

## THIRD DIVISION

[ G.R. No. 128281, May 30, 2000 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
CARLITO SARAGINA @ "CARLING", ACCUSED-APPELLANT.**

### DECISION

**GONZAGA-REYES, J.:**

This is an appeal interposed by accused Carlito Saragina @ "Carling" from the Decision<sup>[1]</sup> dated January 17, 1997 of the Regional Trial Court (RTC) of Kalookan City, Branch 127 in Criminal Case No. C-40993 finding him guilty beyond reasonable doubt of the crime of murder.

An Information for Murder was filed against accused Carlito Saragina @ "Carling" (CARLITO) and William Langcuyan (at large) as follows:

"That on or about the 1st day of April, 1992 in Kalookan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually helping with each other, without any justifiable cause, with deliberate intent to kill, with treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously attack and stab with the use of two (2) butcher knives one ANTONIO VULPANGCO Y HULATON on the different parts of his body, thereby inflicting upon the latter serious physical injuries, which injuries eventually caused his death."<sup>[2]</sup>

Upon arraignment, accused CARLITO with the assistance of counsel entered a plea of not guilty.<sup>[3]</sup>

The RTC summarized the facts as culled from the testimonies of the witnesses presented by the prosecution as follows:

"That at around 5:45 p.m. of 1 April 1992 Victim ANTONIO VULPANGCO Y HULATON (Victim for short) was at his barbecue stand located in Purok IV, Kawal St., Dagatdagatan, preparing the charcoal for his barbecue and beside him was his wife herein Private Complainant PELAGIA TRIGO-VULPANGCO (Private Complainant for short) watching TV when the Accused CARLITO SARAGINA (Accused for short) suddenly appeared from nowhere and simultaneously asked his companion, herein Accused WILLIAM "BONG" LANGCUYAN "Sino ang nakaaway ng nanay mo", to which the latter responded by pointing to the person of Victim with the motion of his lips. Thereupon Accused SARAGINA armed with knives in both hands rushed to the direction of victim and at this precise moment MERCEDITA MARTIN who was then nearby watching basketball game was able to see the event and sensing what was forthcoming warned the Victim by shouting "Tiyong takbo" prompting the latter to run but was overtaken after a brief chase by Accused SARAGINA who forthwith stabbed Victim at right side of his back below the armpit. Despite his injuries, Victim was able to run a short distance to the nearby alley where he fell down fact

up to the ground. Accused pursued Victim and was about to enter the door of a certain house on the mistaken belief that Victim took refuge thereat if not for the warning shout of his co-Accused WILLIAM LANGCUYAN "hindi diyan Tiyong" prompting Accused to proceed to the alley which was the direction pointed to by his cohort and finding victim thereat lying prostrate on the ground hacked the latter on the face causing his instantaneous death. Forthwith both Accused SARAGINA and LANGCUYAN fled from the crime scene right after the latter had uttered "Tiyong takbo na".<sup>[4]</sup>

On January 17, 1997, the RTC found the accused guilty beyond reasonable doubt of the crime of murder the dispositive portion of the decision reads:

"WHEREFORE premises considered and the prosecution having established beyond an iota of a doubt the guilt of the accused CARLITO SARAGINA of the crime of Murder, this Court hereby sentences said Accused to suffer the penalty of Reclusion Perpetua; to indemnify the heirs of the late ANTONIO VULPANGCO the amount of P50,000.00 without any subsidiary imprisonment in case of insolvency and to pay the costs.

The period of Accused's preventive imprisonment shall be credited in full in the service of his sentence pursuant to Art. 29 of the Revised Penal Code.

Let the case against Accused WILLIAM LANGCUYAN be archived without prejudice to its revival if he would be arrested later on.

SO ORDERED."<sup>[5]</sup>

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

- I. THE TRIAL COURT GRAVELY ERRED IN NOT GIVING EXCULPATORY WEIGHT TO THE DEFENSE INTERPOSED BY THE ACCUSED-APPELLANT.
- II. THE TRIAL COURT GRAVELY ERRED IN APPRECIATING THE QUALIFYING CIRCUMSTANCE OF TREACHERY DESPITE FAILURE OF THE PROSECUTION TO PROVE ITS ATTENDANCE IN THE COMMISSION OF THE CRIME CHARGED.<sup>[6]</sup>

The accused-appellant contends that the RTC erred in not giving weight to his claim that he acted in self-defense when he stabbed Antonio Vulpangco (VULPANGCO). He maintains that when he confronted VULPANGCO regarding the complaint of his sister, VULPANGCO got angry and picked up a knife to stab him. He was able to grab VULPANGCO's hand and they grappled for possession of the same. After he was able to successfully wrest the knife away from VULPANGCO, he stabbed the latter in defense. The accused-appellant maintains that it was necessary for him to stab VULPANGCO in order to repel the aggression against him.

It is further contended by the accused-appellant that the witnesses of the prosecution namely, Pelagio Trigo Vda. De Vulpangco and Editha Trigo were biased and not credible witnesses. The RTC should not therefore have given full weight and credence to their testimonies.

The accused-appellant claims that, assuming for the sake of argument that he stabbed the victim not in the act of legitimate self-defense, the RTC erred in

convicting him of the crime of murder in the absence of clear and convincing evidence that treachery attended the commission of the crime. In finding the presence of treachery, the RTC merely inferred the attendance thereof since the attack on the victim was sudden and unexpected. The accused-appellant prays that the decision of the RTC be reversed and that he be acquitted of the crime charged.

The appellee, on the other hand, posits that the guilt of the accused-appellant was proved beyond reasonable doubt and that he is guilty of the crime of murder.

The Solicitor General argues that the claim of the accused-appellant that he acted in self-defense is untenable considering that it was incumbent on the accused-appellant to prove clearly and convincingly that the killing of VULPANGCO was justified and that he incurred no liability therefor. This he failed to do. Moreover, self-defense is an affirmative allegation all the elements of which must be established with certainty. The accused-appellant's reliance on his sister's testimony which aside from being self-serving, only proves provocation on the part of VULPANGCO and does not prove self-defense. Besides, the fact that the accused fled the scene of the crime negates the justifying circumstance of self-defense. Further, evidence reveals that when the accused-appellant stabbed VULPANGCO the first time, VULPANGCO managed to run away but the accused-appellant, resolute in his purpose to kill him, chased and stabbed him again. Clearly, this negates self-defense.

The appellee however agrees with the accused-appellant that treachery was not proved and that the RTC based its finding on inferences and not on conclusive proof. Moreover, the assault on VULPANGCO cannot be characterized as sudden and unexpected inasmuch as he was forewarned of the impending danger against him and that he was able to run from the accused-appellant. The appellee submits however that the crime committed by the accused-appellant is still murder since evident premeditation, which was alleged in the information, was sufficiently proved. It was established that the accused-appellant learned that VULPANGCO was harassing his sister, Ester Langcuyan (ESTER), by uttering malicious remarks against her and showing his private part to her when he was drunk a week before he assaulted VULPANGCO. One week was more than sufficient time for him to think and reflect upon his determination to carry out his criminal intent. The appellee therefore recommends that the decision of the RTC be affirmed.

After a careful and meticulous review of the evidence on record, we resolve to affirm the RTC's judgment of conviction.

The accused-appellant admits that he stabbed and killed VULPANGCO but claims that he acted in self-defense. Because of this claim, the burden of proof was shifted to the accused-appellant to establish by clear and convincing evidence the elements thereof, namely: (a) unlawful aggression on the part of the victim; (b) reasonable necessity of the means employed to prevent and repel it; and, (c) lack of sufficient provocation on the part of the person defending himself.<sup>[7]</sup>

Foremost of the above requisites is that the victim was guilty of unlawful aggression; the absence of this requisite negates the existence of self-defense.<sup>[8]</sup> Evidence must positively show that there was a previous unlawful and unprovoked attack on the person of the accused which placed him in danger and justified him in

inflicting harm upon his assailant through the employment of reasonable means to repel the aggression.<sup>[9]</sup>

In the present case, the evidence clearly establishes that VULPANGCO was not guilty of unlawful aggression. On the contrary, it was the accused-appellant who was guilty of the sudden and unprovoked attack. Principal prosecution witness, Mercedita Martin (MARTIN), a Barangay Kagawad, narrated the events leading to the killing Of VULPANGCO and positively identified the accused-appellant as the assailant in her testimony the pertinent portions of which are quoted as follows:

"PROSECUTOR UBALDO:

Do you recall where were you on April 1, 1996 at about 5:45 p.m.?

WITNESS:

In the Plaza of Purok 4.

PROSECUTOR UBALDO:

Do you recall if there was untoward incident that happened on that date?

WITNESS:

Yes, sir.

PROSECUTOR UBALDO:

What was that?

WITNESS:

Carlito Saragina stabbed Antonio Volfangco.

PROSECUTOR UBALDO:

You said that the accused Carlito Saragina stabbed Antonio Volfangco, is that correct?

ATTY. BASA:

Leading, Your Honor.

COURT:

Sustained.

PROSECUTOR UBALDO:

You testified that you witnessed the stabbing incident of Antonio Volfangco, is that correct?

ATTY. BASA:

Leading also, Your Honor.

COURT:

He is asking whether the previous statement of the witness is correct or not to the effect that he saw the stabbing of the victim by the accused.

ATTY. BASA:

Still leading, Your Honor.

COURT:

He is asking if that is true a follow-up of the previous answer?

WITNESS:

Yes, sir.

PROSECUTOR UBALDO:

Do you know the accused personally stabbed Antonio Volfangco?

WITNESS:

Yes, sir.

PROSECUTOR UBALDO:

Is he present right now?

WITNESS:

Yes, sir.

PROSECUTOR UBALDO:

Will you please point to him?

INTERPRETER:

Witness standing and point to a person who rose and gave his name as Carlito Saragina.

PROSECUTOR UBALDO:

What is your relative distance from the stabbing incident?

WITNESS:

PROSECUTOR UBALDO:

Did you see what instrument the accused used?

WITNESS:

Yes, sir.

PROSECUTOR UBALDO:

Can you tell the Honorable Court?

WITNESS:

A knife with yellow handle measuring a ruler and another knife more than one (1) foot long.

PROSECUTOR UBALDO:

Can you tell the Honorable Court how the accused stabbed the victim?

WITNESS:

He used his right hand.

PROSECUTOR UBALDO:

Did you see which part of the body of the victim was hit?

WITNESS:

Yes, sir.

PROSECUTOR UBALDO:

Where?

WITNESS:

Below the right armpit.

PROSECUTOR UBALDO:

After he was hit below the right side of his body below the armpit, what happened?

WITNESS:

He faced up and then he was able to enter the house of our neighbor. When he heard the shout of Bong "Not in there Tiyong? (Hindi diyan Tiyong) and then I saw him re-entered the alley where Volfangco was lying and he hacked Volfangco on his face.

COURT:

Why the victim was able to run after the first stabbing.

WITNESS:

He was able to walk about three steps before he fell down.

PROSECUTOR UBALDO:

What did the accused Carlito Saragina do after the victim was able to run three (3) feet from the first stabbing?

WITNESS:

He followed in the alley and when he saw the victim lying face down he hacked him on the face.

PROSECUTOR UBALDO:

After the accused hit the victim on the face what happened?

WITNESS:

He and Bong ran away.

ATTY. BASA:

Who is Bong?

PROSECUTOR UBALDO: