

## FIRST DIVISION

[ G.R. No. 216063, June 05, 2017 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
MARLON SORIANO Y NARAG, ACCUSED-APPELLANT.**

### D E C I S I O N

**DEL CASTILLO, J.:**

It must be stated at the outset that appellant Marlon Soriano y Narag does not deny that he stabbed to death Perfecto Narag (Perfecto), his 71-year old maternal uncle who was a retired Philippine Army officer, that fateful day of February 9, 2004 at Linao East, Tuguegarao City. Appellant insists nonetheless that he killed Perfecto in legitimate self-defense and that treachery did not attend the killing, hence he could not be convicted of murder.

#### ***Factual Antecedents***

Appellant was indicted for murder before the Regional Trial Court (RTC) of Tuguegarao City under an Information which states:

That on February 09, 2004, in the City of Tuguegarao, Province of Cagayan and within the jurisdiction of this Honorable Court, accused MARLON SORIANO y NARAG, armed with a bladed weapon, with intent to kill and with evident premeditation and treachery, did then and there willfully, unlawfully and feloniously, stab to death victim PERFECTO NARAG, husband of complainant EDERLINA A. NARAG, inflicting upon him mortal stab wounds which caused his untimely death.

That the crime was committed with the aggravating circumstance[s] of dwelling, and in disregard of the respect due to the offended party on account of his age, being an old man.

Contrary to law.<sup>[1]</sup>

Arraigned thereon, appellant entered a plea of "not guilty". Trial on the merits ensued.

The prosecution presented the following as witnesses:

Ederlina A. Narag (Ederlina), widow of Perfecto; Villamor Pagulayan (Villamor), a tricycle driver; SPO4 Avelino Guinuway (SPO4 Guinuway) of the Philippine National Police (PNP) of Tuguegarao City; and Dr. Eugenio P. Dayag (Dr. Dayag), former City Health Officer of Tuguegarao City.

Ederlina testified that on the afternoon of February 9, 2004, appellant arrived at their house and asked where her husband Perfecto was. Surprised at his arrival,

Ederlina asked appellant why he was looking for Perfecto. Instead of replying to her query, appellant barged into their house and proceeded to Perfecto's room. Seeing that appellant was carrying a bladed weapon, Ederlina shouted to Perfecto to close the door to his room.

While Perfecto was attempting to close the door to his room, appellant grabbed his neck and immediately stabbed him at the right chest while uttering the words "I will kill you." Ederlina tried to stop the appellant from stabbing her husband but he pushed her away and stabbed her instead at the right wrist and forehead. She pleaded with appellant to stop stabbing his uncle, Perfecto, but appellant did not heed her plea. Perfecto also pleaded with him to stop his stabbing frenzy, but he paid no attention to his pleas.

Ederlina narrated that at this point, Villamor, the tricycle driver in their employ, came in and forced appellant out of Perfecto's room. However, appellant was able to return inside the room and stabbed Perfecto at the back again, Ederlina added that after appellant left their house, she saw him and his brother Martin Soriano (Martin) at the street, with appellant himself yelling "Winner."

Corroborating Ederlina's testimony, Villamor testified that he was at the garage of the victim's house when he heard Ederlina's screams. He ran inside the house and saw appellant, Perfecto, and Ederlina inside Perfecto's room. He saw appellant stab Perfecto several times. So he grabbed appellant by the neck and brought him outside the room. But appellant freed himself from his (Villamor's) hold and returned to Perfecto's room and again repeatedly stabbed the latter until he died. Appellant also turned his ire against Villamor and tried to stab him, too, but Villamor succeeded in avoiding serious injury by rushing out of the house. On his way out he ran into Martin, appellant's brother, whom he entreated to help pacify appellant. But Martin instead grabbed Villamor's neck and warned him not to report the incident to the police. However, Villamor broke off from Martin, and went to the police station where he reported the incident.

SPO4 Guinucay testified that he and a fellow police officer went to the scene of the crime to investigate the reported incident. There they found the lifeless Perfecto in a pool of blood, with multiple stab wounds.

Dr. Dayag, testified that he conducted an autopsy upon the 71-year old Perfecto. His autopsy yielded the following results:

Findings:

- Multiple stab wounds, head, chest & back region
- Laceration on the left hand
- Lacerated wound on the left side of the face

Cause of Death:

Severe internal injuries due to multiple stab wounds, head, chest and back region

Dr. Dayag described the injuries, as follows:

- two (2) stab wounds on the forehead:
  1. stab wound measuring .8 inches by 2 inches caused by sharp pointed instrument but non-penetrating;
  2. stab wound measuring 1.02 inches by .2 inches deep hitting the skull but non-penetrating caused by a sharp pointed instrument;
- one laceration on the cheek measuring 2 inches wide and 1.2 inches deep caused by sharp bladed instrument;
- three (3) internal hematomas on the chest which were not fatal or more or less, superficial;
- one stab wound just below the nipple measuring 3.2 inches that hit the Lungs which could cause internal hemorrhage; inflicted with use of sharp pointed knife; a fatal wound
- a stab wound on the abdomen just at the left umbilicus measuring 1.2 by 3 inches hitting the large and small intestines; non-fatal wound;
- contusions on the abdomen just below the rib; superficial;
- a stab wound caused by a knife on the inguinal area measuring 1.2 inches by 3 inches in thickness; possibly caused by sharp pointed instrument; inflicted injuries to the large intestines and urinary bladder which, if not immediately attended to, would be fatal;
- another stab wound measuring 1.2 inches by 3 inches caused by sharp pointed instrument; inflicted injuries to the large intestines and urinary bladder which, if not immediately attended to, would be fatal
- four (4) stab wounds on the back region:
  1. stab wound measuring 2 by 2.4 inches hitting the lungs; possibly caused by a sharp pointed instrument; fatal wound;
  2. Stab wound measuring 2 x 2.2 inches deep hitting the left kidney; caused by a sharp pointed instrument; fatal wound;
  3. Stab wound measuring 2 inches deep and 2 inches wide; on level with the lumbar area on the left hitting the large intestines; possibly caused by a

sharp bladed instrument;

4. Stab wound measuring 2 inches by 3 inches deep on the right side of the lumbar area hitting the large and small intestines; possibly caused by sharp bladed pointed instrument; non-fatal;

On cross-examination x x x Dr. Dayag [declared] that when he conducted the autopsy, [Perfecto's] cadaver was already [in] *rigos mortis* x x x[; that it] is possible that the wounds [inflicted] on the back of the victim were caused by a chisel[; t]he Autopsy Report does not bear the depths and sizes of the wounds but he had them in his notebook x x x.<sup>[2]</sup>

On the other hand, the appellant claimed that there had been a longstanding bad blood between his (appellant's) family and his now deceased uncle, Perfecto, who was an elder brother of his mother; and that this family feud was caused by Perfecto's desire to deprive appellant's mother of her legitimate share in the common residential compound at Linao East, Tuguegarao City. He claimed that on that fateful day of February 9, 2004, Perfecto went near a store he was tending right inside the common residential compound; that at a distance of about five meters, Perfecto yelled at him to step outside; that when he stepped outside their store, Perfecto swung his knife at him and injured his knee; that he ran inside the kitchen and armed himself with a chisel; that when Perfecto tried to hurt him again, he was able to stab him first; that several persons witnessed the incident but nobody tried to interfere; that after the stabbing incident, he surrendered to *Barangay* Councilman Benigno Lucas who brought him to the police station in Annaturan, Tuguegarao City where he was investigated; and that afterwards, he was brought to a hospital for treatment but said hospital did not issue a medical certificate.

On cross-examination, appellant admitted that Ederlina was present during the stabbing incident in question, and that when Ederlina intervened, she was in fact injured by him; that later, Ederlina filed against him a criminal case for frustrated murder before Branch I of the RTC in Tuguegarao City, to which criminal case he pleaded guilty.

### ***Riding, of ike Regional Trial Court***

The RTC of Tuguegarao City, Branch 3, synthesized the evidence at bar in this wise:

The totality of the circumstances leads to the inevitable conclusion that the victim was caught unaware and unable to defend himself and the accused deliberately chose a manner of attack that insured the attainment of his violent intention with no risk to himself.

The fact that Ederlina Narag was able to shout at the victim to close his room does not rule out the presence of treachery. It has been ailed that while a victim may have been warned of possible danger to his person, [there is treachery nonetheless when] the attack was executed in such a manner as to make it impossible for the victim to retaliate. The case at bar typifies this doctrine for the victim had no opportunity to defend himself precisely because it was simply unexpected to be the subject of an attack right inside his own abode and he was unarmed, with no

opportunity to put up a defense. It must also be noted that the victim was already old and that his reflexes could have been worn down by age so he could not have been in a position to swiftly and sufficiently ward off the attack. It is worthy to note the injuries sustained by the victim. According to Dr. Dayag, the victim sustained various injuries not only in front of [his] body but also [on] his forehead and at his back and that the cause of his death is severe internal injuries due to multiple stab wounds, head, chest, and back region.

The version of the accused that the stabbing incident happened outside their house cannot be given credence. First, it is uncorroborated even if accused claimed that there were persons outside their house during the incident. Second, the testimony of prosecution witnesses Villamor Pagulayan and Ederlina Narag that the accused [stab] the victim inside the latter's room was corroborated by SPO4 Avelino Guinuay who testified that he found the victim's body with multiple stabbed wounds lying inside his room [in a] pool of blood. Defense conveniently did not present evidence on what happened to the victim after the stabbing incident that should have explained why the victim's body was found in his room even if the stabbing incident happened outside the house of the accused.

To warrant a finding of evident premeditation, the prosecution must establish the confluence of the following requisites: (a) the time when the offender determined to commit the crime; (b) an act manifestly indicating that the offender clung to his determination [to commit the crime]; and (c) a sufficient interval of time between the determination and the execution of the crime to allow him to reflect upon the consequences of his act.

Prosecution evidence [failed] to show when the accused planned to commit the offense and that he reflected on the means to bring about its execution following an appreciable length of time. The Court cannot rest easy in appreciating this aggravating circumstance.

Dwelling aggravates a felony where the crime was committed in the dwelling of the offended party, if the latter has not given provocation or if the victim was killed inside his house. Dwelling is considered aggravating primarily because of the sanctity of privacy [that] the law accords to [the] human abode. He who goes to another's house to hurt him or do him wrong is more guilty than he who offends him elsewhere. The offense of Murder may be committed without the necessity of trespassing the sanctity of the offended party's house.

The victim was killed not merely in his house but in his own room. The accused could have killed him elsewhere but he decided to commit the crime at the victim's home; thus the aggravating circumstance of dwelling should be appreciated against the accused.

The Court is also convinced that the offense was committed in disregard of the respect due to the age of the victim. The accused knew fully well that the victim was already old because he is his uncle. The accused