

SECOND DIVISION

[G.R. No. 136363, September 17, 2002]

**JOSE C. VALLEJO, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

D E C I S I O N

QUISUMBING, J.:

This petition for review on certiorari assails the decision^[1] dated October 27, 1998 of the Court of Appeals, in CA-G.R. CR No. 13736, which affirmed with modification the decision^[2] dated January 14, 1992 of the Regional Trial Court of Pangasinan, Branch 50.

The trial court had found petitioner guilty beyond reasonable doubt of homicide and sentenced him to suffer the indeterminate penalty of imprisonment of four (4) years and two (2) months as minimum to ten (10) years as maximum and to pay the heirs of the victim the sum of P50,000 as civil indemnity and P4,375.35 as actual damages.^[3] On appeal, the Court of Appeals affirmed that decision but modified the penalty imposed to eight (8) years of *prision mayor* as minimum to fourteen (14) years, eight (8) months, and one (1) day of *reclusion temporal* as maximum.

The conviction stemmed from the Information^[4] filed against petitioner, as follows:

That on or about the 8th day of August 1981, in the afternoon, at Brgy. San Vicente Central, Municipality of Urdaneta, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, [Jose Vallejo and Arturo Vallejo] conspiring, confederating and mutually helping one another, with intent to kill, did then and there, willfully, unlawfully, criminally and feloniously assault and attack CONNER MANGUIGUIL y DOMINGUEZ, inflicting upon the latter the following wounds:

x x x

External Findings:

1. Wounds stab, 1 ½ inches in length, mid-sternal region, anterior, chest and gaining entrance into the thoracic cavity; and
2. Wound, incised, superficial, 1 inch in length, palmar region at base of middle finger, left.

Internal Findings:

1. Upon opening the thoracic cavity, approximately two (2) liters of fresh, mixed with blood clots was extracted

2. Sternum, incised, mid portion;
3. Heart incised, thru and thru at region of the right ventricle.

x x x

which wounds directly caused the death of said Conner Manguiguil y Dominguez.

CONTRARY to Art. 249 of the Revised Penal Code.

On arraignment both accused, who are brothers, pleaded not guilty. Trial on the merits ensued thereafter.

The prosecution presented as its first witness SABINO MAMUYAC,^[5] aged 23, and a student at the Manantan Technical School in Urdaneta, Pangasinan. He resided in the boarding house where the stabbing incident occurred. He testified that he had been staying in that boarding house since June 1981 and had known the victim Conner Manguiguil and the accused Vallejo brothers for sometime. On August 8, 1981, at about 9:30 A.M., he said he was resting in his room in the company of Mario Agustin. Jose and Arturo Vallejo, Alex Alvarado, and Conner Manguiguil were drinking alcohol inside the Vallejo brothers' room. According to Mamuyac, his room and the brothers' room were adjacent, divided only by a *lawanit*. Thus, he overheard Manguiguil accuse the brothers of losing his tools. Arturo Vallejo replied that it was the former's fault for habitually leaving his tools with them. He knew that it was Arturo who answered back, said the witness, as he could see through the holes of the *lawanit*. Manguiguil paid no attention to Arturo's response.

At around 11:00 A.M., according to Mamuyac, the Vallejo brothers invited him and his roommate, Mario Agustin, to join the party. It was only between 12:00 and 1:00 P.M. when they ended their drinking session. The merrymakers, including witness Mamuyac, then went back to their respective rooms, except for Alvarado who returned to his boarding house. However, the Vallejo brothers followed Manguiguil to his room. This was also adjacent to Mamuyac's room with only a ceramic divider between them. Thus, the witness managed to see the people inside Manguiguil's room. According to Mamuyac, Manguiguil muttered, "I'm already in my camp and you still followed me." Manguiguil then left his room and went to the room of the witness. Once inside, Manguiguil said, "I think those two (2) have a grudge against me. Why is it that I'm already in my camp, they still followed me?" Thereafter, Arturo, followed by Jose, entered the room of Mamuyac. Jose closed the door behind him.

Mamuyac testified that upon seeing the Vallejo brothers, Manguiguil confronted them saying, "I'm already in my camp and you still followed me. If you feel bad against me you just slap my face to satisfy your ill-feelings." Jose then climbed onto the wooden bed and told Arturo, "*Ikkamon utol*." ("You give him now brother.") Thus, Arturo and Manguiguil started to fight. At this point, Jose thrust a knife at Manguiguil, who parried the knife with a kick. Jose nonetheless maintained his hold on the knife and even managed to straighten the knife bent by Manguiguil's kick. At this juncture, witness Mamuyac asked Agustin, his roommate, to accompany him to summon their landlord, so they left the room.

On cross-examination, witness Mamuyac was shown the sworn statement he executed at the police station immediately after the stabbing incident. In that

statement, he said that he failed to notice who among the brothers had the knife when both entered his room. He explained that he was still in shock at the time he was questioned by the police. He maintained, however, that upon recollection, it was petitioner Jose Vallejo who held the knife.^[6]

PAT. REYNALDO JAVONILLO testified that as a member of the then Integrated National Police, Urdaneta, Pangasinan, he was assigned as field investigator on the day that the stabbing incident took place. According to him, on August 8, 1981, at about 2:45 P.M., his desk officer sent him and PFC. Orlino Lozano to respond to a report concerning trouble at Brgy. San Vicente. Upon reaching the place in front of the residence of one Mr. Felizardo Servito, they noticed a man lying prostrate along the shoulder of the road, with bloodstains on his body. Closer inspection of the lifeless body revealed a wallet with identification card belonging to the victim, Conner Manguiguil. When they entered the ground floor of the house, PFC. Lozano recovered a bent but bloodied kitchen knife outside one of the rooms. They then interviewed the boarders, namely Alex Alvarado, Mario Agustin, and Sabino Mamuyac. They found out that their group had a drinking spree with the victim, Conner Manguiguil, and the brothers Jose and Arturo Vallejo. In the course of the drinking session, Jose decided that he had enough so he refused the shot of liquor offered by Manguiguil. Manguiguil and Jose then had an argument. At this juncture, Arturo told his brother, "*Ikkamon utol.*" A fight ensued and Manguiguil was stabbed. After investigation, the police officers brought the cadaver of Manguiguil to the Urdaneta police station and requested the rural health physician to conduct an autopsy.

On cross-examination, Pat. Javonillo said that when he questioned Sabino Mamuyac, the latter could not say who was holding the knife at the time when the two brothers allegedly entered the room. Nor did Mamuyac mention anything about the tools owned by the victim and allegedly stolen by the Vallejos.^[7]

PFC. ORLINO LOZANO, a police investigator at the INP-Urdaneta, Pangasinan, corroborated the testimony of Pat. Javonillo, including the fact that he executed a joint affidavit concerning their investigation. He further clarified that the persons interviewed at the crime scene were the same ones who gave their statements at the police station.^[8]

MARIO AGUSTIN, a student, testified that he was a resident of the boarding house where the stabbing took place. He corroborated Sabino Mamuyac's testimony on the incidents leading to the stabbing of Manguiguil. He added that after he and Mamuyac reported the fight to their landlord, the latter went to the scene of the commotion but ordered them to stay where they were. When the landlord returned to see them, he said that Manguiguil was already dead.^[9] Meanwhile, Agustin saw petitioner with his face, shirt, and pants stained with blood, as petitioner passed by to wash at the nearby faucet. Petitioner allegedly said, "*Bahala na kayo kay utol.*" (You take care of my brother.) As petitioner was about to flee, a number of *barangay tanod* apprehended him. Mamuyac and Agustin were brought by responding policemen to the Urdaneta Police Headquarters where both executed their respective sworn statements. But according to Agustin, petitioner and his brother refused to give a statement on the stabbing incident.^[10]

Asked regarding the inconsistency between his sworn statement given at the police station and his testimony during the direct examination, Agustin clarified the

conflict. In his sworn statement he said that it was Jose Vallejo who was holding the knife. But on direct, he said it was Arturo holding the knife. However, in his cross-examination, he affirmed that it was Jose Vallejo who actually held the knife. He attributed his inconsistency to his fear and shock.^[11]

DR. EDWIN T. MURILLO, the rural health physician of Urdaneta, Pangasinan, testified that he worked closely with the late Dr. Mauro Mondala in conducting the autopsy on the victim's cadaver. He interpreted the autopsy report signed by Dr. Mondala and identified the signature of the late doctor. On the witness stand, Dr. Murillo explained that the first stab wound was located in the middle of the chest, caused by a pointed, bladed instrument. The second wound was located at the palm base of the middle finger, likewise caused by a sharp-edged instrument. He further explained that the first stab wound resulted in an injury to the heart, described in the autopsy as "heart incised, thru and thru, at the region of the right ventricle," which could have caused the death of the victim in this case.^[12]

Finally, the prosecution presented REYNALDO MANGUIGUIL, the 61-year-old father of the victim, to prove expenses incurred by the family for the death of Conner Manguiguil. He testified that he paid the following: P1,000 to hire a truck to transport the cadaver to their hometown; P719.65 for the gasoline; P5,000 for funeral expenses; P1,000 to hire a jeepney that they used in going to court to file the case; P356.20 for the crude oil used on the jeepney; and P5,000 for attorney's fees. He likewise testified on the sleepless nights he suffered, on which he based his claim for moral damages.^[13]

The accused brothers testified in their own defense. Accused ARTURO VALLEJO testified that he and Jose were boarders in the house of Mr. Servito. On August 8, 1981, at around 9:00 A.M., Mamuyac, Agustin, Alvarado, Manguiguil, Jose and he had a drinking spree inside their room. He stayed until 11:00 A.M. Then, he felt tipsy and decided to leave the group so he could sleep.

He woke up at around 1:00 P.M. and heard Manguiguil shouting. Apparently the drinking session had ended. The others were no longer in the room. According to Arturo, Manguiguil shouted, "Vulva of your mother, you join us drinking but you do not stay long." He rushed to the room where Manguiguil was shouting at his brother Jose, in the presence of Mamuyac and Agustin who were both seated on the bamboo bed ("*papag*").

According to Arturo, he approached Manguiguil and said to him, "Stop that now because we are boardmates, we are schoolmates, so you better stop that." Manguiguil did not stop his tirade, so Arturo just told his brother to leave the room and prepare their meal.

When he was also about to leave the room, said Arturo, Manguiguil punched him, which caused him to fall on the floor. Mamuyac and Agustin asked Manguiguil to stop. When the two could not pacify Manguiguil, they decided to step out of the room. As soon as the two left, Manguiguil rode on Arturo's abdomen and continued to box him. He then cried for help and his brother, Jose, rushed to the room.

Upon seeing Arturo's predicament, Jose held Manguiguil by the shoulder and attempted to lift him up. After Manguiguil stood up, he turned to Jose and muttered, in the dialect, "You are one also," and then Manguiguil boxed him. Jose fell on the bamboo bed while Manguiguil continued to kick and box him on the face. According

to Arturo, he tried to help Jose, but he also felt weak. He then noticed that Jose chanced on a knife on the bamboo bed. When Manguiguil was about to once again box Jose, the latter grabbed the knife and thrust it into Manguiguil's upper abdomen. Jose then ran out of the room while Manguiguil tried to run after him. Meanwhile, the knife fell on the floor outside the room.^[14]

Arturo also testified on the medical certificate issued to him by Dr. Germolino Ballesteros, stating the injuries he sustained in Manguiguil's hand.^[15]

Petitioner JOSE VALLEJO corroborated his brother's story. On the witness stand, he said that as he tried to parry the blows of Manguiguil, his head bumped against a knife stuck between the bamboo slats of the "*papag*." He took the knife to defend himself from the blows of Manguiguil. When his assailant was about to throw another punch at him, he met him with the kitchen knife. According to petitioner, Manguiguil was hit on the upper portion of the abdomen by the knife thrust, but he then moved backwards, which allowed petitioner to stand up and run away. Manguiguil tried to give chase but collapsed by the side of the road,^[16] said petitioner.

On January 14, 1992, the trial court rendered judgment finding petitioner guilty of homicide, though appreciating in his favor the privileged mitigating circumstance of incomplete self-defense. His brother Arturo was acquitted for lack of evidence sufficient to convict him. The prosecution failed to prove conspiracy between the Vallejo brothers. The dispositive portion of said judgment reads:

WHEREFORE, this court finds the accused Jose Vallejo guilty beyond reasonable doubt of the crime of homicide and hereby sentences him to suffer the indeterminate penalty of imprisonment of four (4) years and two (2) months as minimum and ten (10) years as maximum and to pay the heirs of the victim the sum of FIFTY THOUSAND (P50,000.00) PESOS as indemnity for his death and to Reynaldo Manguiguil the sum of P4,375.35 as actual damages.

For lack of evidence accused Arturo Vallejo is acquitted.

Costs against accused-convict Jose Vallejo.

SO ORDERED.^[17]

Petitioner seasonably filed his appeal. He assailed the decision of the trial court which found that there was no reasonable necessity to use the knife in defense of his person and that there was sufficient provocation on his part immediately prior to the stabbing incident. The Court of Appeals affirmed his conviction but modified the trial court's decision and disregarded the finding of incomplete self-defense and increased his penalty. The dispositive portion of the CA decision states:

WHEREFORE, save for the modification as regards the penalty to be imposed on appellant which should be from Eight (8) years of *prision mayor* as minimum to Fourteen (14) years, Eight (8) months and One (1) day of *reclusion temporal* as maximum, the appealed decision is hereby **AFFIRMED** in all other respect, with costs.

SO ORDERED.^[18]