

FIRST DIVISION

[G.R. No. 137406, March 26, 2003]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROGELIO DELADA, JR., ACCUSED-APPELLANT.**

D E C I S I O N

YNARES-SANTIAGO, J.:

In the morning of July 7, 1997, Danny Paredes, a pedicab driver, parked his vehicle in front of the shoe shop of Loloy Cerna in Cogon, Cagayan De Oro City. He then went inside the Cogon market to eat breakfast. When he returned, he discovered that his pedicab was missing. Loloy Cerna told him that appellant Rogelio Delada, Jr., alias "Loloy Piang," took his pedicab.

Later in the afternoon, at 4:00 p.m., Paredes saw appellant in the same vicinity aboard the pedicab. He accosted him and said, "*Ang, why did you steal my trisikad?*" Appellant answered, "*Ngano, palag ka?*" Irked at the insolent response, Paredes attempted to punch appellant but the latter was able to dodge the blow and run towards the public market.

Thereafter, while Paredes was talking with Loloy Cerna and Antonio Quipanes, they heard somebody say, "*Piang is coming back.*" Quipanes saw appellant approaching towards Paredes' direction holding a *kangkong* cutter. He tried to warn Paredes of the forthcoming attack by uttering, "*Dan, watch out!*" However, even before Paredes could fully turn to face his assailant, the latter thrust the knife into the side of his waist. Paredes threw punches at appellant but he collapsed. While he lay injured on the pavement, he requested Quipanes to bring him to the hospital. Quipanes boarded Paredes on a *motorela* which brought him to the hospital. Meanwhile, he went inside the market to inform Paredes' wife, who worked as a market vendor.^[1]

The entire incident was also witnessed by Paredes' sister, Marlyn P. Yabo. She was standing on the road eight meters away, waiting for her husband, when appellant stabbed her brother.^[2]

Paredes sustained a single three-centimeter incised wound on the right flank of his abdomen. The vessel supplying blood to his intestines was lacerated thereby causing massive bleeding within the abdominal cavity. He lost four liters of blood and, despite immediate medical attention, succumbed to his injuries at dawn the following day.^[3] The cause of his death was irreversible hypovolemic shock secondary to massive blood loss.^[4]

In the meantime, appellant fled the crime scene and re-appeared only after Paredes' body was laid to rest. He voluntarily surrendered to Nilo Java, a barangay captain, who subsequently brought him to Governor Emano.^[5]

On September 24, 1997, appellant was formally charged for the killing of Paredes in an information which alleged:

That on or about July 7, 1997 in the afternoon at Pres. Sergio Osmeña Street corner Lim Ket Kai Drive, Cagayan De Oro City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, with treachery and evident premeditation, and armed with a knife which he was then conveniently provided, did then and there willfully, unlawfully and feloniously attack, assault and stab one Danny Paredes towards the right side of his body with said knife, thereby inflicting a fatal wound on the vital part of the latter's body resulting in his untimely death.

Contrary to and in violation of Article 248 of the Revised Penal Code, as amended by Section 6, Republic Act No. 7659.^[6]

The case was docketed as Criminal Case No. 97-1432 and filed with the Regional Trial Court of Cagayan De Oro City, Branch 19. At his arraignment, appellant pleaded not guilty to the charge. Trial on the merits thereafter followed.

Appellant interposed self-defense to justify the killing of the victim, Paredes. He claimed that in the early morning of July 7, 1997, Paredes entrusted the pedicab to him while the former went inside the market to have breakfast. He knew the victim because his wife is a cousin of the latter's wife. He asked for Paredes' permission to use the pedicab, which the latter gave. He was, therefore, surprised when the victim confronted him at 12:00 noon for using the pedicab. He surmised that the latter was intoxicated since he had engaged in a drinking spree with Quipanes. The victim allegedly boxed him for no reason, hitting him on the right side of the face. When he saw Paredes scrambling for an umbrella tube with which to strike him, he then got a knife from inside the shoe repair shop. The victim wrestled with him and kicked him on the back. To defend himself against Paredes, who was a man of robust build, he thrust the knife without even knowing which part of the victim's body was hit. Thereafter, he ran towards the public market.^[7]

In due course, the trial court rendered a decision dated November 20, 1998, the dispositive part of which reads:

WHEREFORE, judgment is hereby rendered finding accused guilty of murder, and sentencing him to suffer the penalty of *reclusion perpetua* plus the accessory penalties thereto. He is also ordered to pay indemnity to the heirs of Danny Paredes in the sum of P75,000.00 plus costs. xxx xxx xxx.

SO ORDERED.^[8]

Hence, this appeal raising the following errors:

I

THE TRIAL COURT GRAVELY ERRED IN NOT ACQUITTING THE ACCUSED-APPELLANT DESPITE THE EXISTENCE OF EVIDENCE THAT THE FATAL

BLOW WAS INFLICTED IN SELF-DEFENSE.

II

ASSUMING ARGUENDO THAT THE ACCUSED KILLED THE VICTIM, THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED OF MURDER DESPITE THE INSUFFICIENCY OF EVIDENCE TO PROVE THAT THE KILLING WAS ATTENDED BY THE QUALIFYING CIRCUMSTANCE OF TREACHERY.

III

THE TRIAL COURT ERRED IN NOT APPRECIATING THE MITIGATING CIRCUMSTANCE OF VOLUNTARY SURRENDER ON THE PART OF THE ACCUSED-APPELLANT.^[9]

Appellant insists that he was able to prove all the elements of the justifying circumstance of self-defense under Article 11 (1) of the Revised Penal Code. Contrary to the findings of the trial court, it was the victim, Danny Paredes, who initially provoked the altercation by punching and kicking him for no apparent reason. The victim's size and build made the use of a knife reasonable under the circumstances, considering that appellant is much smaller and is suffering from a limp.

We are not convinced.

Appellant's contention basically boils down to the trial court's appreciation of the prosecution witnesses' credibility. In this regard, it is well-settled that the highest degree of respect is accorded to the findings of the trial court since it had the opportunity to observe firsthand the deportment of witnesses and is thus in a better position to determine the issue of credibility. The only exception to this rule is when there is a clear showing that the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which would justify a departure from its conclusions.^[10] No such fact or circumstance obtains in the case at bar.

Prosecution witnesses Quipanes and Yabo categorically testified that after his initial confrontation with the victim, appellant returned approximately *ten minutes* later to kill him. Yabo, for her part, testified as follows:

- Q. What was the cause of that stabbing incident?
A. Danny Paredes was looking for his trisicad which was stolen by Loloy Pi-ang.
- Q. You said that Danny Paredes was looking for his trisicad which was stolen by the accused in this case, did he find his trisicad?
A. Danny Paredes saw Loloy Pi-ang riding on his trisicad and Danny Paredes told him and said: "Ang, why did you steal my trisicad."
- Q. What did Rogelio Delada say in response?
A. Danny Paredes said "why did you destroy the top canvass

of my triscad or punctured the tire of the triscad" and Loloy Piang said "palag ka" or "are you aggrieved."

- Q. When Rogelio Delada said "palag ka" or "are you aggrieve", what happened next?
- A. Danny Paredes attempted to box Loloy Pi-ang but Loloy Pi-ang was able to run towards the public market.

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- Q. You said Rogelio Delada ran towards Cogon market what happened next?
- A. Loloy Pi-ang was carrying a knife (which is a kangkong cutter); when he came back Danny Paredes was talking to a shoemaker and Tonio Quipanes shouted "Dan, watch out."
- Q. When Tonio Quipanes said "Dan, watch out!" did you see what happened next?
- A. When Danny Paredes tried to turn his head he was stabbed by Rogelio Delada on his right side (witness pointing to her right side on the waist portion)

- Q. How far were you when Danny Paredes was stabbed?
- A. About 2 armslength across the street. [11]

The foregoing narration was corroborated by Quipanes in this wise:

- Q. You said that when accused Rogelio Delada was confronted about the triscad he got from Danny Paredes and Rogelio Delada said "why, are you aggrieved?" and then Danny Paredes boxed Rogelio Delada but did not hit him, do you know what happened next?
- A. After Danny Paredes tried to box Rogelio Delada, Rogelio Delada ran towards Cogon Market.

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- Q. While accused Rogelio Delada ran towards Cogon Market what were you and Danny Paredes doing?
- A. We were talking sir.
- Q. What were you talking about?
- A. We were talking about the triscad.
- Q. How far were you from each other?
- A. Two meters.
- Q. What was the position of Danny Paredes while talking to you?
- A. We were facing each other.
- Q. With reference to Cogon Market, who was facing Cogon Market?
- A. I am the one sir.