

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RICARDO REYES, ACCUSED-APPELLANT.

G.R. No. 94529. May 08, 1992

Ponente: NOCON, J.

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NOCON, J.:

This is an appeal from the decision of Branch 36 of the Regional Trial Court of Dumaguete City, finding herein accused-appellant Ricardo Reyes guilty of the crime of Murder. The dispositive portion of the Decision reads:

“FOR ALL THE FOREGOING CONSIDERATIONS, this Court finds the accused Ricardo Reyes guilty beyond reasonable doubt of the crime of murder, defined and penalized under Art. 248 of the Revised Penal Code and sentences him of [sic] the penalty of imprisonment of [sic] Reclusion Perpetua, to indemnify the heirs of the alleged offended party in the sum of P30,000.00, and to pay the costs. The stainless knife, eleven (11) inches long allegedly used by the accused in the commission of the offense shall be deemed confiscated in favor of the government. The accused is fully credited of his detention if any while awaiting trial.”[1]

As borne out from the records, the facts of the case are as follows:

It was in the afternoon of May 12, 1988, when Clotildo Micayabas, a police aide assigned in the “Market Task Force” of Dumaguete City, was walking along Colon Street of the same city together with another police aide, Porferio Generoso, who was about five (5) arms length behind him, when suddenly and without warning, the herein accused-appellant Ricardo Reyes stabbed him with the use of an eleven (11) inch stainless knife thereby inflicting upon Micayabas a stab wound on the right chest (nipple area) which caused massive bleeding and brought about his death.[2]

The wounded Clotildo Micayabas was brought to the Holy Child Hospital by Porferio Generoso upon instructions of Captain Flores, head of the Special Police Task Force.

The accused-appellant, Ricardo Reyes, after having stabbed Clotildo, immediately ran away from the scene of the crime and hid in Valencia, Negros Oriental, where he was arrested on May 18, 1988 by a combined police team from Dumaguete City and Valencia who were in pursuit after him for six (6) days.[3]

Accused-appellant alleged self-defense in justification for the stabbing of the victim.

Ricardo Reyes testified that he was at the market that afternoon of May 12, 1988 slicing carrots and other vegetables, when Clotildo Micayabas came to his table, pushed him by his shoulder and with a pistol aimed at him, the latter said: “This is your end, Bay.” Accused-appellant instinctively parried the pistol and with the use of a knife stabbed Micayabas.

We are not convinced by appellant's allegations.

Firstly, it is the policy of the Dumaguete City Police Department not to issue firearms to police aides nor allow them to carry weapons[4] as testified to by Police Major Maximo Altuban Jr., Station Commander of Dumaguete

City. Hence, no firearm had been issued to Clotildo Micayabas, nor has one been found in his possession.

Secondly, police aide Porferio Generoso, who was about five (5) arms length behind Clotildo at the time of the stabbing incident, likewise testified that the deceased carried no firearm and was weaponless when attacked by accused-appellant, Ricardo Reyes.[5]

Records show that the accused-appellant hid behind a cluster of small stores (“tabu banay”) and waited for Clotilde Micayabas to pass. Upon seeing the latter, accused-appellant suddenly darted out of his hiding place and stabbed Micayabas with an eleven (11) inch knife, thereby insuring his own safety from any retaliatory act on the part of the deceased and giving no chance for Micayabas to defend himself.

Clearly, the crime was committed with the qualifying circumstance of alevosia.

The deceased, being a police aide, was a person possessed with a public position and a public duty to perform, that is, to maintain order in the arrangement of vendors within the market premises and sometimes to direct traffic when instructed by the Station Commander of the city. The accused-appellant Ricardo Reyes admitted that previous to the stabbing incident, Micayabas pulled his vegetable winnower while he was selling them in the market,[6] thereby providing the motive for the stabbing of the deceased.

Appellant Ricardo Reyes’ claim that police aide Generoso was not present during the incident in question and hence, his testimony should not be given weight, was rebutted by the testimony of Generoso on direct and cross examinations that he and Capt. Flores were present during the stabbing incident. The following is his testimony:

Testimony of Generoso on Direct Examination:

Q - Where were you and Clotildo Micayabas particularly assigned on May 22, 1988?

A - At Colon street of the public market.

Q - What were you and Clotildo Micayabas supposed to do in the public market?

A - To admonish the storekeepers or vendors.

Q - Can you recall whether there was an unusual incident that happened on May 12, 1988 while you were discharging your functions as Police Aide together with Clotildo Micayabas?

A - Yes, I remember.

Q - What was that unusual incident?

A - Clotildo Micayabas was walking and I was five (5) fathoms from him, and I saw a man stabbed Clotildo Micayabas on his right side.

Q - Where was this Clotildo Micayabas walking when he was stabbed?

A - He was heading towards the pathway leading to the interior of the public market.

Q - What was the instrument that was used?

A - Stainless knife, like this length. (Witness Proferio Generoso indicating a length of more than 11 inches)[7]

x x x x

Q - Did you know that man who stabbed Clotildo Micayabas?

A - Yes, I know.

Q - What is his name?

A - I do not know his name but I know his face.[8]

Testimony of Generoso on Cross-Examination:

Q - And you will further recall that Captain Flores arrived at the scene of the incident only after the incident happened. Is that correct?

A - At the time of the incident, he was already there,

Q - Are you sure that Captain Flores was present when the incident happened?

A - Yes, he was there.[9]

For self-defense to prosper, it must be positively shown that there was a previous unlawful and unprovoked attack on the person of the defendant that placed him in danger, thereby forcing him to repel the attack and to inflict more or less severe wounds upon his assailant employing reasonable means therefor to resist the same.[10]

The evidence on record do not show any unlawful aggression on the part of the deceased. Consequently, appellant has nothing to prevent or repel. On the contrary, the evidence show that appellant waited for the deceased to pass and then suddenly attacked him with an eleven (11) inch knife by stabbing the latter on his right chest.

WHEREFORE, finding the guilt of the accused-appellant to have been established beyond reasonable doubt for the crime of Murder, the decision appealed herefrom is hereby **AFFIRMED** with the modifications that the indemnity to be paid to the heirs of the deceased be increased to P50,000.00.[11] With costs.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Regalado, JJ., concur.

[1] Rollo, pp. 20-26.

[2] Exhibit "D", Rollo, p. 15.

[3] T.S.N., May 22, 1989, pp. 8, 11-13, 20.

[4] T.S.N., February 5, 1990, p. 3.

[5] T.S.N., January 2, 1990, pp. 3-4.

[6] T.S.N., December 7, 1989, p. 38.

[7] Id., at pp. 6-8.

[8] Id., at pp. 8-9.

[9] T.S.N., May 22, 1989, p. 17.

[10] People vs. Madali, G.R. Nos. 67803-04, 188 SCRA 69, (1990).

[11] People vs. Sison, G.R. No. 86455, 189 SCRA 643, (1990).

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