

SECOND DIVISION

[G.R. No. 152715, July 29, 2005]

**ROGELIO SOPLENTE, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

D E C I S I O N

TINGA, J.:

Self-preservation is the first law of nature.

- Samuel Butler

A person acting in self-defense is apt to unleash with lightning speed the terrible swift sword. It is perhaps the speed with which the relevant actions transpire that poses some difficulty in the adjudication of many self-defense claims. The events in this case involve several actors and a series of assaults, all occurring within the span of several blinks of the eye. The totality of the picture convinces us that the accused was enmeshed in a web of danger which convulsed him into a reasonable fear for his life. It is under that dark cloud that the accused, as he readily admits, ended the life of Joel Notarte. The loss of life is cause for grief, but the facts dictate that the killing was justified under the circumstances.

Rogelio Soplente (Rogelio) seeks the reversal of the *Decision*^[1] and the *Resolution*^[2] denying his motion for reconsideration thereof, rendered by the Court of Appeals (CA) in CA-G.R. No. 20446. The CA affirmed the *Decision*^[3] of the Regional Trial Court (RTC) of General Santos City, Branch 22 acquitting Rogelio of the crime of frustrated homicide in Criminal Case No. 5093 but convicting him of homicide in Criminal Case No. 5094.

The antecedent operative facts follow.

Originally, Rogelio and his first cousin Nicanor Soplente (Nicanor) were jointly charged with frustrated homicide for the wounding of Eduardo Leyson VI (Leyson) and with homicide for the killing of Joel Notarte (Notarte) under informations with the following accusatory portions:

I. Criminal Case No. 5093

That on or about 12:30 o'clock in the early morning of May 4, 1988 at Purok Santa Cruz, San Pedro Street, Lagao, General Santos City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with intent to kill and with the use of a knife, did then and there willfully, unlawfully, and feloniously stab one Eduardo Leyson VI hitting him on his left arm (through and through), which wound ordinarily would

cause the death of said Eduardo Leyson VI, thus performing all the acts of execution which should have produced the crime of homicide as a consequence, but nevertheless did not produce it by reason of causes independent of his will and the timely and able medical assistance rendered to said Eduardo Leyson VI which prevented his death.^[4]

II. Criminal Case No. 5094

That on or about 12:30 o'clock in the early morning of May 4, 1988 at Purok Santa Cruz, San Pedro St., Lagao, General Santos City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with intent to kill and armed with a deadly weapon, did then and there willfully, unlawfully and feloniously stab Joel Notarte, thereby inflicting upon the latter stab wound which caused his instantaneous death.^[5]

The prosecution's evidence, culled mainly from the oral testimonies of Gracidio Gulle (Gulle), Renato Besinga (Besinga) and Leyson, revealed the following:

A group consisting of Leyson, Notarte, Besinga, Gulle, Ewing Bayani, Ralowe Velayo, Ebol Bayani, Reynaldo Jamerlan and Bond de Vera were drinking and conversing in the early evening of 3 May 1988 which was the occasion of the fiesta at Purok Sta. Cruz, San Pedro St., Lagao, General Santos City. They were at the store of a certain Diola which was situated near the stage where the amateur singing contest was to be held.^[6]

During the singing contest, which started at around ten o'clock in the evening (10:00 p.m.), Bepong Cambarijan (Cambarijan) approached Gulle to tell him that Rogelio and Nicanor Soplente (the two accused) had asked him and Estoy Provided (Provido), who was tough among the group. Without telling anybody except Leyson and Notarte about the incident, Gulle went to the house of policeman Rudy Penequito (Penequito) to get help. Penequito instructed Gulle to refrain from accosting the Soplente cousins to avoid disturbing the singing contest. Penequito also approached Rogelio and Nicanor and admonished them not to make trouble, but despite the intervention, Gulle, Notarte and Leyson watched the Soplente cousins still. Gulle, along with Bebing Go, then accosted the Soplente cousins and inquired where they came from. Nicanor politely answered that they were staying with Susing Cafi (Susing). Since Gulle and the others knew that Susing was a local resident, they were satisfied with the answer and they left the Soplente cousins alone. Gulle however noticed that Nicanor smelled of liquor.^[7]

The group of Leyson and the Soplente cousins continued to watch the singing contest being held nearby. Some of Leyson's companions were *barangay tanods* and volunteers, thus, they were equipped with canes while Leyson was armed with a handgun.^[8]

While awaiting the announcement of winners at about twelve thirty in the early morning (12:30 a.m.) of 4 May 1988, the group of Leyson repaired to a place away from the stage to relieve themselves. Some of the spectators began dispersing at this point. Notarte and Besinga were along one side of San Pedro St. while the others, including Gulle, were on the left side. Suddenly, a commotion ensued as the

Soplente cousins passed by.^[9] Gulle, Besinga and Leyson offered the following accounts of what had transpired then.

Gulle testified that he saw Notarte fall to the ground, which was followed by a gun burst which he presumed came from Leyson's handgun. He saw Leyson, by then clearly wounded, chasing Rogelio. However, Gulle did not see the actual stabbing of either Notarte or Leyson.^[10]

Besinga testified that he saw the commotion at a distance of about thirty (30) meters while he was walking towards the group of Leyson at the right side of San Pedro St. When he was barely three (3) meters away from them, he saw Rogelio and Leyson approaching each other saying something unintelligible. Notarte was beside Leyson at this juncture. Rogelio then stabbed Leyson, who drew a gun and fired in the air. Besinga did not notice the others but his companions were nearby mingled with the people going home.^[11]

Leyson, who survived the attack and sustained a wound on his left arm, claimed to have been taken by surprise when the Soplente cousins suddenly attacked Notarte and himself. The assault was so sudden and fast that while he was standing with arms akimbo, he was stabbed by Rogelio. Leyson reacted by drawing his gun and firing a shot in the air to prevent further attack. Notarte who was a little to the rear but very near his right side was attacked by Nicanor at the same instant that Rogelio had attacked his companion, Leyson. The assaults were done simultaneously with lightning speed, with Rogelio concentrating on Leyson and Nicanor on Notarte. Rogelio fled after the firing of the gun. (But Leyson did not testify whether Nicanor had also taken flight.) Leyson tried to go after Rogelio used but since he was bleeding profusely, a policeman assisted him in going to the Canda clinic for medical treatment. He learned the next day that Notarte died as a result of the stabbing.^[12]

On the other hand, Rogelio admitted having stabbed both Leyson and Notarte, but claimed that he did so in self-defense.^[13] The testimony of Rogelio and Nicanor themselves were presented as well as that of their cousin Elena Cafi (Bukay) and store owner, Joy Malig-on (Malig-on). Based on the findings of the lower court, the defense's version of the incident is condensed as follows:

The cousins, Rogelio and Nicanor, watched the amateur singing contest being held near the Sta. Cruz Chapel at San Pedro St. which started at about nine thirty in the evening (9:30 p.m.). They were standing only a few meters away from the group of people who were drinking in the store of Diola. While engrossed with the singing contest, they were approached by two (2) persons from the group of Leyson who then tapped Nicanor's shoulder. They insisted on bringing Nicanor along with them so Nicanor called for Rogelio's help. The latter immediately intervened to stop the two from harassing Nicanor.^[14]

A few minutes after the incident, Nicanor went to the adjacent store of Malig-on and "ordered orange."^[15] When Malig-on asked him what happened, Nicanor explained that the strangers were provoking him by deliberately stepping on his feet. He claimed however that the incident was nothing to him.^[16]

At about past eleven o'clock in the evening (11:00 p.m.), before the conclusion of

the amateur singing contest, Rogelio and Nicanor decided to go home. They related to their cousin, Susing and his wife, Bukay, how Nicanor was harassed near the stage of the amateur show.^[17]

At past midnight, Bukay asked Rogelio and Nicanor to accompany her in looking for her children who had watched the singing contest. They obliged but before they had gone about three hundred (300) meters, Nicanor separated from them to buy cigarettes from a nearby store. Rogelio and Bukay went onwards but at a distance of about fifty (50) meters from the stage, Rogelio stopped and Bukay proceeded alone to look for her children. A few minutes later, Bukay appeared with the children and they all headed home.^[18]

While on the way home, Rogelio suddenly found himself surrounded by around ten (10) persons led by Leyson. He shouted at Nicanor to run and the latter immediately scampered away. Leyson drew his gun and fired at Rogelio but the latter was able to parry it by tapping the base of Leyson's hand holding the gun. Forthwith, Rogelio stabbed Leyson once. As Notarte had started mauling Rogelio after Leyson had fired his gun, Rogelio also stabbed Notarte. He stabbed both Leyson and Notarte to protect himself from being killed by the group who were armed with canes and a lead pipe aside from Leyson's gun. Rogelio managed to escape after that and he sought refuge in the house of Susing.^[19]

Before dawn, a policeman arrived at Susing's house and Rogelio voluntarily gave himself up. The knife he used was also turned over to the police. He was brought to the police substation at Lagao. A few hours later, Nicanor was also picked up by the police.^[20]

In its assailed ruling, the RTC held that Nicanor had no participation in the fatal incident which occurred in the early morning of 4 May 1988.^[21] It also found that there was no evidence of conspiracy.^[22] Accordingly, it absolved Nicanor of the crimes charged in both Criminal Case Nos. 5093 and 5094.^[23] On the other hand, Rogelio's claim of self-defense was deemed legally justified with respect to Leyson's injury but not with respect to Notarte's death. Thus, while Rogelio was acquitted in Criminal Case No. 5093, he was found guilty of the crime of homicide in Criminal Case No. 5094.^[24]

Notwithstanding the above findings, the lower court ordered both Nicanor and Rogelio to jointly and severally indemnify the family of Notarte for the latter's death and to pay the hospitalization expenses of Leyson in its decision dated 7 May 1996. The dispositive portion of the decision reads:

ACCORDINGLY, in the absence of proof of conspiracy, Nicanor Soplente is acquitted in both criminal cases nos. 5093 and 5094. Considering the admission and the evidence adduced, Rogelio Soplente is acquitted on reasonable doubt in Criminal Case No. 5093 for frustrated homicide but he is found guilty beyond reasonable doubt in Criminal Case No. 5094 for homicide with the attendance of the mitigating circumstances of provocation or threat and voluntary surrender and he is hereby sentenced to 6 years of PRISION CORRECCIONAL to 8 years and 1 day of PRISION MAYOR MEDIO, to jointly and severally indemnify with accused

Nicanor Soplente the heirs of the deceased Joel Notarte the sum of P50,000.00, actual expenses of P12,500.00; they are also required to pay IN SOLIDUM the hospitalization expenses of Eduardo Leyson VI plus costs.

SO ORDERED.^[25]

Initially, both Nicanor and Rogelio filed their respective notices of appeal from the above decision. Later however, Nicanor withdrew his notice of appeal and opted to merely move for a reconsideration of the portion of the decision making him solidarily liable for monetary awards in favor of the victims.^[26]

In an *Order*^[27] dated 26 June 1996, the lower court granted Nicanor's motion thereby totally absolving him from both criminal and civil liability. Thus, only Rogelio's appeal to the CA remained. Concluding that there was no unlawful aggression on the part of Notarte which would justify Rogelio's claim of self-defense, the CA affirmed the ruling of the RTC.^[28] Hence, Rogelio's recourse to this Court.

In his petition, Rogelio claims that the CA erred when it held that on the basis of unlawful aggression alone, Rogelio's evidence fell short of being clear and convincing.^[29] Rogelio vehemently argues that a holistic appreciation of the evidence as presented by both the prosecution and the defense will show that self-defense lies in his favor.^[30]

Doctrinally, findings of fact of trial courts are accorded the highest respect and weight. It is the peculiar province of the trial court to determine the credibility of witnesses and related questions of fact because of its superior advantage in observing the conduct and demeanor of witnesses while testifying. Thus, it has become a well-settled rule that where the issue touches on the credibility of witnesses or factual findings, the appellate court will generally not disturb the findings of the trial court, unless some facts or circumstances that may affect the result of the case have been overlooked.^[31]

In this case, a careful perusal of the records shows that the lower court overlooked material facts that would result in Rogelio's exculpation from liability. The lower courts failed to appreciate the fact that Rogelio's testimony relative to his claim of self-defense stands uncontradicted. His testimony coupled with the circumstances surrounding this case sufficiently proves the claim of self-defense.

The three main witnesses for the prosecution, Gulle, Besinga and Leyson categorically stated that it was Nicanor, not Rogelio who stabbed Notarte. Gulle testified thus:

Q Mr. Gulle, do you still remember where were you on May 4, 1988 at about 12:30 o'clock early in the morning?

A I was at San Pedro St., Lagao, General Santos City.

Q What were you doing there at that particular time and place?

A I was standing beside my friends, Joel Notarte and Eduardo Leyson VI.