

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CARLOS MENEQUE Y MONTON, ACCUSED-APPELLANT.

G.R. Nos. 129964-65. August 29, 2000

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

Accused Carlos Meneque was charged before the Regional Trial Court of Negros Occidental with Murder for allegedly killing Mario Aguilar and Ricardo Cabarang. The charges were contained in two separate informations filed with the trial court on October 21, 1992, stating-

CRIMINAL CASE NO. 12851

That on or about the 6th day of March 1991, in the Municipality of Don Salvador Benedicto, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with M-14 rifle, with evident premeditation and treachery, with intent to kill, did then And there, wilfully, unlawfully and feloniously attack, assault and shoot one MARIO AGUILAR y BAVIERA, thereby inflicting upon him multiple injuries which caused his death.

Contrary to law.

CRIMINAL CASE NO. 12852

That on or about the 6th day of March 1991, in the Municipality of Don Salvador Benedicto, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with M-14 rifle, with evident premeditation and treachery, with intent to kill, did then and there, wilfully, unlawfully and feloniously attack, assault and shoot one RICARDO CABARANG y ORTIZ, thereby inflicting upon him "Gunshot wounds" which caused his death.

Contrary to law.[1]

Upon arraignment, accused pleaded not guilty to the two counts of murder. Thus, trial ensued.

Prosecution witness John Dulaca, a member of the Philippine National Police (PNP)[2] and a resident of the municipality of Don Salvador Benedicto, Negros Occidental, testified that at around two o'clock in the afternoon of March 6, 1991, he was at the house of Noel Benedicto, together with Mario Aguilar, Ricardo Cabarang and Pat. Eduardo Carino, when they suddenly heard a gunshot.[3] Looking out the window, he and his companions saw accused[4] holding an M-14 rifle.[5] They saw accused trying to break into the teachers' quarters located beside Benedicto's house before proceeding towards them.[6] When accused reached the house of Benedicto, he pointed his gun at Carino, challenging the latter to a fight, but Carino told him that he would not fight.[7] Accused then fired a shot towards the ceiling of the house.[8] Dulaca and Carino ran towards the kitchen. As they were running, accused rapidly fired his gun. Aguilar and Cabarang, however, were not able to move, while Benedicto hid inside his room.[9] Dulaca and Carino escaped by making a hole in the kitchen wall. Then Dulaca, followed by Carino, ran towards his house and got his gun.[10] However, when they returned to Benedicto's house, he saw Cabarang,

who was covered in blood, being carried into the police car in order to be brought to the hospital, whereas Aguilar was already dead.[11]

John Dulaca's testimony was substantially corroborated by Johnny Alimon and Ernesto Gonzales.

Johnny Alimon, the driver of the service jeep of the municipality of Don Salvador Benedicto, Negros Occidental, declared that on March 6, 1991, he was resting at the teachers' quarters when at around 2:15 p.m., he heard accused[12] shouting and challenging people to a fight. He then heard gunshots. He looked outside and saw accused standing in front of the teachers' quarters and holding an M-14 rifle.[13] Accused tried to set the teachers' quarters on fire but the matches he was holding fizzled out.[14] When accused succeeded in breaking into the teachers' quarters, Alimon hurriedly left through the comfort room window and ran towards the market.[15] From the market, he could still hear gunshots. Subsequently, he saw accused leave the teachers' quarters and proceed to the house of Noel Benedicto. As accused was approaching Benedicto's house, he kept on firing his M-14. From the house of Benedicto, accused went to the municipal hall.[16] After accused had left, Alimon ran towards the house of Benedicto, where he found Cabarang wounded, while Aguilar was already dead. Alimon got the jeep from the municipal hall and brought Cabarang to the hospital.[17] Meanwhile, Ernesto Gonzales testified that on March 6, 1991, at around two in the afternoon, he was sitting inside a jeep parked in front of the municipal hall with Felix Salipdan when accused[18] approached them and challenged them to a fight. Gonzales told accused that he would not fight with him.[19] Accused left them and went to the barracks, but upon emerging therefrom, he again approached Gonzales and Salipdan and pointed his gun at each of them for several seconds. They again told accused that they would not fight with him.[20] Accused returned to the barracks once more. When he emerged, Gonzales observed that he had changed into an all-black fatigue uniform and that he was carrying ammunition. Gonzales noted that accused was headed towards the poblacion. Later on, Gonzales heard a series of gunshots.[21]

Accused invoked self-defense. He testified that on March 6, 1991, at about two in the afternoon, he was on his way to the barracks located at the municipal hall, as he was a member of the armed forces temporarily assigned to the municipality of Don Salvador Benedicto, when he was invited by Mario Aguilar to join their group. He hesitated at first since he was not acquainted with the members of the group, but he eventually acceded for the sake of camaraderie.[22] In the course of their conversation, Aguilar told him that military men are braggarts. As he was a military man, accused was offended by the comment and threatened to leave the group if they persisted in pursuing such a topic. The group momentarily dropped the topic only to resume their discussion some minutes later.[23] Accused stood up to leave the group, but he was pulled down by one of the men, while another man tried to grab his gun. As they grappled for its possession, the gun was accidentally fired, causing the man who was wrestling for possession of the gun to lose his grip on it. Accused took the opportunity to run away from the group. As he was running, he heard gun fire. He turned around and saw that the group of Aguilar was firing in his direction. Accused retraced his steps and fired back at them before running towards the barracks.[24] Upon reaching the barracks, he was approached by Rogelio de Jose, who asked him what had happened. He told Rogelio that he was fired upon by a group of persons and that he was lucky not to have gotten hit. Accused then looked for his commanding officer and surrendered his M-14 rifle.[25]

Rogelio de Jose corroborated accused's testimony. He testified that on March 6, 1991, at around 2 o'clock, he was in the municipality of Don Salvador Benedicto upon the request of accused's wife, who instructed him to ask accused for money for their sick child. He found accused at a store and decided to wait for him outside.[26] De Jose noted that there were three people inside the store. As he was waiting, de Jose heard the people inside having a heated argument and then he heard accused say that if there is some trouble, he might as well go out.[27] De Jose claims that he saw accused trying to get out of the store, but that he was prevented from doing so by two men

who were attempting to grab his firearm. As the three were struggling to gain possession of the gun, it fired twice. Accused ran away from the store, towards the direction of their camp.[28] De Jose followed accused and asked him what had happened. Accused told him that a group of men had ganged up on him.[29]

On January 29, 1997, the trial court convicted accused for the murder of Mario Aguilar and Ricardo Cabarang and accordingly, imposed upon him the penalty of for each of the murders and ordered him to pay the heirs of each of the victims P50,000.00 as indemnity.[30]

In ruling thus, the trial court considered the witnesses of the prosecution to be more credible than those of the defense. With regards to accused's plea of self-defense, the trial court held that accused had failed to prove the same with clear and convincing evidence. Meanwhile, Rogelio de Jose's testimony was considered as "weak, illogical and incoherent." Also, the trial court found that the killings were committed with treachery since "the victims Mario Aguilar and Ricardo Cabarang were not in [a] position to defend themselves when the accused unexpectedly fired his M-14." [31]

The sole issue raised by accused in his appeal is whether or not the trial court gravely erred in not appreciating the justifying circumstance of self-defense in his favor.[32]

A plea of self-defense automatically shifts the burden of proof from the prosecution to the defense since such a plea means that the accused admits to having performed the criminal act, but disclaims legal liability on the ground that his life had been exposed to harm first before he committed the act in defense of himself.[33] Thus, when the accused invokes self-defense, he must rely on the strength of his own evidence and not on the weakness of the prosecution's evidence, for, even if the latter were weak, it could not be disbelieved after the accused's open admission of responsibility for the killing.[34] The requisites in order for self-defense to be appreciated as a justifying circumstance are: (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.[35] The accused must prove the existence of all of these elements by clear and convincing evidence.[36]

In the present case, accused-appellant claims that he was merely having a conversation with the group of Aguilar, who invited him in the first place, when they insulted him; that when he stood up to leave, they assaulted him and two persons tried to grab his firearm; that he was able to retain possession of his gun and to run away from the group; and that as he was scampering away, the group of Aguilar fired upon him, so he fired back.[37]

We cannot give credence to accused-appellant's version of events. Apart from his own self-serving statements, accused-appellant's testimony is uncorroborated by independent and competent evidence.[38] We agree with the trial court that the testimony of Rogelio de Jose, the only other witness for the defense, was weak and untenable. On direct examination, de Jose claimed that he witnessed the fighting between accused-appellant and some men inside the store which accused-appellant had entered. However, on cross-examination, de Jose admitted that he could not see inside the store.[39] De Jose's contradictory statements impair his credibility.

Moreover, accused-appellant's testimony is intrinsically doubtful. He claims that he was assaulted by the group of Aguilar whose members were supposedly armed. However, despite their alleged superiority in strength and number, accused-appellant, surprisingly, did not sustain any wounds; no member of Aguilar's group had used their firearms against accused-appellant. Rather, it was Cabarang and Aguilar who ended up getting killed by, if the version of accused-appellant is to be believed, the haphazard firing by accused-appellant of his M-14 rifle as he was running away from Noel Benedicto's house. It is well-settled that the nature and number of wounds inflicted by the accused are considered important indicia which disprove a plea of self-defense.[40] Given the circumstance obtaining in the present case, it is difficult, if not impossible to conclude that accused-appellant was the unwitting and defenseless victim of a murderous aggression by the group of Aguilar.

It is firmly established doctrine that absent any showing that it has overlooked, misapprehended, or misapplied some facts of weight and substance which, if properly considered, would have altered the result of the case, the trial court's assessment of the credibility of the witnesses must be sustained by the appellate court.[41] Since the trial court had the distinct opportunity of directly observing the demeanor of the witness, it is therefore in a better position to ascertain whether or not he or she is telling the truth.[42] Based on our own critical study of the records of this case, we find that the trial court was justified in upholding the testimony of the prosecution witnesses as being worthy of full faith and credence. The defense has not proven that the prosecution witnesses were moved by improper motives, thus, it must be presumed that they were not so moved.[43] On the contrary, we find that the testimonies of the prosecution witnesses were clear and straightforward and coincided on all material points.

The trial court correctly convicted accused-appellant of the crime of murder since the killing of Cabarang and Aguilar was performed with treachery. Treachery exists when the offender employs means, methods, or forms in the execution of the crime which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.[44] There is treachery when the attack is sudden and unexpected, rendering the victim unable to defend himself.[45] In this case, the group of Aguilar had no reason to anticipate an attack from accused-appellant since the latter was virtually a stranger to them and there were no prior quarrels or altercations between themselves and accused-appellant. Thus, they were taken completely by surprise when accused-appellant headed towards the house of Noel Benedicto and started firing at them. Being unarmed, John Dulaca and Eduardo Carino's reaction was merely to get out of the house, which they accomplished by boring a hole through the kitchen wall. Meanwhile, Noel Benedicto removed himself from accused-appellant's path by hiding in his room. Mario Aguilar and Ricardo Cabarang, however, were not as fortunate. The intense fear and shock caused by accused-appellant's violent rampage prevented them from fleeing and, being unarmed, they obviously could not put up any defensive action in the face of such an implacable and unanticipated aggression. Undisputedly, the circumstances obtaining in this case shows the presence of treachery for the means employed by accused-appellant ensured the execution of his criminal designs upon the victims herein without any risk to himself arising from any defense which the offended parties might have made.[46]

We agree with the trial court that accused-appellant is guilty of two separate murders[47] and that the proper penalty which should be imposed upon him is for each of the murders. When the crime was committed, the imposable penalty for murder was reclusion temporal in its maximum period to death. Since no aggravating or mitigating circumstances attended the commission of the crime, the penalty should be imposed in its medium period.[48]

Pursuant to current jurisprudence, accused-appellant is liable to each set of heirs in the amount of Fifty Thousand Pesos (P50,000.00) by way of indemnity, or a total indemnity of P100,000.00.[49] However, no actual damages may be awarded since the prosecution failed to produce receipts to substantiate the same.[50]

WHEREFORE, the January 29, 1997 Decision of Branch 44 of the Regional Trial Court of Negros Occidental is hereby AFFIRMED. Costs against accused-appellant.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Purisima, JJ., concur.

[1] Records, 1-2.

[2] TSN, October 3, 1995, 4-5.

- [3] Ibid., 9.
- [4] Dulaca identified accused-appellant in court. Ibid., 26-27.
- [5] Ibid., 10.
- [6] Ibid., 11-1
- [7] Ibid., 12-14.
- [8] Ibid., 14.
- [9] Ibid., 16-18.
- [10] Ibid., 18-20.
- [11] Ibid., 20-23.
- [12] Alimon identified accused-appellant in court. TSN, November 14, 1995, 9-10.
- [13] Ibid., 3-5.
- [14] Ibid., 5.
- [15] Ibid., 6.
- [16] Ibid., 6-8.
- [17] Ibid., 8-9.
- [18] Gonzales identified accused-appellant in court. Gonzales knew accused-appellant because he was their supervisor in the CAFGU. TSN, October 3, 1995, 50-52.
- [19] Ibid., 42-44.
- [20] Ibid., 44-48.
- [21] Ibid., 48-49.
- [22] TSN, October 14, 1996, 4-5.
- [23] Ibid., 5-6.
- [24] Ibid., 7-8.
- [25] Ibid., 9.
- [26] TSN, December 9, 1996, 4-5.
- [27] Ibid., 5-6.
- [28] Ibid., 6-7
- [29] Ibid., 7.
- [30] Rollo, 23-24.
- [31] Ibid., 21-22.
- [32] Ibid., 70.

- [33] *People v. De la Cruz*, 291 SCRA 164 (1998); *People v. Timblor*, 285 SCRA 64 (1998).
- [34] *People v. Peña*, 291 SCRA 606 (1998); *People v. Mendoza*, 284 SCRA 705 (1998).
- [35] *People v. Cario*, 288 SCRA 404 (1998); *People v. Timblor*, *supra*.
- [36] *People v. Noay*, 296 SCRA 292 (1998).
- [37] *Rollo*, 70-71.
- [38] *People v. De la Cruz*, *supra*.
- [39] *TSN*, December 9, 1996, 5-7, 12-13.
- [40] *People v. Umadhay*, 293 SCRA 545 (1998); *People v. Cañete*, 287 SCRA 490 (1998).
- [41] *People v. Atop*, 286 SCRA 157 (1998); *People v. Viovicente*, 286 SCRA 1 (1998).
- [42] *People v. Albao*, 287 SCRA 129 (1998); *People v. Obello*, 284 SCRA 79 (1998).
- [43] *People v. Mendoza*, *supra*.
- [44] *People v. Gungon*, 287 SCRA 618 (1998).
- [45] *People v. Cortes*, 286 SCRA 295 (1998).
- [46] *People v. Sumalpong*, 284 SCRA 464 (1998).
- [47] *People v. Toling*, 62 SCRA 17 (1975), citing *People v. Salazar*, 105 Phil 1058 (1959); *People v. Mortero*, 108 Phil. 31 (1960); *People v. Remollino*, 109 Phil 607 (1960).
- [48] Revised Penal Code, art. 64.
- [49] *People v. Solis*, 291 SCRA 529 (1998).
- [50] *People v. Oliano*, 287 SCRA 158 (1998).

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