

## SECOND DIVISION

[ G.R. No. 133580, July 20, 2001 ]

**PEOPLE OF THE PHILIPPINES PLAINTIFF AND APPELLEE, VS.  
MAXIMO GENEBLAZO, ACCUSED-APPELLANT.**

### D E C I S I O N

**BUENA, J.:**

Accused-appellant Maximino Geneblazo appeals the decision of the Regional Trial Court at Calauag, Quezon, Branch 63 in Criminal Case No. 2151-C, entitled "The People of the Philippines versus Maximino Geneblazo", convicting him of murder and sentencing him to *reclusion perpetua*.

On October 16, 1992, an information was filed against Maximino Geneblazo charging him of murder committed as follows:

"That on or about the 15<sup>th</sup> day of January 1988, at Barangay Pinagtalyeran, Municipality of Calauag, Province of Quezon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bladed weapon, with intent to kill, and with treachery, did then and there willfully, unlawfully and feloniously attack, assault and stab with the said weapon one Domingo Opalsa, thereby inflicting upon the latter wounds on the different parts of his body which directly caused his death.

"That the accused attacked and stabbed said Domingo Opalsa suddenly and unexpectedly without giving the latter any opportunity to defend himself or to escape.

"Contrary to law."<sup>[1]</sup>

Upon arraignment on December 3, 1992, accused Maximino Geneblazo, assisted by counsel, pleaded not guilty to the crime charged. The Regional Trial Court thereafter proceeded with the trial.

Culled from the records are the following:

Alex Obien, the first witness for the prosecution, testified that on January 15, 1988, at around 12:00 midnight he and Domingo Opalsa were walking along Quezon Street, Calauag, Quezon, bound for home when Maximino Geneblazo and around six unknown companions stoned them. Obien and Opalsa retaliated by also throwing stones at Geneblazo and company. However, upon seeing that Geneblazo was about to draw his knife, they ran away.

Maximino Geneblazo caught up with Domingo Opalsa and stabbed the latter twice -

the first stab landed on the left side of the body in the area of the armpit, while the second landed on the left side of the face.

SPO1 Emmanuel Quiogue of the Philippine National Police, at Calauag, Quezon was at home on the night in question. He heard a commotion outside. Peeping out the window he saw some men throwing stones at each other. He got his gun and went outside. Noticing the chase which ensued, he went after the men.

At the scene of the incident, SPO1 Quiogue saw two men almost locked in an embrace. He fired his gun but the two did not draw apart so he stood between them so as to separate them. One of the men fell to the ground while the person who was left standing stabbed him. Only his finger was hit. He recognized the person who stabbed him as Maximino Geneblazo.

Thereafter SPO1 Quiogue, Obien and Barangay Captain Torres of Pinagtalyeran brought Opalsa to St. Peter's Hospital where the latter was pronounced dead on arrival.

Maximino Geneblazo, who was the lone witness for the defense, testified that he was standing in front of the market at about 12:00 midnight on January 15, 1988, when two men who were drunk passed by. They challenged him to a fight. He recognized these two men as Adie Obien and Momoy (Domingo Opalsa). When he refused to fight them, the latter threw stones and flowerpots at him. Thereafter, Geneblazo chased them for he wanted to know why he was being stoned and because he wanted to get even.

Geneblazo caught up with Momoy. When he was about to box the latter, Momoy drew out a knife. Momoy struck the bridge of the nose and finger of Geneblazo with the knife. When Geneblazo fell down he heard a gunshot. Momoy was about to stab Geneblazo again but when he heard the shot he was startled so the latter was able to wrest the weapon from Momoy.

Geneblazo then stabbed Momoy in the abdomen. He was about to stab Momoy again when SPO1 Quiogue arrived on the scene. While SPO1 Quiogue was pacifying them, Geneblazo hit Momoy in the neck. As he did not recognize SPO1 Quiogue he accidentally hit the latter's left hand with the knife but when recognition dawned on him who SPO1 Quiogue was, he ran away and hid until his surrender to a police officer Baloloy.

Salvacion Opalsa y Conohan, the mother of the victim, testified for the prosecution declaring that her family incurred expenses in the total amount of P45,000.00 for the burial and wake of the victim. The P45,000.00 is broken down as follows: P5,000.00 for funeral expense, P16,000.00 was spent during the wake, P6,000.00 was expenses for the cemetery, P8,000.00 was spent to look for the accused, an additional P5,000.00 for funeral services and P5,000.00 spent during the nine-day prayers for the deceased after the interment. A certification from the Sutarez Funeral Homes stating that it rendered funeral services to the late Domingo Opalsa in the amount of P5,000.00<sup>[2]</sup> and a handwritten list of the expenses<sup>[3]</sup> were presented as evidence.

On February 2, 1998, the trial court rendered a decision convicting the accused the decretal position of which reads:

"WHEREFORE, finding the accused guilty beyond reasonable doubt of the crime of Murder, the Court hereby sentences the said accused to suffer the penalty of RECLUSION PERPETUA and to pay P50,000.00 as moral damages and an additional P45,000.00 as actual damages to the heirs of Domingo Opalsa and to pay the costs.

"SO ORDERED."<sup>[4]</sup>

Hence, this appeal where accused-appellant assigns the following errors allegedly committed by the trial court:

"I

"THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT FOR THE CRIME OF MURDER, HAVING APPRECIATED THE QUALIFYING CIRCUMSTANCE OF TREACHERY.

"II

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

The appeal is meritorious in the sense that the penalty should be lowered.

Accused-appellant Maximino Geneblazo alleges that he killed the victim Domingo Opalsa in self-defense.

Well-settled is the rule that in interposing self-defense, the offender admits authorship of the killing. The *onus probandi* is thus shifted to him to prove the elements of self-defense and that the killing was justified; otherwise, having admitted the killing, conviction is inescapable. Concomitantly, he must rely on the strength of his own evidence and not on the weakness of the prosecution's evidence. For self-defense to prosper, it must be established that: (1) there was unlawful aggression by the victim; (2) that the means employed to prevent or repel such aggression was reasonable; and (3) that there was lack of sufficient provocation on the part of the person defending himself.<sup>[5]</sup>

It was sufficiently established by the prosecution that the victim Domingo Opalsa and his companion Alex Obien were merely walking on the road when they were pelted with stones by Maximino Geneblazo and his companions; that Opalsa and Obien retaliated; that they ran away when they saw that Geneblazo was about to draw his knife; that Geneblazo pursued them; that Geneblazo stabbed Opalsa when he caught up with the latter.

It is quite apparent that it was not the victim who committed the unlawful aggression but the accused-appellant himself.

Unlawful aggression contemplates an actual, sudden and unexpected attack, or imminent danger thereof, and not merely a threatening or intimidating attitude -- there has to exist a real danger to the life or personal safety of the person claiming self-defense.<sup>[6]</sup>