

SECOND DIVISION

[G.R. No. 122767, January 20, 2004]

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JOSEPH CAJURAO, APPELLANT.

DECISION

CALLEJO, SR., J.:

Before us on appeal is the Decision^[1] of the Regional Trial Court of South Cotabato, Branch 26, convicting the appellant Joseph Cajurao of murder; sentencing him to suffer the penalty of *reclusion perpetua* and ordering him to pay the heirs of the victim Santiago Betita P50,000 as civil indemnity and P20,000 as actual damages.

On December 22, 1993, an Information was filed charging the appellant of murder, the accusatory portion of which reads:

That on or about the 29th day of November, 1993 at Poblacion, Municipality of Surallah, Province of South Cotabato, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill and with treachery did then and there willfully, unlawfully and feloniously attack, assault and stab SANTIAGO BETITA with a sharp pointed-bladed instrument hitting and wounding him on the breast which caused his death thereafter.

CONTRARY TO LAW.^[2]

On January 21, 1994, the appellant was arraigned with the assistance of his counsel and pleaded not guilty to the crime charged.^[3] Trial thereafter ensued.

The Case for the Prosecution^[4]

On November 29, 1993, the residents of Poblacion, Surallah, South Cotabato were in a festive mood. There was carnival in the municipal plaza. The *Sangguniang Kabataan* had also sponsored a disco that evening to be held in the Poblacion's Civic Cultural Center gymnasium. Pacita Pordios put up a stall in front of the gym for the sale of candies, soft drinks and other assorted items. She filled a flat bottle of Tanduay with kerosene and placed a wick thereon. She used the makeshift lamp to light up her stall.^[5]

The appellant Joseph Cajurao and his friend Allan Dañosos went to the dance hall. Felix Teruel and Nena Carmelo were then manning the gate and the ticket booth. Since Cajurao and Dañosos had no tickets, they were not allowed to enter. The appellant and Dañosos tarried within the vicinity and repeatedly tried to enter the hall without tickets, to no avail.^[6]

At about 10:30 p.m., Pordios was surprised when Santiago Betita suddenly arrived at her stall. When he took the "lamp" that illuminated her wares, she got angry and confronted him. Pordios asked him why he took the lamp, but Betita ignored her and held on to the lamp in a defensive stance. Betita appeared perturbed. Shortly thereafter, someone threw a stone, prompting people to scamper away. Still holding on to the lamp, Betita moved over to the stall beside Pordios. Suddenly, the appellant sped towards Betita and stabbed him on the right nipple. Betita fell to the ground. The appellant then threw his knife away and fled.^[7]

Domingo Tecson, a civilian volunteer assigned to take charge of the peace and order situation in the area, was then on patrol. He saw the appellant pass by, running. He looked towards the direction where the appellant had come from and saw Betita slumped on the ground, mortally wounded. Tecson rushed to where Betita was and shouted for help. He instructed his fellow volunteers to run after the appellant and collar him. After a brief chase, the appellant was caught by a volunteer in the carnival ground and was thereafter turned over to the police authorities.^[8]

Tecson went back to the crime scene to look for the weapon the appellant used to kill Betita. With the aid of the light from a nearby fire truck, he found the knife and its scabbard. Tecson turned the weapon over to the police.^[9] Pordios and Tecson gave their respective statements to PO3 Lino D. Antonino.^[10]

Dr. Rolando P. Arrojo, the Municipal Health Officer, signed the Certification of Death showing that Betita died due to:

- Severe internal hemorrhage resulting to shock then cardiac arrest.
- Stab wound, right chest.^[11]

Valentina Betita, the victim's mother, spent P20,000 for the wake and burial of her son.

The Case for the Appellant

The appellant admitted stabbing and killing Betita but claimed that he did so to defend himself. He testified that at 9:00 a.m. on November 29, 1993, he and his friend Allan Dañosos went to the dance at the Civic Cultural Center gymnasium. The appellant saw Betita enter the gymnasium. He was nonplussed when Betita shouted at him, "*Putang ina ka, ari pa na, nakit-an na ta!*" Betita also accused him of being a braggart and a liar. The appellant asked Betita what his gripe was against him.

At about 10:00 p.m., the appellant went out of the gym and seated himself on a concrete bench nearby, beside the trunk of a mango tree. Betita followed and shouted at him saying, "When you are in a group you are a braggart. Now, we are here outside." The appellant remonstrated, saying, "Boy, what is this?" Betita retorted, "You came here just to look for trouble!" The appellant stood up and was about to leave, but Betita slapped him on the face. Betita then fled to the stall of Pordios and took hold of the makeshift lamp. As he was about to throw the lighted lamp at the appellant who was about four meters away, the latter walked slowly to

Betita and asked, "Why did you slap me, Boy?" The appellant pushed Betita's hand aside, the hand that held the lamp, and pulled out a knife from his waist. The appellant then stabbed Betita on his right nipple. He threw his knife in a grassy area and fled from the scene.

Nanette Evangelista testified that on that fateful evening, she and Pacita Pordios put up their stalls within the periphery of the gymnasium where the dance was being held. Her wares included assorted items like candies, biscuits, soft drinks and cigarettes. Her stall was about four meters away from that of Pordios. Before 10:00 p.m., Nanette, Melinda Rojas and their friends, decided to join the disco in the gymnasium. Nanette asked someone to man the stall in the meantime. She then saw Santiago "Boy" Betita, the appellant and Allan Dañosos dancing inside the gymnasium. The two had an argument. By about 10:30 p.m., Nanette left the gymnasium, went outside and proceeded to the mango tree, about seven meters away from the gymnasium. She then talked to a friend, Arlene Mendoza.

After about half an hour, the appellant and Allan Dañosos emerged from the gymnasium and went to the concrete bench near the trunk of the mango tree, about two meters from where Nanette and Arlene Mendoza had seated themselves. Betita arrived and approached the appellant, pointing at the latter. The appellant stood up. Betita then slapped the appellant on the face. The appellant was about to retaliate but Betita fled towards the stall of Pordios, about three meters away from the concrete bench. He took hold of the "Tanduay lamp" and was about to throw it at the appellant but the latter, armed with a knife, ran towards Betita and stabbed him on the chest.

After trial, the court *a quo* rendered judgment on January 19, 1994, the dispositive portion of which reads:

IN VIEW OF THE FOREGOING, the court finds the accused Joseph Cajurao guilty beyond reasonable doubt of murder and hereby sentences him to the penalty of *reclusion perpetua* and to indemnify the heirs of the victim Santiago Betita the sum of P50,000.00 for the victim's death and P20,000.00 actual expenses in relation to said death of the victim.

SO ORDERED.^[12]

The trial court rejected the appellant's defense and concluded that he failed to present clear and convincing evidence to prove that he killed Betita in self-defense. It gave credence and full probative weight to the testimony of the witnesses for the prosecution, that the appellant stabbed the defenseless victim. It also appreciated the presence of treachery, qualifying the crime to murder.

The appellant appealed the decision with the lone assignment of error, to wit:

1. The Honorable Court *a quo* gravely committed error in finding the accused guilty of the crime of MURDER.^[13]

The appellant contends that the trial court erred in giving credence and full probative weight to the testimony of the prosecution witnesses, more particularly to those of Tecson and Pordios, and in ignoring his testimony and that of Evangelista. The appellant contends that he stabbed Betita because the latter took hold of the "Tanduay lamp" on the stall of Pordios and was about to throw it at him. This

impelled the appellant to rush to where Betita was. Before the lamp could be thrown at him, he stabbed Betita. According to the appellant, the victim's act of slapping him and attempting to throw the lighted lamp at him constituted unlawful aggression on the part of the latter. Thus, there was no provocation on his part; the means he used to repel the unlawful aggression of Betita was reasonable.

We do not agree with the contention of the appellant.

First. Like alibi, self-defense is a weak defense because it is easy to fabricate.^[14] When the accused interposes self-defense, he thereby admits having killed the victim. The burden of proof is shifted on him to prove with clear and convincing evidence the confluence of the essential requisites of a complete self-defense, namely: (a) unlawful aggression on the part of the victim; (b) reasonable necessity of the means employed to prevent or repel it; and (c) lack of sufficient provocation on the part of the person defending himself.^[15] The accused must rely on the strength of his own evidence and not on the weakness of the evidence of the prosecution; because even if the prosecution's evidence is weak, the same can no longer be disbelieved.^[16] The appellant failed to discharge his burden.

Second. The trial court found the collective testimonies of the witnesses for the prosecution to be credible, while those of the appellant and Evangelista, incredible and barren of probative weight. The legal aphorism is that the factual findings of the trial court, its calibration of the testimonies of the witnesses and its assessment of their probative weight is given high respect if not conclusive effect, unless the trial court ignored, misconstrued, misunderstood or misinterpreted cogent facts and circumstances of substance, which if considered will alter the outcome of the case. We have meticulously reviewed the records and found no reason to deviate from the factual findings of the trial court.

Third. The natural reaction of one who witnesses the commission of a crime is to report the same immediately to the police authorities so that the culprit could be arrested and forthwith prosecuted; and if convicted, to be meted the appropriate penalty therefor. In this case, Pordios and Tecson gave their respective statements to the public investigator on November 30, 1993, barely a day after the stabbing. In contrast, the appellant and Evangelista did not report the stabbing to the police authorities and even failed to give any statement thereon.

Fourth. The flight of the appellant, his throwing away the knife used to stab the victim, his failure to report the stabbing and to surrender himself to the police authorities and to thereafter claim that he killed Betita in self-defense, all these belie his claim that he killed the victim in self-defense.^[17]

Fifth. Evangelista put up her stall in the periphery of the gym to sell biscuits, cigarettes and soft drinks and other assorted items. It is incredible that she would leave her stall and join the dance and after an hour or so, proceed to the nearby mango tree and converse with a friend.

Sixth. There can be no self-defense, complete or incomplete, unless there is clear and convincing proof of unlawful aggression on the part of the victim. The unlawful aggression, a constitutive element of self-defense, must be real or at least imminent and not merely imaginary. A belief that a person is about to be attacked is not