

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AMBROSIO RONQUILLO AND PERLINDA RONQUILLO, ACCUSED, AMBROSIO RONQUILLO, ACCUSED-APPELLANT.

G.R. No. 96125. August 31, 1995

Ponente: VITUG, J.

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VITUG, J.:

Accused Ambrosio Ronquillo appeals his conviction handed down by the Regional Trial Court of Lianga, Surigao del Sur, in its decision of 01 October 1991, finding him guilty beyond reasonable doubt of the crime of murder but acquitting his wife, co-accused Perlinda Ronquillo, from the same charge.

The information, dated 30 January 1989, accusing the spouses of murder read thusly:

"The undersigned prosecutor hereby accuses AMBROSIO RONQUILLO and PERLINDA RONQUILLO of the crime of MURDER committed as follows:

"That on the 8th day of September, 1988 at about 1:00 o'clock in the morning, more or less, at Sitio Anonang, Barangay Sta. Cruz, municipality of Marihatag, province of Surigao del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, spouses Ambrosio Ronquillo and Perlinda Ronquillo, conspiring, confederating and mutually helping one another, armed with a sharp pointed bolo, did, then, and there, with evident premeditation, and with intent to kill, willfully, unlawfully and feloniously stab with treachery one Tomas Ronquillo, hitting first the left side of the latter's body, and that co-accused Perlinda Ronquillo, while the said victim was still alive, willfully, feloniously and unlawfully commanded Ambrosio Ronquillo to kill the aforesaid victim by saying, 'Add more, because he (victim) is still alive, kill him,' which statement thereby induced and instigated Ambrosio Ronquillo stab again, Tomas Ronquillo which caused his instantaneous death, to the damage and prejudice of the heirs of deceased, namely: Merlinda Ronquillo, surviving spouse, legitimate children, Ian, Angeli, Snooky, Emeliano and Sherilyn all surnamed Ronquillo, minors, in the following amount:

"P30,000.00 - as life indemnity of the victim
10,000.00 - as moral damages; and
10,000.00 - as exemplary damages

"CONTRARY TO LAW. (In violation of Article 248 of the Revised Penal Code), with aggravating circumstance of nighttime, especially sought for to facilitate the commission of the offense.

"Tandag, for Lianga, Surigao del Sur, January 30, 1989.

"(Sgd.) VICENTE L. SUAREZ
Second Assistant Provincial Prosecutor
IBP O.R. No. 172534 FY 1988-1989 7/5/89

APPROVED:

(SGD.) PRETEXTATO A. MONTENEGRO, NPS-IX

Provincial Prosecutor

Senior Deputized Tanodbayan Prosecutor."[1]

Appellant admits having stabbed to death his brother Tomas Ronquillo but that he did, he professes, in self-defense.

Condensed hereunder were the trial court's findings:

At dawn, about one o'clock, on 08 September 1988 in Sitio Anonang, Barangay Sta. Cruz, Marihatag, Surigao del Sur, Ambrosio, using a sharp-pointed bolo, stabbed Tomas several times. The Rural Health Physician's Post-Mortem findings (Exh. "C-3") would indicate that the wounds sustained by the victim -

"1.

Stab wound 3 cm. long and 0.5 cm. deep midsternal area lower third;

"2.

Stab wound 3 cm. Long and 4.5 cm. deep anteromedial aspect proximal third right upper arm;

"3.

Stab wound 3 cm. long and 25 cm. deep posterior axillary line at the level of the 10th left intercostal space directed medially upward; and

"4.

Stab wound thru and thru 3 cm. long middle axillary line piercing thru the posterior axillary line at the level of 8th rib right"[2] -

resulted in "acute blood loss" (Exh. "B-1") and in his instantaneous death. Present at the scene of the stabbing incident were the victim's widow, Merlinda Ronquillo, their five (5) year old daughter Snooky Ronquillo, and Porferia Lingaya.

It would appear that Tomas Ronquillo, upon arriving home from their poultry and copra dryer which was about half a kilometer away from their dwelling, summoned his wife to open the door. Just as the wife did and Tomas was about to enter the house, his brother, Ambrosio Ronquillo, came out from behind Tomas and stabbed him several times. The stab wounds resulted in the victim's almost instantaneous death.

Ambrosio gave his own curt version. He testified that he was at home when, unexplainably, Tomas threw a piece of wood inside the house; that he picked-up the wood and used it to parry the bolo thrusts of the victim; that the bolo fell from the victim's hand; and that, seizing the bolo, he then stabbed the victim to death.

The trial court, evaluating the evidence, found accused Ambrosio Ronquillo guilty and Perlinda Ronquillo innocent of the crime charged. The dispositive portion of its decision read:

"WHEREFORE, consistent with all the foregoing findings, this Court finds the accused Ambrosio Ronquillo y Santa, 39 years of age, a farmer by occupation, married to Perlinda Ronquillo y Certifico, and residing at Sitio Anonang, Barangay Sta. Cruz, Marihatag, Surigao del Sur, GUILTY beyond reasonable doubt of the crime of murder penalized under Article 248 of the Revised Penal Code, as charged in the information, and is hereby sentenced to suffer the supreme penalty of reclusion perpetua, with all the accessory penalties provided by law, and to indemnify the widow, Merlinda Ronquillo y Lingaya and his heirs namely: Ian, Angeli, Snooky, Emeliano and Shirelyn, all surnamed Ronquillo, in the amount of P30,000.00 for the sudden and untimely

death of Tomas Ronquillo as the head of their family and bread earner; P10,000.00 as moral damages for the anguish, pain and emotional sufferings they all have had undergone and shall continue to suffer for their loss of a loved one; P10,000.00 as and for exemplary damages; and P6,000.00 as and for funeral and burial expenses.

"With respect to accused Perlinda Ronquillo y Certifico, 35 years of age, housewife, resident of the same place, she is hereby acquitted of the criminal charge on the ground of reasonable doubt, but hereby advised and admonished for her own personal safety to relocate herself and her children to another place of residence, far away and safe from any possible harm and/or vendetta arising from the established killing. Based on this verdict, she is hereby ordered released from detention at the Sub-Provincial Jail at Lianga, this province, unless charged for another criminal offense so as to justify her continued detention.

"With costs against accused Ambrosio Ronquillo."[3]

In his appeal before this Court, Ambrosio Ronquillo has raised the following assignment of errors.

"1.

The court a quo erred in not appreciating self-defense in favor of the accused.

"2.

At the very least the court a quo erred in finding the accused guilty of murder instead of homicide.

"a.

No qualifying circumstance of evident premeditation was proven

"b.

Neither was the qualifying circumstance of treachery proven

"3.

The court a quo erred in appreciating nocturnity as an aggravating circumstance."[4]

When an accused invokes self-defense, the onus probandi to substantiate it is on him. He must prove clearly and convincingly its three elements, i.e., (1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel it; and (3) lack of sufficient provocation on the part of the person defending himself.[5]

We have thoroughly reviewed and examined the records of this case but there is nothing much to convince us that the trial court has erred in giving weight and credence to the evidence of the prosecution. The testimony, particularly, of eyewitness Porferia Lingaya is plain and straightforward; thus:

"Q.

Will you please tell the Honorable Court what can you recall on September 8, 1988 at about 1:00 o'clock in the morning?

"A.

I was awoken by the call of Tomas Ronquillo, the husband of Merlinda Ronquillo, to open the door, and Merlinda, his wife, asked me to accompany her. Then we first opened the window and lighted outside.

"Q.

When the window was opened and you lighted the place, what happened next?

"A.

I saw Ambrosio Ronquillo stab Tomas Ronquillo, sir.

"Q

. Where was Ambrosio Ronquillo coming from, if you remember?

"A.

He was hiding behind the house of Merlinda Ronquillo, sir.

"Q.

And was Tomas Ronquillo hit when he was stabbed by Ambrosio Ronquillo?

"A.

Yes, sir.

"Q.

Please recall, in what part of the body of Tomas Ronquillo was he hit when he was stabbed by Ambrosio Ronquillo?

"A.

He was hit at the left side of his body, sir.

"Q.

After you saw Ambrosio Ronquillo stab Tomas Ronquillo, what did you do?

"A.

We shouted and we immediately went down and I hugged Tomas Ronquillo while Merlinda Ronquillo embraced Ambrosio and said Manong, pity your brother.

"Q.

And what else did you do after hugging Tomas Ronquillo?

"A.

No more, sir."[6]

In rejecting the theory of self-defense, the trial court also has aptly observed that the failure of accused-appellant in asserting this defense before the police authorities during the preliminary investigation somehow cast serious doubt on its veracity. Inherently, accused-appellant's version is likewise rather hard to believe. It would seem very strange indeed, if the victim (Tomas) were really the armed aggressor, that he would first throw a piece of wood at and forewarn his intended victim (Ambrosio) before delivering the bolo thrusts.

The prosecution has adequately established the existence of the qualifying circumstance of treachery. The essence of treachery is the sudden and unexpected attack by an aggressor on an unsuspecting victim,[7] depriving the latter of any real chance to defend himself, and thereby ensuring without risk its commission.[8] Accused-appellant, coming out from hiding behind the house of the victim, instantly and without warning

delivered the bolo thrust on the unwary victim.[9] The fact that Tomas sustained stab wounds on the left side of his body cannot exculpate the assailant from that attendant circumstance for even a frontal attack can be treacherous when it is sudden and unexpected and the victim is unarmed.[10]

Not that it can matter[11] to accused-appellant in the case at bench but the trial court appears to have erred in additionally appreciating the aggravating circumstance of nocturnity, which can only be considered when it is shown to have been deliberately sought by the accused. No such evidence has been presented, and nocturnity ordinarily is deemed absorbed in treachery.[12]

WHEREFORE, the decision of the lower court convicting appellant Ambrosio Ronquillo of the crime of murder for the killing of Tomas Ronquillo and sentencing him to reclusion perpetua is hereby AFFIRMED, subject to the modification that appellant should INDEMNIFY the heirs of the victim in the amount of Fifty Thousand Pesos (P50,000.00) in line with current jurisprudence.

SO ORDERED.

Romero, (Acting Chairman), and Melo, JJ., concur.
Feliciano, (Chairman), J., on leave.

[1] Records, pp. 56-57.

[2] Rollo, pp. 11-12.

[3] Rollo, pp. 16-17.

[4] Rollo, pp. 56-57.

[5] People vs. Nemeria, G.R. No. 96288, 20 March 1995.

[6] Tsn., June 21, 1989, pp. 11-12.

[7] People vs. Abapo, 239 SCRA 469.

[8] People vs. Viñas, G.R. No. 112070-71, 29 June 1995; People vs. Lualhati, 234 SCRA 325.

[9] Tsn, June 21, 1989, pp. 13-14.

[10] People vs. Abapo, 239 SCRA 469.

[11] The court a quo imposed reclusion perpetua. Article 248 of the Revised Penal Code penalizes murder with the penalty of reclusion perpetua to death.

[12] People vs. Claveria, 221 SCRA 34; People vs. Villa, 221 SCRA 661.

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