

THIRD DIVISION

[G.R. No. 140647, December 18, 2002]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ANTONIO
ANSOWAS Y AMPATIN, APPELLANT.**

DECISION

CORONA, J.:

Before us on appeal is the decision^[1] dated September 6, 1999 of the Regional Trial Court of Quezon City, Branch 95, in Criminal Case No. Q-99-80475 finding herein appellant Antonio Ansowas y Ampatin guilty of the crime of murder and sentencing him to suffer the penalty of *reclusion perpetua* and to pay a fine of P50,000 as civil indemnity and the amount of P50,000 as actual damages.

On January 20, 1999, the appellant was charged with the murder of Teodoro Lacambra in an information that reads:

That on or about the 10th day of January, 1999, in Quezon City, Philippines, the said accused with intent to kill, qualified by evident premeditation and treachery, taking advantage of superior strength, did then and there wilfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of TEODORO LACAMBRA y DUCIAS by then and there stabbing the latter with the use of bladed weapon hitting him at the back portion of the body, thereby inflicting upon him serious and mortal wounds which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of the said Teodoro Lacambra y Ducias.

CONTRARY TO LAW.^[2]

Upon arraignment on February 11, 1999, the appellant, assisted by a counsel *de officio*, pleaded not guilty and the trial ensued.

The evidence of the prosecution showed that, on January 10, 1999 at seven o' clock in the evening, appellant Antonio Ansowas killed Teodoro Lacambra by stabbing the latter at the back.

Prosecution witness Allan Viñas, a nephew of the victim, testified that, on the night of the incident, he was conversing with his friends at a store located at Kasiyahan Street, Barangay Holy Spirit, Quezon City, when he saw herein appellant Antonio Ansowas come out of his house holding an orange kitchen knife.^[3] The appellant approached and swung his knife at the victim who was then sitting inside a bakery. However, the victim was able to parry the thrust with his hand. The victim ran away but the appellant chased him. The appellant was able to catch up with the victim when the latter unfortunately bumped into a parked tricycle. The appellant took this opportunity to stab the victim at the back, which prosecution witness Viñas saw at a

distance of more or less four meters. Thereafter, the victim was still able to stand up but he fell to the ground. Viñas carried the victim, called for a tricycle and boarded it. However, the tricycle driver got scared and ran away. Viñas' uncle arrived and proclaimed that the victim was already dead. They then called for police assistance.
[4]

SPO2 Alex Bisenio testified that, at about 7:15 in the evening on that fateful night, he was at home when a barangay tanod came to his house to ask for assistance regarding a fight along Kasiyahan Street, Barangay Holy Spirit, Quezon City. Upon reaching the crime scene, he saw the victim lying on the ground and the appellant, who was about to escape^[5], holding a knife. Allan Viñas shouted and identified the appellant as the assailant.^[6] SPO2 Bisenio immediately approached herein appellant Ansowas who in turn voluntarily surrendered the knife without saying a word to the police officer. SPO2 Bisenio brought the appellant to the police station.^[7]

When Dr. Teodoro Suguitan was presented as a witness, the parties admitted that he was an expert witness; that he conducted the autopsy on the victim to determine the cause of his death; that his findings were stated in Medico-Legal Report No. M-0037-99; that he made sketches of the human body^[8] and the head^[9] which indicated the locations of the victim's wounds; and that he prepared the death certificate of the deceased victim.^[10]

Dr. Suguitan explained that there were five wounds found on the victim's corpse. Wound nos. 1, 2 and 3 were abrasions found on the right side of the forehead, over the right cheekbone and at the right side of the area between the upper lip near the nose, respectively. They could have been caused by scraping against a hard object. Wound no. 4 was a stab wound located at the left side of the back. It could have been caused by thrusting into the said part of the back a sharp-edged and pointed instrument. In his internal examination of wound no. 4, Dr. Suguitan found out that the eleventh rib was fractured, while the left lobe of the diaphragm, the inferior vena, the ascending aorta and the right atrium of the heart were pierced. Last, wound no. 5 was an incised wound caused by a sharp instrument and located at the distal portion of the left forearm. According to Dr. Suguitan, the victim died of hemorrhage as a result of wound no. 4 which was possibly inflicted while the assailant was at the back of the victim.^[11]

On cross-examination, Dr. Suguitan testified that wound nos. 1, 2, 3 and 5 could be classified as defense wounds that were inflicted before the victim sustained fatal wound no. 4. It was also possible that wound nos. 1, 2 and 3 were sustained when the victim fell down after being stabbed.^[12]

The defense presented herein appellant Antonio Ansowas who claimed self-defense in inflicting the stab wound at the back of the victim.

According to the appellant, on January 10, 1999, at about seven o'clock in the evening, he was cooking inside his house at 114 Kasiyahan Street, Barangay Holy Spirit, Quezon City when he heard a shout coming from outside where several persons were drinking liquor. He immediately went down upon seeing his son-in-law, Romeo Macabente, being beaten up by the victim, Teodoro Lacambra. Macabente ran toward the house of the appellant who waited for him downstairs. There, the victim punched the appellant. The appellant and the victim engaged in a fist fight which stopped after their neighbors pacified them.^[13]

Appellant Antonio Ansowas went back inside his house while the victim left. For thirty minutes, the appellant pondered on what happened. Then, he asked permission from his wife to buy cigarettes at the bakery which was less than half a meter from his house. On his way to the bakery, the victim, who was holding a knife, met him. When the victim tried to stab the appellant, the latter parried the thrust causing the victim to fall to the ground. The appellant faced the victim and grappled with him for the possession of the knife. The appellant was able to take the knife from the victim by twisting the victim's arm. Then, the appellant stabbed him. The appellant stepped backwards while the victim fell to the ground for the second time.^[14]

Appellant Antonio Ansowas further testified that, prior to the incident, he did not have any misunderstanding with the victim who happened to be his neighbor. They came from the same province, Sta. Rita, Western Samar, where the victim had a criminal record. According to the appellant, the victim stabbed somebody in the province and came to Manila to hide.^[15]

On cross-examination, the appellant narrated that the stabbing incident happened near the bakery and just in front of the house of the victim which was more or less twenty meters from his house. He saw the victim drinking liquor with a certain Margarita Igana near the bakery. He was not able to buy cigarettes inasmuch as the victim approached him and drew the knife that was tucked in his waistline. As the victim approached him, he just stood by and told the victim "*Tama na yan at dahil naayos na.*" At a distance of five meters, the appellant already saw the knife but he did not run away.^[16] The victim tried to stab the appellant at the front portion of the body but he was able to evade it by moving his body a little backward. This caused the victim who was then drunk to fall to the ground. When the victim fell, the appellant immediately grabbed his right arm and wrestled the knife from the victim and stabbed him. After being stabbed, the victim immediately stood up.^[17] The appellant claimed that he stabbed the victim while they were facing each other. He demonstrated how he stabbed the victim by stretching his right arm, putting it backward and swaying it in a circular manner. He hit the right side of the victim's body.^[18]

The appellant admitted that, immediately after stabbing the victim, he did not let go of the knife and even walked toward the victim. Meanwhile, the victim tried to escape by stepping backward but unfortunately bumped into a parked tricycle and fell down.^[19] After he stabbed the victim, the appellant immediately went to the policeman's house and did not think of helping the victim due to fear of retaliation from the relatives of the victim.^[20] The appellant likewise claimed that the victim tried to walk from the place of the incident to the house of the policeman (150 meters away, as admitted by the parties) but collapsed about two houses away from the residence of the police officer. The victim walked backwards for 150 meters while the appellant followed him.^[21]

After weighing the evidence presented by both parties, the trial court rendered a decision finding the appellant guilty beyond reasonable doubt of the crime of murder. The dispositive portion of the decision states:

WHEREFORE, judgment is hereby rendered finding the accused, Antonio Ansowas y Ampatin, GUILTY beyond reasonable doubt of the crime of Murder defined in and penalized by Article 248 of the Revised Penal Code

as amended, and is hereby sentenced to suffer the penalty of **Reclusion Perpetua**. The accused is hereby ordered to indemnify the heirs of the victim the amount of P50,000.00 as death indemnity, and the amount of P50,000.00, as actual damages.

The accused is ordered to pay the costs.

The period within which the accused was detained at the City Jail of Quezon City shall be credited to him in full in his favor as long as he agrees in writing to abide by and follow strictly the rules and regulations of the said institution.

IT IS SO ORDERED.^[22]

The trial court held that the absence of unlawful aggression negates the appellant's claim of self-defense. The stab wound at the back, according to the trial court, disproved the appellant's claim that he and the victim were confronting each other when he took the knife away and stabbed the victim with it.^[23] Although the trial court did not appreciate the aggravating circumstances of evident premeditation and superior strength for lack of proof, it found treachery to be present in the case at bar:

The evidence, however, clearly show (sic) that the attack on the accused was sudden and unexpected. The victim, Teodoro Lacambra, was seated with his friends when, without a word, he was stabbed by the accused without any means of defense and risk to himself. Worse, when the victim was able to run from the initial attack, the accused chased and stabbed the back of the victim that resulted to (sic) his death.

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The act of the victim in parrying the stabbing thrusts of the accused while the victim was still seated during the initial attack, should not be interpreted to mean that the victim was not treacherously stabbed. As long as the attack was sudden and unexpected and the victim was not placed on guard, treachery is still present. Treachery may still be appreciated for even when the victim was warned of danger to his person, what is decisive is that the execution of the attack made it impossible to defend for himself or to retaliate.^[24]

Hence, this appeal based on the following assignment of errors:

I

THE TRIAL COURT GRAVELY ERRED IN NOT CONSIDERING THE JUSTIFYING CIRCUMSTANCE OF SELF-DEFENSE INTERPOSED BY THE ACCUSED-APPELLANT.

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT FOR MURDER NOTWITHSTANDING THE FAILURE OF THE PROSECUTION TO PROVE THE ATTENDANCE OF THE QUALIFYING CIRCUMSTANCE OF TREACHERY.^[25]