

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NOEL AGUILAR Y AMISTUSO, ACCUSED-APPELLANT.

G.R. Nos. 120622-23. July 10, 1998

Ponente: ROMERO, J.

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ROMERO, J.:

Accused-appellant Noel Aguilar y Amistuso was charged with murder in an Information that reads:

“That on or about the 2nd day of December, 1994, in the Municipality of Malabon, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, and with treachery and evident premeditation, while armed with bladed weapon did, then and there, willfully, unlawfully and feloniously stab one HELEN A. REVILLA hitting the latter on different parts of her body which directly caused her death.”

In another Information, accused-appellant was charged with another count of murder in this wise:

“That on or about the 2nd day of December, 1994, in the Municipality of Malabon, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and with treachery, and evident premeditation, while armed with bladed weapons did, then and there, willfully, unlawfully and feloniously stab one ANGELINA PASCUA Y RANA hitting the latter on different parts of her body, which directly caused her death.”

Upon arraignment, accused-appellant pleaded “not guilty.”

The trial court found the following facts:

At around 3:00 o’clock to 6:00 o’clock in the morning of December 2, 1994, accused-appellant and two companions were having a drinking spree at the Virgo Pubhouse located along MacArthur Highway, Potrero, Malabon, Metro Manila. Two female receptionists, namely Helen Revilla and Angelaida[1] Pascua, attended to and entertained the three.

At around 6:00 o’clock in the morning, accused-appellant paid the bill amounting to P587.00. Helen then told Dagalla, a waiter, that she would be leaving the place to sleep.

A few moments later, Roberto Laxa, a taxi driver waiting for passengers in front of the nearby Victoria Court, saw Helen, Angelaida and a male companion proceeding to the then Lampara Hotel (now Diwata Hotel) which is 15 to 20 meters away from Virgo Pubhouse. Shortly thereafter, he saw Angelaida come out of the hotel and board a jeep going to Valenzuela only to return thereto after a short while.

Wanting to retrieve his “Ray-ban” glasses from Angelaida which he entrusted to her as security for a loan, Laxa waited for her and Helen to come out of the hotel. While waiting, Laxa went inside the Lampara Hotel and talked to some hotel employees at the counter, particularly to roomboys Inigo Malapitan, Jun Eusebio and Rodolfo Barreto, who guided Helen, Angelaida and their male companion to their room. Laxa learned that the trio checked-in at room 239 located at the lower portion of the hotel along a sloping parcel of land.

A short while later, the women's male companion came out of the room and hurried past the counter towards MacArthur Highway. He appeared to be pale making Laxa wonder why Helen and Angelaida were left behind. Roomboy Inigo Malapitan went to room 239 to start cleaning the same only to immediately come out of it shouting about the bloodied bodies of Helen and Angelaida lying on the floor. Barreto tried to chase the man but he was no longer to be found.

In the course of their investigation, Malabon policemen found a wallet containing the identification card of one Noel Aguilar, among others. The photograph appearing in said ID card was shown to Laxa and the hotel employees, particularly roomboy Barreto, who identified the man depicted in the photograph as the one who checked-in with Helen and Angelaida and as the man who most probably killed the two. The police later arrested accused-appellant Aguilar in Bahay Toro, Quezon City.

Roomboy Barreto confirmed the testimony of Laxa and the two of them identified accused-appellant Noel Aguilar in court as the male companion of Helen and Angelaida in Room 239.

Helen and Angelaida, per autopsy examination conducted by a Medico Legal Officer of the NBI, died of multiple stab wounds they sustained on different parts of their bodies. Helen, who was found to be six months pregnant, was stabbed fourteen times on the front, left side and on her back.[2] Angelaida was stabbed twenty nine times on the front and back of her body.[3]

The parents of Helen and Angelaida spent P35,000.00 and P67,850.00, respectively, in connection with their death and burial. They also sought moral damages for the pain and sorrow they suffered in amounts they were leaving to the court to determine.

Accused-appellant had a different version of the incident. He alleged that he and his two companions started their drinking session in Pasay City but afterwards went to Malabon where they could get women with whom they can have sex.

He confirmed that they drank at the Virgo Pubhouse from 3:00 o'clock to 6:00 o'clock in the morning. Further, he claimed that being too drunk, receptionists Helen and Angelaida volunteered to bring him to their sleeping quarters. It turned out that he was taken to a motel where he found himself lying on a bed.

He was allegedly awakened by the entry of someone into the room and by what he felt was a sharp pointed object pressed against the right side of his body, near the armpit. Afterwards, someone went on top of him while another person tried to get his wallet containing P4,000.00 in cash.

Fearful for his life, accused-appellant fought back and was able to wrest possession of the sharp pointed instrument which he swung to his left and to his right, forward, downward and upward, in the course of which, he must have hit the persons who tried to kill and divest him of his wallet. Still dazed, Aguilar turned on the lights and got scared with what he saw. As it turned out, those persons who attempted to kill and rob him of his money were Helen and Angelaida and who, resultantly, sustained stab wounds at the back and other portions of their bodies because of his struggle. Thus, accused-appellant hurriedly left the place and it was at this point that he noted that he sustained a wound on his left hand, between the index finger and the thumb.

The trial court was not persuaded by accused-appellant's version and instead found him guilty as charged. It disposed of said case as follows:

“WHEREFORE premises considered, judgment is hereby rendered finding accused Noel Aguilar y Amistuso guilty beyond reasonable doubt of two (2) counts of murder which resulted in the deaths of Helen Revilla and Angelaida Pascua. He is hereby accordingly sentenced to two (2) prison terms of reclusion perpetua, together with all the accessory penalties thereof.

Accused Aguilar is also ordered to pay:

- 1) To the heirs of victim Helen Revilla, the sums of (a) P50,000.00 for the loss of the victim's life; (b) P35,000.00 for actual expenses incurred in connection with the death and burial of the victim, and (c) P50,000.00 by way of moral damages for the anguish and sorrow they suffered by reason of the victim's death;
- 2) To the heirs of Angelaida Pascua, the sums of (a) P50,000.00 for the loss of the victim's life; (b) P67,850.00 for expenses incurred in connection with the death and burial of the victim, and (3) P50,000.00 by way of moral damages for the anguish and sorrow they suffered by reason of the victim's death.

Costs against the accused in both cases.”[4]

Accused-appellant now assails the trial court's Decision with the following assignment of errors:

I

THE TRIAL COURT ERRED IN ASSUMING THAT APPELLANT WAITED FOR HELEN AND ANGELAIDA OUTSIDE THE VIRGO PUBHOUSE AND IN NOT FINDING AS TRUE THE UNCONTROVERTED TESTIMONY OF THE ACCUSED-APPELLANT, THAT HE WAS SO DRUNK AND THAT HE WAS PRACTICALLY CARRIED BY THE TWO RECEPTIONISTS OF THE PUBHOUSE TO A ROOM OF THE LAMPARA HOTEL, WHICH HE THOUGHT WAS THE SLEEPING QUARTERS OF HELEN AND ANGELAIDA.

II

THE TRIAL COURT ERRED GRAVELY IN ITS MISTAKEN IMPRESSION, THAT APPELLANT WAS ARMED WITH A SHARP INSTRUMENT, WITH WHICH HE STABBED HELEN FIRST WHEN HE FOUND HIS WALLET CONTAINING P4,000.00 MISSING, AND THEN ANGELAIDA, WHO JUST ENTERED THE ROOM AND IN NOT FINDING TRUE THE UNCONTESTED TESTIMONY OF APPELLANT, THAT HE ACTED IN SELF-DEFENSE, UNDER AN IMPULSE OF UNCONTROLLABLE FEAR OF BEING KILLED.

III

THE TRIAL COURT ERRED IN ITS HOLDING THAT MURDER WAS COMMITTED BY THE APPELLANT, THROUGH AND BY MEANS OF TREACHERY AND IN NOT HOLDING THAT THE KILLING OF THE TWO VICTIMS WERE JUSTIFIED AND HAPPENED OUT OF SELF-DEFENSE AND IN NOT FINDING THAT TREACHERY WAS NOT AT ALL PROVEN BY THE PROSECUTION.

IV

THE TRIAL COURT ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF 2 COUNTS OF MURDER AND IN SENTENCING HIM TO TWO (2) PRISON TERMS OF RECLUSION PERPETUA AND IN NOT ACQUITTING APPELLANT OF THE CRIME CHARGED IN THE INFORMATION.

This Court is not persuaded that accused-appellant was only acting in self-defense when he killed the victims. Where an accused charged with the killing of a person admits having caused that death but invokes self-defense to escape criminal liability, it becomes incumbent upon him to prove by clear and convincing evidence the positiveness of that justifying circumstance; otherwise, having admitted the killing, conviction is inescapable.[5]

Self-defense is an affirmative allegation that must be established with certainty by sufficient and satisfactory proof.[6] To successfully interpose self-defense, accused-appellant must clearly and convincingly prove: (1) unlawful aggression on the part of the victim; (2) the reasonable necessity of the means employed to prevent or

repel the attack; and (3) the person defending himself must not have provoked the victim into committing the act of aggression.[7]

Although all three elements must concur, self-defense must rest on proof of unlawful aggression on the part of the victim. Unlawful aggression, in turn, presupposes an actual, sudden and unexpected attack, or an imminent danger thereof, and not merely an intimidating attitude. There must exist a real and not just imagined danger to the life or personal safety of the person claiming self-defense.[8]

Accused-appellant failed in his attempt to show the element of unlawful aggression. That one of the victims supposedly went on top of him and poked a sharp pointed instrument near his armpit while another tried to get his wallet is nothing but a self-serving statement which did not, in any way, meet the required quantum of proof for unlawful aggression.

Neither did accused-appellant establish the reasonableness of the means employed to prevent or repel the so-called “attack.” Helen and Angelaida suffered multiple stab wounds while accused-appellant did not even have a single wound to present before the lower court. That he had a wound on his forefinger can hardly be compared to the extent of wounds inflicted upon his victims. Besides, his allegation that he had a wound on one of his fingers is again self-serving as he did not present a medical certificate to corroborate his testimony.

For failure to prove unlawful aggression and the reasonableness and necessity of the means employed to prevent or repel the attack, accused-appellant’s plea of self-defense must fail.

Accused-appellant rejects the findings of the trial court that the killings were committed with treachery. He posits that upon wresting possession of the bladed instrument from one of his would-be assailants, he brandished the same in different directions without necessarily aiming at a particular part of the body of his victims.

There is treachery when the offender commits any of the crimes against persons employing means, methods or forms in the execution thereof which tend directly and specially to ensure its execution without risk to himself arising from the defense which the offended party might make, which means that no opportunity was given to the latter to do so.[9]

The prosecution alleged the presence of treachery claiming that accused-appellant ensured the commission of the crime by attacking his victims without warning. The numerous stab wounds inflicted upon his victims deprived them of any means to defend themselves. The location of the stab wounds on the front and on the victims’ back attests to accused-appellant’s intention to kill his victims without giving them any opportunity to defend themselves.

This Court does not agree with the prosecution’s argument. Due to the gravity of the resulting offense, treachery must be proved as clearly as the crime itself. Treachery cannot be established from mere conjectures. Absent any particulars as to the manner in which the aggression commenced or how the act which resulted in the death of the victims unfolded, treachery cannot be appreciated.[10] The number of stab wounds as well as the location of some of them on the back of the victims do not necessarily imply that the killings were treacherous. For treachery to be properly appreciated, it must be indubitably proven as the crime itself.

In the instant case, no one, except the accused-appellant, witnessed the killing. Naturally, the prosecution was unable to narrate in detail the manner of attack, its suddenness or unexpectedness, the relative positions of the victims and that of accused-appellant as well as the defenselessness of the two victims. In fact, the prosecution’s evidence was bereft of any proof to show who initiated the incident or how the attack actually began.

Granted that the number of stab wounds, as well as the location of some of them, at the back of the victims could

be considered indications of treachery, it was not shown nonetheless that accused-appellant consciously and deliberately adopted such manner by which he killed his two victims in order to avoid any risk to himself and ensure its commission. In any case, it would be unnatural for accused-appellant to check-in and choose the motel room to commit the crime.

In the absence of any convincing proof that accused-appellant consciously and deliberately adopted the means by which he committed the crime in order to ensure its execution, this Court resolves the doubt in favor of accused-appellant. Without any circumstance to qualify the crime to murder, this Court holds accused-appellant guilty only of the lesser felony of homicide as defined and penalized under Article 249 of the Revised Penal Code, without any aggravating or mitigating circumstance.

On the other hand, this Court cannot affirm the grant of moral damages amounting to P50,000.00 each to the heirs of the two victims. Moral damages to be awarded in favor of the heirs of the victims must rest upon sufficient proof of “physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation and similar injury.”[11] Nothing in the records supports said grant.

In the same manner, the award of actual damages amounting to P35,000.00 and P67,850.00 to the heirs of Helen Revilla and Angelaida Pascua, respectively cannot be sustained. Said amounts were allegedly incurred in the interment of the deceased. However, the prosecution again failed to substantiate these expenses by competent evidence, such as receipts. The award of actual damages cannot rest on the bare allegation of the heirs of the offended party.[12]

WHEREFORE, based on the foregoing, the decision of the Regional Trial Court of Malabon finding accused-appellant guilty of two (2) counts of murder is MODIFIED. Instead, this Court finds accused-appellant Noel Aguilar y Amistuso guilty of two (2) counts of Homicide and he is hereby sentenced to suffer the indeterminate penalty of 10 years and 8 months of prision mayor as minimum to 17 years and 4 months of reclusion temporal as maximum for each count of homicide. The payment of P50,000.00 each to the heirs of the two victims as indemnity is SUSTAINED, but the awards of moral and actual damages are hereby DELETED. SO ORDERED.

Narvasa, C.J., (Chairman), Kapunan, and Purisima, JJ., concur.

[1] Sometimes referred to as Angelina.

[2] Autopsy Report No. N-94-2447, Records, p. 30.

[3] Autopsy Report No. N-94-2448, Records, p. 32.

[4] Decision penned by Judge Benjamin M. Aquino, Jr.

[5] *People v. Gelera*, G.R. No. 121377, August 15, 1997.

[6] *Supra*.

[7] *People v. Panes*, G.R. No. 116744-47, August 29, 1997.

[8] *Supra*.

[9] *People v. Tiozon*, 198 SCRA 368 [1991].

[10] *People v. Zamora*, G.R. No. 101829, August 21, 1997.

[11] Supra.

[12] People v. Obello, G.R. No. 108772, January 14, 1998.

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