

FIRST DIVISION

[G.R. No. 127815, June 09, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
STEPHEN SANTILLANA, ACCUSED-APPELLANT.**

D E C I S I O N

MELO, J.:

Accused-appellant Stephen Santillana y Sarad was charged with murder in Criminal Case No. 94-0906 of the Regional Trial Court of Parañaque City, Branch 258, under the following Information:

That on or about the 30th day of October 1994 in the Municipality of Parañaque, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously attack, assault and stab one Wilfredo Limpiado, hitting the latter on his abdomen which instantaneously caused his death.

CONTRARY TO LAW.

(p. 10, *Rollo.*)

At his arraignment on December 1, 1994, accused-appellant entered a plea of not guilty.

The prosecution's version of the generative facts, as constituted by the testimony of its witnesses, namely, SPO1 Moises Bernal, and SPO2 Renato Lumapat, police officers who investigated the incident; Gary Miano, an eyewitness; Teresita Limpiado, wife of the deceased; and Dr. Antonio Vertido, Medico-Legal officer (also referred to in the record as Dr. Antonio Vestido), is abstracted in the Appellee's Brief as follows:

On October 30, 1994 at around 1:30 o' clock in the afternoon, appellant Stephen Santillana and Mario Bacamante were at their rented house at Sitio Pagkakaisa, Brgy. San Martin de Porres, Parañaque, Metro Manila (tsn, April 18, 1996, p. 2). Appellant and Mario were at that time fixing a sink at the second floor of their rented house (ibid). Later, appellant went to the ground floor to install a PVC pipe while Mario stayed at the second floor (ibid, pp. 2 & 6). While appellant was installing the PVC pipe, his neighbor, Teresita Limpiado confronted him and told him to stop fixing their (appellant's) sink because the Limpiados will elevate their house and the sink being fixed by appellant will necessarily obstruct that of the Limpiados (ibid). The house of the Limpiados is only three (3) meters in front of appellant [sic] rented house (ibid). In response, appellant told Teresita that they (appellant and Mario) cannot stop the work because

they had asked permission for it from the owner of the house (ibid, p. 3). Thereafter, appellant went up to the second floor of his house where he took a knife and some wires. After taking the knife and wires, appellant went back to the ground floor (tsn, April 18, 1996, p. 5).

Meanwhile, Wilfredo Limpiado, the husband of Teresita Limpiado, emerged from the kitchen of the Limpiado house and inquired from her what was going on (tsn, February 16, 1995, pp. 43 to 44). Thereafter, Wilfredo asked Mario Bacamante, who at that time was still fixing the sink at the second floor, to stop working thereon (tsn, April 20, 1995, p. 14). After Wilfredo had requested Mario for three times to stop, appellant immediately stabbed him with a knife (ibid). After that, appellant went back to his house (tsn, April 18, 1996, p. 8).

Wilfredo Limpiado died from the stab wound inflicted by appellant.

The post mortem examination on the body of Wilfredo Limpiado was conducted by Dr. Antonio Vestido, Medico-Legal Officer of the National Bureau of Investigation, Manila (tsn, May 16, 1995, pp. 1 to 6). He testified that the victim died due to hemorrhage secondary to stab wound in the abdomen (ibid, p. 10).

Teresita Limpiado, testified that she spent P9,397.40 for Wilfredo's hospital bills (Exhibits C to C-3, tsn, April 20, 1995, p. 20) and P23,400.00 as expenses for his funeral and tomb (Exhibits E, tsn, ibid, pp. 24 to 28).

SPO1 Moises Bernal of Block 7, Bicutan Interchange Expressway Police Station, testified that on October 30, 1994 at around 2:30 o'clock in the afternoon, a certain Rodrigo Doquino arrived at the police station and reported a stabbing incident that took place in Sitio Pag-asa, San Martin de Porres, Parañaque, Metro Manila (tsn, February 16, 1995, pp. 1 to 6). After receiving the report, SPO1 Bernal and Police Aide Joaquin Cruz proceeded to Sitio Pag-asa, San Martin de Porres, Parañaque (ibid).

Upon arriving at the scene of the incident, SPO1 Bernal was met by someone from the place, who informed Bernal that the suspect in the stabbing incident was inside one of the houses in the place. Thereafter, SPO1 Bernal was approached by a man who introduced himself as appellant (ibid, p. 8). Appellant gave himself up to Bernal and told him that he (appellant) threw away the knife he used in stabbing the victim (ibid, p. 9). The knife was later found by SPO1 Bernal at a nearby container (ibid, p. 10). Thereafter, SPO1 Bernal turned appellant and the knife over to SPO1 Renato Lumapat for investigation (ibid, p. 29).

SPO1 Renato Lumapat of the Parañaque Police Station testified that he conducted the investigation on the stabbing incident on October 30, 1994 where the victim was a certain Wilfredo Limpiado (tsn, March 16, 1995, p. 9). He testified that appellant was turned over to him by SPO1 Bernal together with the knife appellant used in stabbing the victim. Lumapat identified in court the appellant's knife where he (Lumapat) put his initial, RGL (ibid, pp. 11 to 12).

(pp. 4-7, Appellee's Brief.)

Dr. Antonio Vertido, the Medico-Legal Officer who conducted the autopsy on the victim's body, testified that there was a puncture in the liver caused by a knife, and that the victim died due to hemorrhage secondary to stab wound in the abdomen from the anterior; that the thrust was directed backward and downward; and that the position must have been downward and lateral, cutting the 7th rib, penetrating the diaphragm, and entering the right lobe of the liver with an approximate depth of 13 cms.; and that the relative positions of the victim and assailant was that they were face to face with each other.

The version of the defense is based on the testimony of Mario Bacamonte (also referred to in the record as Mario Bacamante), housemate of accused-appellant; Marilou Santillana, wife of accused-appellant; Dr. Antonio Vertido, as a recalled witness; and accused-appellant himself.

Accused-appellant narrates in his brief that on October 28, 1994, he and his family moved to the second floor of a house located at Sitio Pag-asa, East Service Road, Barangay San Martin de Porres, Parañaque, Metro Manila. Three days later, or on the date of the fatal incident, accused-appellant and Mario Bacamonte agreed to install a waterspout and a sink since accused-appellant's wife was having difficulty with the water supply and disposal in the area. At around 2 o'clock in the afternoon that same day, while accused-appellant and Mario Bacamonte were installing the waterspout, shouts came from the house of accused-appellant's neighbor that went, "*Huwag itutuloy ang pagkabit niyan at tataasan pa namin ang aming bahay.*" Said neighbor was Teresita Limpiado, who later confronted accused-appellant, raised her voice, and shouted invectives at him. Consequently, accused-appellant confronted Teresita, explained to her the necessity for the installation of the waterspout; that the same was with the permission of his landlord; and that she should just complain to the landlord. Teresita, however, continued to raise her voice and uttered insults at accused-appellant. The latter dismissed the conversation as a minor incident and went up to his residence in search for tools to be used in the installation of the waterspout. In the meantime, the victim, Wilfredo Limpiado, joined his wife. Accused-appellant was not able to find the necessary tools and equipment, hence, he just took hold of a knife with which to cut wires to be used in securing the waterspout. Thereafter, as he descended and reached his doorway, Wilfredo suddenly rushed toward him for no apparent reason, which made him retreat and say, "*Teka lang, pare*" but Wilfredo continued to lunge toward him. Thinking that Wilfredo was armed with a weapon, and not able to retreat any further, accused-appellant had no choice but to defend himself, leading thus to the accidental stabbing of the victim, who was later rushed to the hospital by his wife, Teresita. When accused-appellant realized that Wilfredo had been stabbed, he immediately asked Mario Bacamonte to call the police and he waited upstairs for their arrival. When the police arrived, he voluntarily surrendered himself to SPO1 Moises Bernal.

The trial court did not accord credence to the version of the defense. It held that assuming *arguendo* that the victim, after succeeding in extricating himself from his wife, did lunge toward accused-appellant, it could be that he only wanted to confront accused-appellant about the conversation he had with the victim's wife. The trial court continued that, be that as it may, the reasonable necessity of the means employed by accused-appellant to prevent or repel the alleged unlawful

aggression on the victim's part, was much too much. He should have just sought refuge in his house, ran away, or met the victim in hand-to-hand combat. Instead, he thrust the knife into the victim's abdomen.

In lieu of the defense's version, the trial court accorded credence to the testimony of Teresita Limpiado, the victim's spouse, and that of Gary Miano, the fifteen-year old eyewitness whom the trial court found to have no motive in testifying against accused-appellant, and to have given his testimony in a categorical, straightforward, spontaneous, and frank manner. In comparison, the trial court could not help observing that while accused-appellant admitted having stabbed the victim unintentionally in self-defense, he showed no remorse or repentance, and was even smiling while answering questions concerning the incident. Hence, the trial court concluded that his intention was really to kill the deceased.

Finally, the trial court appreciated against accused-appellant the qualifying/aggravating circumstance of treachery, which was duly alleged in the Information, ratiocinating that although the victim was stabbed frontally, the attack was still sudden and unexpected and the victim was not armed. Further, the victim was looking up and completely unaware and defenseless when the stabbing was done.

On appeal, accused-appellant assigns three errors, to wit:

A

THE LOWER COURT GRAVELY ERRED IN HOLDING THAT THE ACT COMPLAINED OF WAS QUALIFIED BY INTENT TO KILL AND TREACHERY.

B

THE LOWER COURT GRAVELY ERRED IN NOT APPRECIATING THE MITIGATING CIRCUMSTANCES OF VOLUNTARY SURRENDER AND *PRAETER INTENTIONEM*.

C

THE LOWER COURT GRAVELY ERRED IN NOT APPRECIATING THE JUSTIFYING CIRCUMSTANCE OF SELF-DEFENSE IN FAVOR OF THE ACCUSED OR AT THE VERY LEAST FAILED TO APPRECIATE THE INCOMPLETE SELF-DEFENSE EMPLOYED BY THE ACCUSED.

(p. 8, Appellant's Brief.)

which he discussed, raising in the process, the following points:

1. Accused-appellant did not know the Limpiado spouses. He was new in the aforesaid location and knew only his co-boarder and housemate, Mario Bacamonte. He could not have intended to kill somebody he encountered for the first time. Moreover, during the fatal incident, he was engaged in the performance of a lawful act, which was the installation of a PVC pipe in order to help and assist his wife in her washing chores. Hence, the prosecution failed to show the design, resolve, or determination of accused-appellant in his intent to kill.

Treachery was not proved. Considering that the prosecution failed to establish evident premeditation, there was a total absence of the second element of treachery which requires that the means of execution was deliberately or consciously adopted.

Gary Miano's testimony is unbelievable and rehearsed and should be given little weight and credibility. His presence at the time of the stabbing is questionable because, as testified to by Mario Bacamonte and Teresita Limpiado, only her daughter Abigail, one Mario Casungkad, and Rogelio Gonzales, were present. These persons, however, were not called to the witness stand. Moreover, Gary Miano testified that accused-appellant used his right hand when in truth and in fact, he is left-handed.

Teresita Limpiado could not testify as to the element of treachery since her view was obstructed by her husband. And her assertion that the victim was looking up was refuted by Bacamonte's testimony that blood was seen at accused-appellant's doorstep which meant that the victim did rush toward the doorstep of accused-appellant.

Dr. Vertido testified that the direction of the wound was "backward, downward and lateral." This refutes Gary Miano's testimony that the stabbing was done in a treacherous manner, as accused-appellant pushed the victim with his left hand and immediately stabbed him with his right in a thrusting motion parallel to the ground. Logic dictates that a thrusting motion does not effect a downward direction of the wound.

2. Accused-appellant likewise assigns error on the part of the trial court in not appreciating the mitigating circumstances of voluntary surrender and *praeter intentionem*. Anent voluntary surrender, accused-appellant asserts that after the accidental stabbing of the victim, he requested his housemate Mario Bacamonte to call the police and thereafter, he peacefully surrendered his person to save the authorities the trouble and expense for his search and capture.

Further, he invokes Paragraph 3, Article 13 of the Revised Penal Code or the "lack of intention to commit so grave a wrong." He argues that he merely exercised his natural instinct of self-preservation and defended himself from his assailant. He maintains that he did not have the intent to kill. Being unintentional and accidental, the stabbing was done without any intent on the part of accused-appellant to commit so grave a wrong.

3. Lastly, accused-appellant invokes the justifying circumstance of self-defense or at the very least, incomplete self-defense. He argues that all the requisites of self-defense were present. First, there was unlawful aggression employed by the victim on his person when the victim attacked him. Then, he had no room to evade the attack as he was backed to a corner where retreat was not possible. He likewise believed that the victim was armed at that moment, and that there was danger to his life and limb. Second, he argues that the means he used to prevent and repel the aggression was reasonable since given the above circumstances or the suddenness of the attack of the victim on the accused-appellant, the danger that he faced was actual. Third, there was no sufficient provocation on the part of accused-appellant since he was merely performing a lawful right when the stabbing happened. Despite angry and harsh words uttered against him by the victim's wife,