

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ELEUTERIO ADONIS ALIAS “TANDANG,” ACCUSED-APPELLANT.

G.R. No. 98196. January 31, 1995

Ponente: FELICIANO, J.

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FELICIANO, J.:

Eleuterio Adonis appeals from the judgment of the trial court finding him guilty of murder.

He was charged with murder in an information which reads as follows:

"That on or about the 10th day of June 1985 in the municipality of Dulag, Leyte, Philippines, and within the jurisdiction of the honorable court, the abovenamed accused, with deliberate intent to kill, with treacherous and evident premeditation, did then and there, willfully, unlawfully and feloniously attacked, assaulted, stabbed, and hacked Benedicto Basas with a bladed weapon known as 'pisao' which the accused had provided himself, thereby hitting and inflicting on the latter a fatal wound that caused the instant death of Benedicto Basas.

Contrary to law." [1]

At arraignment, Adonis pleaded not guilty. After trial, the court found him guilty beyond reasonable doubt of murder and sentenced him to reclusion perpetua and to pay P30,000.00 to the heirs of the victim Benedicto Basas.

The judgment was based on factual findings outlined by the trial court as follows. At about 7:00 pm on 10 June 1985, after Benedicto Basas had finished his dinner in his home, he went down to their front yard together with his wife and son. Benedicto sat on a bench with his back against the street. His wife and 14-year old son also sat down, one somewhat to the right and the other somewhat to the left of Benedicto, but both facing Benedicto. The accused Eleuterio Adonis, also known as "Tandang," suddenly appeared behind Benedicto Basas and stabbed the latter once with a knife known as "pisao", killing him. Benedicto stood up and then fell down. Thereafter, Eleuterio ran away from the shocked wife and son of his victim.

For his part, the accused Eleuterio invoked self--defense [2] and controverted the version of the prosecution witnesses. Eleuterio testified that while he and Bienvenido Arguta were passing by the house of Benedicto Basas, the latter suddenly hacked at him with a bolo but that he was not hit. Eleuterio retaliated by stabbing Benedicto with a knife, inflicting a single though mortal wound on the deceased. Eleuterio claimed that Benedicto had stood in front of his house, intoxicated and challenging passersby to a fight moments before his death.

In his appeal, Eleuterio assigned the following as supposed errors of the trial court:

- The trial court erred in choosing the version of the prosecution over the version of the defense on the basis of speculation, conjecture, and suspicion;
- the trial court erred in not acquitting the accused-appellant on the ground of reasonable doubt. [3]

After careful examination of the evidence on record, we find that appellant Eleuterio did not succeed in substantiating the above claimed errors.

The well-entrenched doctrine in this jurisdiction is that when the accused invokes self-defense, he has the burden of proving the elements of that defense by clear and convincing evidence. To do so, he must rely on the strength of his own evidence and not on the weakness of the prosecution's. [4] For implicit in self-defense claimed by appellant Adonis is the admission that he had in fact killed Benedicto Basas; hence, even if the evidence for the prosecution were weak, it could not be disbelieved after the accused had owned the killing.

Appellant failed to discharge his burden. The evidence presented to show unlawful aggression on the part of the victim is contradictory and thus clearly inadequate.

Defense witnesses asserted that the deceased Basas was armed when he was killed, but their testimonies were at best inconsistent with each other. Appellant Eleuterio Adonis [5] and Uldarico Gobangco [6] testified that Basas was armed with a bolo when he was challenging passers by to a fight moments before his death. On cross-examination, however, Gobangco backed off from this claim:

"Atty. Martines (cross-examination):

Q.

On that particular incident, was he drunk?

Uldarico Gobangco:

A.

He was drunk.

Q.

Was he armed with a bolo?

A.

He had none I was not able to see." [7]

This inconsistency does not merely deal with a minor detail. That Basas was armed on that occasion is crucial in establishing the fundamental requisite of self-defense: that Basas had exercised unlawful aggression against appellant. Adonis himself, of course, claimed that a bolo was used by Benedicto Basas in attacking him; his claim was, effectively, bereft of corroboration.

There are other contradictions in the testimonies submitted for the defense which, while not as critical, nonetheless cloud the credibility of the defense witnesses.

Appellant Adonis testified that he went to his farm with his cousin Bienvenido Arguta at around 5:00 p.m. on June 10, 1985. [8] This conflicted with Arguta's assertion that he met accused at about 7:00 pm of June 10, 1985. [9] Appellant also stated that the road by the house of Basas where the crime took place was the only route to appellant's ricefield. [10] This is contrary to Arguta's statement that there were actually other routes to Eleuterio's ricefield. [11] Defense witness Gobangco testified that deceased Basas had announced "I will kill you!" when he attacked appellant. [12] But Arguta testified that the (alleged) attack of Basas on appellant was not preceded by any exchange of words. [13]

The defense also presented evidence to prove the bad moral character and quarrelsome disposition of the deceased. Barangay Captain Uldarico Gobangco testified that "whenever the victim got drunk, he would

challenge anybody to a fight and that he was also [known] to steal a carabao.” [14] The Barangay Captain also stated that, per the notebook where he customarily recorded all incidents occurring in their barangay, a complaint for theft had been lodged against the deceased Basas. The trial court, however, noted that the statement of the Barangay Captain Gobangco that the deceased had habitually challenged other people to a fight whenever he was drunk found no support in his own notebook.

The testimony of the Barangay Captain was given neither credence nor weight by the trial court. While the accused may prove the bad moral character of the victim, the proof must be of his general reputation in the community and not merely of isolated and specific acts. [15] Thus, the mere allegation that a complaint for theft had been filed against the victim cannot establish his general reputation. Besides, there was no showing that Basas was ever convicted of that charge, assuming it had ever been filed.

Moreover, as the trial court held, no evidentiary value can be attributed to the Barangay Captain's notebook. That notebook can hardly be considered an official record, for record-keeping is vested in the Barangay Secretary and not in the Barangay Captain. Moreover, an incomplete record, especially one with blank or torn pages allowing the inclusion or deletion of certain matters, lacks reliability; its contents are open to the suspicion that they are reflective not of all actual events, but only of those which the recorder, for reasons of his own, wanted to record.

Even if it had been proved by competent evidence that the deceased was of a quarrelsome disposition, such evidence would only have established a probability that he had indeed started an unlawful assault on Eleuterio. [16] This probability cannot overcome the positive statement of the prosecution witnesses during trial that the accused-appellant had assaulted Basas without any provocation. [17]

It is well to recall that whether or not appellant acted in self defense is essentially a question of fact. [18] The trial court judge, having seen and heard the witnesses during the trial, is necessarily in a better position than an appellate court to evaluate and weigh their testimonies. In the absence of any showing that the trial court failed to appreciate facts and circumstances that would have altered its conclusion, its factual findings must be accorded respect. We find no adequate reason to disturb the conclusion of the trial court that the appellant had not acted in legitimate self-defense.

Upon the other hand, the evidence presented by the prosecution did show beyond reasonable doubt the guilt of appellant. Rosalina Basas, wife of deceased Benedicto Basas, and their son Jovencio, positively identified accused-appellant Eleuterio Adonis as the person who had, without provocation, stabbed Basas to death. Jovencio Basas testified thus:

"Atty. Martinez: (Direct Examination)

Q.

What were you doing on that evening in question?

Jovencio Basas:

A.

After we ate our supper, my mother, my father and I went down.

Q.

To what place, you said "down"?

A.

To our porch, because we had just finished eating and we were there to breathe fresh air.

Q.

While you, your father and your mother were in the front yard on that evening in question, was there anything unusual that happened?

A.

Yes, my father (Benedicto Basas) was stabbed.

Q.

Who stabbed your father?

A.

Eleuterio Adonis, alias Tandang.

Q.

Do you know what kind of weapon was used in the stabbing of your father?

A.

Yes, sir, a pisao.

Q.

How many times was your father stabbed by the accused?

A.

Only once.

Q.

And after the accused stabbed your father once hitting him on the back, what did he do?

A.

He stood up, after standing, he fell to the ground.

Q.

You are referring to your father?

A.

Yes.

Q.

How about the accused, what did he do?

A.

He ran away.

Q.

Was there any light in your front yard when this incident happened?

A.

Yes, there was a home-made lamp which was placed on a stand." [19]

Jovencio Basas stuck to his testimony under cross-examination:

"Atty. Canete: (Cross Examination)

Q. When you saw the accused for the first time, you saw that he was already armed with a small bolo without a scabbard, correct?

Jovencio Basas:

A.

He immediately drew a pisao from his side and used it in stabbing my father.

Q.

When the accused drew that small bolo, was that the first time you saw the accused while he was about two meters away from your father?

A.

When I saw him, he immediately drew his pisao from his side and stabbed my father immediately.

x x x x x x x x

Q.

Did you not shout to your father to give him a warning when you saw the accused draw his bolo?

A.

I could not shout because when he appeared he immediately stabbed my father, I could not shout anymore."
[20]

Rosalinda Basas, reiterating the gist of Jovencio's testimony, was just as forthright. She stated:

"Atty. Martinez: (Direct Examination)

Q. After you had eaten your supper, where did you go?

Rosalinda Basas:

A. We went down the house to the front yard to breathe fresh air.

Q. While you, your husband and your son were in the front yard of your house which is situated in Brgy. Baluntuhan, Dulag, Leyte, was there any unusual incident that happened?

A. Yes, sir.

Q. What happened?

A. My husband was stabbed by Eleuterio Adonis.

Q. What weapon was used by Eleuterio Adonis in stabbing your husband?

A. A 'pisao'.

x x x x x x x x

Q. Was your husband hit when he was stabbed by the accused with that 'pisao'?

A. Yes, he was hit on his back.

Q. Do you remember how many times was your husband stabbed by the accused?

A. Only once.

Q. After your husband was stabbed once and was hit at the back by the accused, what did the accused do?

A. He ran away.

Q. Was there any light in your front yard when the incident happened?

A. There was a home-made lamp in our porch." [21]

We agree with the trial court that the element of treachery was adequately proved. The attack delivered by appellant Eleuterio was sudden, without warning of any kind. One thrust of the "pisao" on the unprotected back of Benedicto Basas, then unarmed and peacefully digesting his evening meal, was all that was necessary. Eleuterio promptly ran away, before the wife and son of the victim could recover from the shock of seeing Benedicto suddenly stand up and then crumple to the ground. The speed and dispatch with which the deed was done argues clearly that the mode of attack had been devised and sought rather than improvised at the spur of the moment.

We conclude that the trial court erred only in awarding an indemnity to the heirs of the victim in the amount of Thirty Thousand Pesos (P30,000.00). The amount awarded should have been Fifty Thousand Pesos (P50,000.00). [22]

WHEREFORE, the decision of the trial court finding appellant Eleuterio Adonis guilty of murder and sentencing him to reclusion perpetua is hereby **AFFIRMED**, with the sole modification that he shall pay the heirs of Benedicto Basas an indemnity of Fifty Thousand Pesos (P50,000.00).

SO ORDERED.

Romero, Melo, Vitug, and Francisco, JJ., concur.

[1] Rollo , p. 16.

[2] Appellant's Brief, p. 3; Rollo , p. 87.

[3] Appellant's Brief, p. 3; Rollo , p. 87.

[4] People vs. Tidong, 225 SCRA 324 (1993); People vs. Quilaton, 205 SCRA 279 (1992); People vs. Mindac, 216 SCRA 558 (1992).

[5] TSN, 20 November 1987, p. 4; Records, p. 55.

[6] TSN, 11 March 1988, p. 4; Records, p. 70.

[7] TSN, 1 June 1988, p. 11; Records, p. 87.

[8] TSN, 20 November 1987, p. 3; Records, p. 54.

[9] TSN, 31 August 1988, p. 2; Records, p. 99.

[10] TSN, 20 November 1987, p. 6; Records, p. 57.

[11] TSN 31 August 1988, p. 7; Records, p. 104.

[12] TSN, 11 March 1988, p. 4; Records, p. 70.

[13] TSN, 31 August 1988, p. 9; Records, p. 106.

[14] TSN, 11 March 1988, p. 6; Records, p. 72.

[15] Section 41, Rule 130, Rules of Court; People vs. Babiera, 52 Phil. 97 (1928).

[16] Section 51 (3), Rule 130, Rules of Court.

[17] People vs. Sazon, 189 SCRA 700 (1990); People vs. Pinto, 204 SCRA 9 (1991); People vs. Babiera, *supra*.

[18] People vs. Binondo, 214 SCRA 764 (1992); People vs. Sazon, *supra*.

[19] TSN, 20 February 1986, pp. 5-6; Records, pp. 6-7.

[20] TSN, 20 February 1986, pp. 11-12; Records, pp. 12-13.

[21] TSN, 21 August 1986, pp. 4-7; Records, pp. 25-28.

[22] *People vs. Sison*, 189 SCRA 643 (1990); *People vs. Sazon*, *supra*.

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