificate by which such corroboration was attempted.

Moreover, Roger Arevalo's assertion of having been confined at the hospital is belied by Corporal Harry Estrella whose un rebutted testimony is that Roger Arevalo surrendered to him the day after April 3, 1988 (or on April 4, 1988) at the house of the latter's cousin in sitio Builan, Balud, Masbate, to which house he had been brought by no less than Roger's wife.

All things considered, it cannot but be concluded that the defense has woefully failed to make out a case of self-defense in Roger Arevalo's behalf.

Neither will the defense of alibi serve to exculpate Edgar Blancaflor from the crime of murder. There is, for one thing, the undeniable fact that he was positively identified by a witness who has not been shown to be other than credible, and that, for another, his house is only a kilometer away from Honorato Navarro's. These are circumstances that, as has been ruled countless times, effectively negate a proffered alibi. And his cause is further enfeebled by the evasiveness and inconsistencies disclosed by his testimony. He first tried to disclaim any acquaintance with Roger Arevalo, his own brother-in-law; he also denied knowing Honorato Narvarro, admitting the contrary only after persistent cross-examination.

The Court also agrees that the evidence sufficiently establishes the existence of a conspiracy between the appellants, demonstrated among others by "the concerted simultaneous attack they made on the victim," as well as of the qualifying circumstance of treachery, in that the attack on their victim was made in such a manner as to preclude any defense that the latter might make.

The Court discerns no reason to disturb the findings of the Regional Trial Court, no circumstance of weight to modify its verdict. As has more than once been stressed,[3] long-established and constantly reconfirmed is the guiding principle "that unless arbitrary or without sufficient basis, the findings of trial courts on questions of fact' ** are accorded the highest respect on appeal, if not indeed regarded as conclusive ** (People v. Francisco, 182 SCRA 305, 309; see also People vs. Canamo, 138 SCRA 141; People vs. Cruz, 142 SCRA 576; People vs. Monteverde, 142 SCRA 668; Vallarta vs. IAC, 151 SCRA 679; People vs. Laureta, 159 SCRA 256; and People vs. Javier, 183 SCRA 702).

The rule is of special relevance and applicability where it is the credibility of witnesses that is mainly in contention, and as to which a trial court's findings will not be disturbed unless the record plainly shows that in making them said court overlooked facts of substance or value which might, if considered, yield a different conclusion. The reason is that:

(T)he appellate court goes only by the sterile record. By contrast, the trial court can discern the nuances of tone or voice or flush or blanch of face or dart of eyes or forthright gaze, that will draw the line between fact and prevarication. Enjoying this advantage, the trial court is less likely than the reviewing court to commit an error in assaying the conflicting evidence' (People vs. Francisco, supra)."

However, the indemnity awarded by the Court a quo should be increased from P30,000.00 to P50,000.00, conformably with present doctrine.[4]

WHEREFORE, modified by increasing the indemnity payable by the appellants to the victim's heirs from P30,000.00 to P50,000.00, the judgment of the Regional Trial Court in Criminal Case No. 5513 dated February 14, 1990, being otherwise in accord with the evidence and the law is **AFFIRMED**.

SO ORDERED.

Feliciano, Regalado, Nocon, and Campos, Jr., JJ., concur.

[1] Branch 45, Hon. Gil P. Fernandez, presiding

[2] The Trial Court also declared Arevalo "entitled to the full term of his preventive imprisonment pursuant to ** Article 21 of the Revised Penal Code as amended by Republic Act 6127, provided that he agreed to abide with the disciplinary rules imposed upon convicted prisoners while under confinement in the Provincial Jail. Otherwise he shall be credited to only four fifth (4/5) of said term."

[3] Peo. v. Alitao, 194 SCRA, 120, 126 (1991); see also, Peo. v. Tugbo, 196 SCRA 133, 137 (1991), Peo. v. Bravo, 180 SCRA 694, 699-700, Peo. v. Manantan, 196 SCRA 128, 131

[4] Peo. v. Sison, 189 SCRA 643 (1990); Peo. v. Sazon, 189 SCRA 700 (1990)

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