

THIRD DIVISION

[G.R. No. 181354, February 27, 2013]

**SIMON A. FLORES, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

DECISION

MENDOZA, J.:

This is a petition for review on certiorari under Rule 45 of the Rules of Court, seeking to annul and set aside the August 27, 2004 Decision^[1] of the Sandiganbayan, First Division (*Sandiganbayan*), in Criminal Case No. 16946, finding petitioner Simon A. Flores (*Flores*) guilty beyond reasonable doubt of the crime of Homicide, and its November 29, 2007 Resolution^[2] denying his motion for reconsideration.

Flores was charged with the crime of Homicide in an *Information*, dated July 9, 1991, filed before the Sandiganbayan which reads:

That on or about the 15th day of August, 1989, at nighttime, in the Municipality of Alaminos, Province of Laguna, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, a public officer, being then the Barangay Chairman of San Roque, Alaminos, Laguna, while in the performance of his official functions and committing the offense in relation to his office, did then and there willfully, unlawfully, feloniously and with intent to kill, shoot one JESUS AVENIDO with an M-16 Armalite Rifle, thereby inflicting upon him several gunshot wounds in different parts of his body, which caused his instantaneous death, to the damage and prejudice of the heirs of said JESUS AVENIDO.

CONTRARY TO LAW.^[3]

During his arraignment, on August 26, 1991, Flores pleaded "Not Guilty" and waived the pre-trial. Thereafter, the prosecution presented four (4) witnesses, namely: Paulito Duran, one of the visitors (*Duran*); Gerry Avenido (*Gerry*), son of the victim; Elisa Avenido (*Elisa*), wife of the victim; and Dr. Ruben Escueta, the physician who performed the autopsy on the cadaver of the victim, Jesus Avenido (*Jesus*).

For its part, the defense presented as witnesses, the accused Flores himself; his companion-members of the Civilian Action Force Group Unit (CAFGU), Romulo Alquizar and Maximo H. Manalo; and Dr. Rene Bagamasbad, resident physician of San Pablo City District Hospital.

The Version of the Prosecution

On August 15, 1989, on the eve of the barangay fiesta in San Roque, Alaminos, Laguna, certain visitors, Ronnie de Mesa, Noli de Mesa, Marvin Avenido, and Duran, were drinking at the terrace of the house of Jesus. They started drinking at 8:30 o'clock in the evening. Jesus, however, joined his visitors only at around 11:00 o'clock after he and his wife arrived from Sta. Rosa, Laguna, where they tried to settle a problem regarding a vehicular accident involving one of their children. The drinking at the terrace was ongoing when Flores arrived with an M-16 armalite rifle.

[4]

Duran testified that Jesus stood up from his seat and met Flores who was heading towards the terrace. After glancing at the two, who began talking to each other near the terrace, Duran focused his attention back to the table. Suddenly, he heard several gunshots prompting him to duck under the table. Right after the shooting, he looked around and saw the bloodied body of Jesus lying on the ground. By then, Flores was no longer in sight.[5]

Duran immediately helped board Jesus in an owner-type jeep to be brought to a hospital. Thereafter, Duran, Ronnie de Mesa and Noli de Mesa went home. Jesus was brought to the hospital by his wife and children. Duran did not, at any time during the occasion, notice the victim carrying a gun with him.[6]

Gerry narrated that he was going in and out of their house before the shooting incident took place, anxiously waiting for the arrival of his parents from Sta. Rosa, Laguna. His parents were then attending to his problem regarding a vehicular accident. When they arrived, Gerry had a short conversation with his father, who later joined their visitors at the terrace.[7]

Gerry was outside their house when he saw Flores across the street in the company of some members of the CAFGU. He was on his way back to the house when he saw Flores and his father talking to each other from a distance of about six (6) meters. Suddenly, Flores shot his father, hitting him on the right shoulder. Flores continued shooting even as Jesus was already lying flat on the ground. Gerry testified that he felt hurt to have lost his father.[8]

Elisa related that she was on her way from the kitchen to serve "pulutan" to their visitors when she saw Flores, from their window, approaching the terrace. By the time she reached the terrace, her husband was already lying on the ground and still being shot by Flores. After the latter had left, she and her children rushed him to the hospital where he was pronounced dead on arrival.[9]

As a consequence of her husband's untimely demise, she suffered emotionally. She testified that Jesus had an average monthly income of Twenty Thousand Pesos (P20,000.00) before he died at the age of forty-one (41). He left four (4) children. Although she had no receipt, Elisa asked for actual damages consisting of lawyer's fees in the amount of Fifteen Thousand Pesos (P15,000.00) plus Five Hundred Pesos (P500.00) for every hearing, and Six Thousand Five Hundred Pesos (P6,500.00) for the funeral expenses.[10]

Dr. Ruben Escueta (*Dr. Escueta*) testified that on August 17, 1989, he conducted an autopsy on the cadaver of Jesus, whom he assessed to have died at least six (6)

hours before his body was brought to him.^[11]

Based on the Autopsy Report,^[12] it appeared that the victim suffered four gunshot wounds in the different parts of his body, specifically: on the medial portion of the left shoulder, between the clavicle and the first rib; on the left hypogastric region through the upper right quadrant of the abdomen; on the tip of the left buttocks to the tip of the sacral bone or hip bone; and on the right flank towards the umbilicus. The victim died of massive intra-abdominal hemorrhage due to laceration of the liver.

The Version of the Defense

To avoid criminal liability, Flores interposed self-defense.

Flores claimed that in the evening of August 15, 1989, he, together with four members of the CAGU and Civil Service Unit (CSU), Maximo Manalo, Maximo Latayan (*Latayan*), Ronilo Haballa, and Romulo Alquizar, upon the instructions of Mayor Samuel Bueser of Alaminos, Laguna, conducted a *ronda* in Barangay San Roque which was celebrating the eve of its fiesta.^[13]

At around midnight, the group was about 15 meters from the house of Jesus, who had earlier invited them for some “bisperas” snacks, when they heard gunshots seemingly emanating from his house. Flores asked the group to stay behind as he would try to talk to Jesus, his cousin, to spare the shooting practice for the fiesta celebration the following day. As he started walking towards the house, he was stopped by Latayan and handed him a baby armalite. He initially refused but was prevailed upon by Latayan who placed the weapon over his right shoulder, with its barrel or nozzle pointed to the ground. Latayan convinced Flores that such posture would gain respect from the people in the house of Jesus.^[14]

Flores then proceeded to the terrace of the house of Jesus, who was having a drinking spree with four others. In a calm and courteous manner, Flores asked Jesus and his guests to cease firing their guns as it was already late at night and to save their shots for the following day’s fiesta procession. Flores claimed that despite his polite, unprovocative request and the fact that he was a relative of Jesus and the barangay chairman, a person in authority performing a regular routine duty, he was met with hostility by Jesus and his guests. Jesus, who appeared drunk, immediately stood up and approached him as he was standing near the entrance of the terrace. Jesus abruptly drew his magnum pistol and poked it directly at his chest and then fired it. By a twist of fate, he was able to partially parry Jesus’ right hand, which was holding the pistol, and was hit on his upper right shoulder.^[15]

With fierce determination, however, Jesus again aimed his gun at Flores, but the latter was able to instinctively take hold of Jesus’ right hand, which was holding the gun. As they wrestled, Jesus again fired his gun, hitting Flores’ left hand.^[16]

Twice hit by bullets from Jesus’ magnum pistol and profusely bleeding from his two wounds, Flores, with his life and limb at great peril, instinctively swung with his right hand the baby armalite dangling on his right shoulder towards Jesus and squeezed its trigger. When he noticed Jesus already lying prostrate on the floor, he immediately withdrew from the house. As he ran towards the coconut groves,

bleeding and utterly bewildered over the unfortunate incident that just transpired between him and his cousin Jesus, he heard more gunshots. Thus, he continued running for fear of more untoward incidents that could follow. He proceeded to the Mayor's house in Barangay San Gregorio, Alaminos, Laguna, to report what had happened. There, he found his *ronda* groupmates.^[17]

The incident was also reported the following day to the CAGU Superior, Sgt. Alfredo Sta. Ana.

Decision of the Sandiganbayan

On August 27, 2004, after due proceedings, the Sandiganbayan issued the assailed decision^[18] finding Flores guilty of the offense charged. The Sandiganbayan rejected Flores' claim that the shooting was justified for failure to prove self-defense. It gave credence to the consistent testimonies of the prosecution witnesses that Flores shot Jesus with an armalite rifle (M16) which resulted in his death. According to the Sandiganbayan, there was no reason to doubt the testimonies of the said witnesses who appeared to have no ill motive to falsely testify against Flores. The dispositive portion of the said decision reads:

WHEREFORE, judgment is hereby rendered in **Criminal Case No. 16946** finding the accused **Simon A. Flores GUILTY** beyond reasonable doubt of the crime of homicide and to suffer the penalty of 10 years and 1 day of *prision mayor* maximum, as minimum, to 17 years, and 4 months of *reclusion temporal* medium, as maximum. The accused is hereby ordered to pay the heirs of the victim Fifty Thousand Pesos (P50,000.00) as civil indemnity for the death of Jesus Avenido, another Fifty Thousand Pesos (P50,000.00) as moral damages, and Six Thousand Five Hundred Pesos (P6,500.00) as actual or compensatory damages.

SO ORDERED.^[19]

Flores filed a motion for the reconsideration. As the motion did not contain any notice of hearing, the Prosecution filed its Motion to Expunge from the Records Accused's Motion for Reconsideration."^[20]

In its Resolution, dated November 29, 2007, the Sandiganbayan denied the motion for being a mere scrap of paper as it did not contain a notice of hearing and disposed as follows:

WHEREFORE, in view of the foregoing, *the Motion for Reconsideration* of accused Flores is considered pro forma which did not toll the running of the period to appeal, and thus, the assailed judgment of this Court has become **FINAL** and **EXECUTORY**.

SO ORDERED.^[21]

Hence, Flores filed the present petition before this Court on the ground that the

Sandiganbayan committed reversible errors involving questions of substantive and procedural laws and jurisprudence. Specifically, Flores raises the following

ISSUES

(I)

WHETHER THE SANDIGANBAYAN, FIRST DIVISION, GRAVELY ERRED IN NOT GIVING DUE CREDIT TO PETITIONER'S CLAIM OF SELF-DEFENSE

(II)

WHETHER THE SANDIGANBAYAN, FIRST DIVISION, COMMITTED SERIOUS BUT REVERSIBLE ERRORS IN ARRIVING AT ITS FINDINGS AND CONCLUSIONS

(III)

WHETHER THE SANDIGANBAYAN, FIRST DIVISION, COMMITTED A GRAVE ERROR IN NOT ACQUITTING PETITIONER OF THE CRIME CHARGED^[22]

The Court will first resolve the procedural issue raised by Flores in this petition.

Flores claims that the outright denial of his motion for reconsideration by the Sandiganbayan on a mere technicality amounts to a violation of his right to due process. The dismissal rendered final and executory the assailed decision which was replete with baseless conjectures and conclusions that were contrary to the evidence on record. He points out that a relaxation of procedural rules is justified by the merits of this case as the facts, viewed from the proper and objective perspective, indubitably demonstrate self-defense on his part.

Flores argues that he fully complied with the requirements of Section 2 of Rule 37 and Section 4 of Rule 121 of the Rules of Court when the motion itself was served upon the prosecution and the latter, in fact, admitted receiving a copy. For Flores, such judicial admission amounts to giving due notice of the motion which is the intent behind the said rules. He further argues that a hearing on a motion for reconsideration is not necessary as no further proceeding, such as a hearing, is required under Section 3 of Rule 121.

Flores' argument fails to persuade this Court.

Section 5, Rule 15 of the Rules of Court reads:

SECTION 5. *Notice of hearing.* – The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion.