

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EFREN GARUFIL, DEFENDANT-APPELLANT.

G.R. Nos. 74485-86. July 30, 1987

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is an appeal from a decision of the Regional Trial Court of Zamboanga City which convicted Efren A. Garufil for the crimes of murder and frustrated murder even as it acquitted his co-accused Diosdado S. Tek and Nestor R. Sitol of the same charges.

The informations against the three accused persons alleged that the crimes were committed as follows:

"That on or about midnight of October 2, 1983, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused armed with a kitchen knife, conspiring and confederating together, mutually aiding and assisting with one another, by means of treachery and evident premeditation and with intent to kill, did then and there wilfully, unlaw-fully and feloniously assault, attack and stab at the person of RONILO DESANTA while the latter was asleep, thereby inflicting mortal stab wound on the person of said Ronilo Desanta which directly caused his death, to the damage and prejudice of the heirs of said victim"

"CONTRARY TO LAW.

"That on or about midnight of October 2, 1983, in the City of Zamboanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused armed with a kitchen knife, conspiring and confederating one another, by means of treachery and evident premeditation and with intent to kill, did then and there wilfully, unlaw-fully and feloniously assault, attack and stab at the person of ERINIO BADIAN y ESPINOSA while the latter was asleep, thereby inflicting serious stab wound on the person of said Erinio Badian y Espinosa which ordinarily would cause his death thus performing all the acts of execution which should have produced the Crime of Murder as a consequence, but nevertheless, did not produce it by reason of some cause or causes independent of the will of the above-named accused, that is, by the timely and proper medical attention rendered to the said Erinio Badia y Espinosa which prevented his death, to the damage and prejudice of said offended party."

"CONTRARY TO LAW."

(Original Records, pp. 195-196).

The dispositive portion of the questioned decision reads as follows:

"There being no proof beyond reasonable doubt established by the prosecution's evidence to prove the culpability and responsibility of the accused DIOSDADO TEK Y SAO and NESTOR SITOL Y ROBIN, this Court hereby ACQUITS and EXONERATES both of them from the charges in both Criminal Case No. 1878(6835) for Murder and Criminal Case No. 1888(6835) for Frustrated Murder, and orders their immediate release from custody unless they are being detained for some other causes aside from these two (2) cases."

(Rollo, p. 15)

The incidents of the trial and the facts relied upon by the trial court to support its judgment are summarized in the decision as follows:

"Upon arraignment, all the three above-named accused pleaded Not Guilty to the charges in both the afore-quoted Informations. Thereafter, trial in both cases commenced jointly, considering that it involved only one incident and that common witnesses were to be presented in both cases. In the course of the joint trial, the prosecution presented four (4) witnesses and marked as exhibits five (5) pieces of real and documentary evidence, with sub-markings. The defense on the other hand presented five (5) witnesses, to include the three (3) accused themselves, but did not offer any real or documentary evidence.

"The prosecution's version of the facts of both cases was disclosed through the testimony of the lone eyewitness and who is at the same time the surviving victim in Criminal Case No. 1888(6835) for Frustrated Murder, Erinio Badian y Espinosa.

"According to this witness he is a laborer in the 'bularan' (fish drying) business of Morito Espinosa, at Tugbungan, Zamboanga City, having been employed thereat since September 5, 1983, and that Ronilo Desanta, the deceased-victim in Criminal Case No. 1878 (6827) for Murder was also a laborer in the same establishment, but who was employed ahead of him. Just like him, and Desanta, the accused Efren Garufile, Diosdado Tek and Nestor Sitol were also laborers in Morito Espinosa's bularan, although the accused Diosdado Tek and Nestor Sitol worked ahead of him in such establishment, while the accused Efren Garufile started working thereat in a later date than him.

"At about 2:00 o'clock midnight, both Erinio Badian and Ronilo Desanta were lying at the back portion which is behind the drivers seat of a jeep belonging to their employer Morito Espinosa, which jeep was parked in front of the bodega also owned by Morito Espinosa and that there was a lighted fluorescent light just obliquely above the parked jeep. It appears that Erinio Badian was lying on the right side of the jeep with his head towards the driver's seat while Ronilo Desanta was lying on the side opposite him in the same jeep. It was while both Badian and Desanta were in such positions, that according to Badian, he felt something warm on his stomach, so he held his stomach and discovered that there was blood on his stomach. This discovery of blood made Badian stand up and at this point he saw the accused Efren Garufile jumped from the jeep, still holding a knife which appeared white on both sides, (Exh. "B"), and he also saw the accused Diosdado Tek and Nestor Sitol running towards the fence. Then Ronilo Desanta shouted for help as he wanted to be brought to the hospital and Badian wanted to help but was too weak to do so. So Badian went back to the place he sat before, at the same time pressing the wound on his stomach to stop the flow of blood. Later, Morito Espinosa, their employer came and brought Badian and Desanta to the hospital, and it was while Badian was still in the hospital that he learned of Desanta's death.

"The prosecution also presented Dr. Rodolfo Valmorla, the Chief Medical Officer of the Philippine Constabulary Crime Laboratory of Region IX, at R.T. Lim Boulevard, Zamboanga City. He testified that upon the letter request (Exh. "C") of Police Investigator Patrolman Tuble, he conducted a post-mortem Examination of the cadaver of Ronilo Desanta at the Villa Funeral Homes, at about 9:00 o'clock in the morning of October 3, 1983. Upon examination of the cadaver of Desanta, he discovered two stab wounds, for which he prepared a sketch of a human body to show the positions of these stab wounds (Exhs. "D", "D-1" and "D-2"). The first injury he found on the cadaver of Desanta was a stab wound on the upper chest or left infraclavicular region and this wound penetrated the lung, while the second stab wound was found on the right upper front chest or right clavicular region. Both wounds according to Dr. Valmorla was caused by a sharp bladed instrument for which Exhibit "B", the knife could qualify as such. He also declared that he prepared a Medico-Legal Necropsy Report (Exhs. "E", "E-1", to "E-6") showing the results and findings of his post-mortem examination of the cadaver of Desanta, including the cause of death which is "Cardio-respiratory arrest due to shock and hemorrhage secondary to stabbed wounds chest." Dr. Valmorla further said that he prepared and issued a death

certificate of Ronilo Desanta, marked as Exhibits "A", "A-1", "A-2" and "A-3" for Criminal Case No. 1878(6827)." (Rollo, pp. 4-5)

The accused-appellant admits having stabbed the two victims but he claims that he acted in self-defense. The facts from the viewpoint of the appellant are given as follows:

"Efren Garufil testified that he is from Jimalalud, Negros Oriental. In August of 1983 he came to Zamboanga City and first worked with a certain Tasio Arroyo at Tugbungan, Zamboanga City but after working for only twenty-five days thereat, he quit and then worked at the Bularan of Morito Espinosa also at Tugbungan of the same City. At Espinosa's Bularan, he cooks his food and sleeps inside the bodega. That before the incident, he went only once to the City proper by riding in the jeep of Mr. Espinosa in order to buy a pair of pants. For this reason, he does not know where the Zamboanga City Hall is located, or the Police Station, fire station or even the market place. Continuing further his testimony, he stated that at about 8:00 o'clock in the evening of October 2, 1983, he took his supper in the bodega together with his fellow workers, in the persons of Diosdado Tek and Nestor Sitol. After supper, both Diosdado Tek and Nestor Sitol washed up and went to their sleeping quarters in the bodega while he stayed, because he was making wooden boxes which were to be used the following day to pack the dried fish and he had to work late because he was working on a "pakiao" (piece of work) basis. At about 10:00 o'clock that same evening, he heard a voice calling for him and he recognized the voice of Ronilo Desanta who is a co-worker at Espinosa's Bularan and the one in charge of the bodega. Upon hearing Desanta's voice, he stopped working and laid down the hammer and the box he was holding and went out of the bodega where he saw Desanta and Badian who were both about 6 meters to the door of the bodega. Upon approaching Desanta, he was immediately collared by Desanta and then boxed. Likewise Badian was holding a piece of wood 2 inches by 2 inches in size and about a meter long, hit him with said piece of wood. He then asked his two tormentors why they were mauling him when he had no fault, to which the two answered in this way, 'now, you cannot do anything. You just challenge us.' He retorted that he will not challenge them as they are not enemies, beside he had no fault to them. Despite of this, he was still being held by the two until he reached the interior of the bodega where he shouted at his employer twice for help as he was being mauled, but no help came as his employer was fast asleep. Neither did Diosdado Tek or Nestor Sitol helped him. When no one came to help him, he continued to move backward until he was pushed against a drum with the deceased victim Desanta holding his hair and continued to hit him with fist blows. As he tried to push the two back-wards, his hand dropped and was able to take hold of something which he came to know later as a knife. So, he stabbed Desanta first but only once because he was the one holding him by the hair. After being hit, Desanta went out of the bodega while Badian continued to hit him with fist blows, so he also thrust the knife at him. Then he went to the sleeping quarters of Diosdado Tek and Nestor Sitol and woke them up and requested them to accompany him to the Police Station to surrender as he killed a person. At first Tek and Sitol refused but upon his insistence for the reason that he does not know where the police station is located, they finally agreed. He then brought his bag and his clothes because he knew he will be imprisoned and that he cannot anymore work at Espinosa's Bularan. Therafter they left the place and followed the road. As they were on their way, they flagged down a jeep and discovered that it ws the jeep of their employer Espinosa who was then with P.C. soldier by the name of Ramon Bautista who arrested the three of them and thereafter brought them to the ACTS Center or check-point of Tugbungan. Thereat, the ACTS members at the check-point hit them with the butts of their rifles. Later, Ramon Bautista and some members of the ACTS brought the three of them to the Police Station where a policeman upon learning that he (Garufil) killed a person, hit him on his back with a chain. His statement was then taken down by a policeman without the assistance of counsel. After he signed his written statement, all of them were brought to the City Jail. (TSN pp. 1 to 11, July 11, 1985)." (Appellant's brief, pp. 6-8. Rollo, p. 44).

The appellant has only one assignment of error, namely -

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"THAT THE COURT A QUO ERRED IN NOT GIVING CREDENCE TO THE TESTIMONY OF ACCUSED-APPELLANT THAT HE INFLICTED THE WOUNDS SUFFERED BY RONILO DESANTA AND ERINIO BADIAN IN SELF-DEFENSE." (Rollo, p. 44).

The issue before the trial court and now raised to us is one of credibility. All of the arguments raised by the appellant in two pages of his rather sketchy brief are based on his version of the facts. They merely discuss the elements of self-defense.

The conclusions of the trial court, on the other hand, are based on its finding that the prosecution witnesses were telling the truth and that the self-defense theory is without basis.

When a factual issue on appeal hinges on the relative credibility of witnesses, on who among witnesses asserting contradictory or different versions should be believed, this Court as a rule, will not disturb the factual findings of the trial court. The trial judge is in a much better position to ascertain who should be believed and whose testimony should be rejected, considering that he saw and heard the testimony and observed the deportment and manner of testifying of the witnesses in the course of the trial. It is only when the trial court overlooks or disregards matters of substance or value, which if considered might affect the results, that we reject its appraisal of the relative credibility of witnesses. (People v. Marzan, 128 SCRA 203; People v. Alcid, 135 SCRA 280; People v. Pelias Jones, 137 SCRA 166; People v. Royeras, 130 SCRA 259; People v. Tala, 141 SCRA 240; People v. Macayan, 126 SCRA 322; People v. Legaspi, G.R. No. 74953, June 30, 1987; and People v. Silfavan, G.R. No. 71510, June 30, 1987). We see no reason from the records of the case or from the arguments raised on appeal why we should depart from the established rule. We affirm the judgment of conviction.

The records sustain the findings of the lower court. The two victims were asleep when they were treacherously stabbed. There could have been no unlawful aggression on their part.

We agree with the Solicitor General's* assessment of the evidence:

"Appellant's claim of self-defense, however, welters in contradictions and un-believable circumstances which expectedly, implode upon that claim. Appellant insists that the two victims simultaneously attacked him and mauled him, Desanta with repeated fist blows while holding him by the hair and Badian with the use of a meter long 2" x 2" piece of wood. Under the claimed sufferance, appellant would have been inflicted with certain wounds, bruises, contusions or other physical injuries. Surprisingly, no one, not the police officer who investigated him about five hours after the commission of the crime, nor even his own defense witnesses, his co-accused (Sitol and Tek) who were with him immediately after the criminal incident transpired, testified on the battered condition, if any, of his face and/or body or that he, indeed, was mauled. Even less, no medical report or certificate to that effect was ever presented in evidence by appellant to shore up his claim of such brutal mauling.

"Again it is incredible to conceive that appellant so easily succeeded in stabbing Desanta without Badian giving him a good fight if only for survival. The ease with which appellant dealt his fatal stabs on the chest of Desanta and stomach of Badian can more easily be explained by the testimony of the latter that they were sleeping when pounced upon by appellant.

"And consonantly with the finding of the trial court, it is hard to believe that the fist blows and those dealt by a meter long, 2" x 2" piece of wood did not at all weaken appellant. On the contrary he succeeded in felling his alleged attackers and dragging them to a distance of six (6) meters.:

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"Likewise, appellant's claim that he shouted twice for help when he was being attacked at around 10:00 o'clock in the evening, fails to elicit credence because that time of the night in Tugbungan, Zamboanga City, would be relatively silent and any extraordinary noise such as scuffles between persons fighting and shouts for help would easily be heard. As per the trial court's finding:

'The only reasonable explanation would be that no such fight took place between the accused Garufil on one side and the deceased-victim Desanta and surviving victim Badian on the other.' (page 9, id)

"Finally, the trial court correctly deduced appellant's flight from the place of the incident from his actuations. Although Tugbungan, where the criminal incident took place, is only about five (5) kilometers to Zamboanga City where the police station is located and the same could be negotiated in two (2) hours by hiking, appellant and his co-accused did not reach the police station at the expected time. Instead, they were arrested, and only by accident, in another neighboring barangay, when they flagged down a jeep which coincidentally had on board the P.C. soldier sent to arrest them. Appellant and his co-accused were arrested in a place which was nearer their point of departure than that of intended destination. Moreover, when appellant was arrested, he was bringing along all his packed belongings, evincing a flight from the scene of the crime than a surrender to the authorities." (Plaintiff-Appellee's brief, pp. 9 -13).

The trial court noted that there were two pieces of evidence which tended to support the conspiracy theory implicating the two co-accused. One was their presence at the scene with appellant Garufil when the victims were stabbed. Another is their having left the crime scene together and their being also together in the attempt to flee. However, there was no positive evidence of conspiracy because the victims were asleep when stabbed. We agree with the trial court that "though there is a semblance of proof to establish that a conspiracy existed, yet such proof as existing in these cases do (sic) not meet the required quantum of evidence." (Rollo, p. 14). At the same time, the presence of the three accused at the scene of the crime negates the allegation of the appellant that he acted in self-defense when, in his retreat, his back was supposedly against a drum and he could no longer withdraw.

WHEREFORE, the judgment appealed from is hereby AFFIRMED.

Fernan, (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

* The Solicitor General was assisted by Asst. Solicitor General Oswaldo D. Agcaoili and Solicitor Aurora Cortes--Jorge.

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