

THIRD DIVISION

[G.R. No. 118777, July 28, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
RODRIGO MANGAHAS, ACCUSED-APPELLANT.**

D E C I S I O N

GONZAGA-REYES, J.:

This is an appeal from the decision^[1] dated December 2, 1993 of the Regional Trial Court (Branch 16) in Malolos, Bulacan finding accused-appellant Rodrigo Mangahas guilty of murder under Art. 248 of the Revised Penal Code and sentencing him as follows:

"WHEREFORE, premises considered, herein accused is found guilty beyond reasonable doubt of the crime of murder punishable under Article 248 of the Revised Penal Code and is hereby sentenced to suffer the penalty of RECLUSION PERPETUA with the accessory penalties provided by law; to indemnify the heirs of the victim the sum of FIFTY THOUSAND PESOS (P50,000.00) as death indemnity; to pay the heirs of the victim the sum of FOURTEEN THOUSAND FIVE HUNDRED NINETY PESOS (p14,590.00) for funeral and burial expenses and TWENTY EIGHT THOUSAND EIGHT HUNDRED NINETY PESOS (P28, 890.00) for food during the vigil, the 9th day, 40th day and the 1st year anniversaries of the death of the victim; and to pay the costs."

The Information^[2] dated November 26, 1990 charging Rodrigo Mangahas with the crime of murder reads as follows:

"That on or about the 14th day of August 1990, in the municipality of San Jose del Monte, province of Bulacan, Philippines and within the jurisdiction of this Honorable Court, the said accused Rodrigo Mangahas alias Mang Rudy, armed with a gun and with intent to kill one Rufino Gestala, with evident premeditation, treachery and abuse of superior strength, did then and there wilfully, unlawfully and feloniously attack, assault and shoot with the said gun the said Rufino Gestala, hitting the latter on the different parts of his body, thereby causing him serious physical injuries which directly caused his death.

Contrary to law."

Upon arraignment, accused, duly assisted by counsel, entered a plea of not guilty.

In support of its case, the prosecution presented two alleged witnesses to the shooting incident, as well as the doctor who performed the autopsy on the victim. The aunt of the deceased was likewise called to testify on the civil aspect of the case.

First to testify was Police Captain Florante Baltazar, the medico-legal officer at the PC-INP, Quezon City, who conducted the examination of the cadaver of the deceased on August 14, 1990. He testified that according to the results of his post-mortem examination, the victim died from cardio-respiratory arrest due to shock and hemorrhage secondary to gunshot wounds.^[3] His findings showed that the deceased sustained 3 (three) gunshot wounds, two of which were fatal as they penetrated the thoracic cavity.^[4] He estimated the distance between the assailant and the victim at more than 24 inches as he did not find any powder burns on the body of the deceased.^[5]

The prosecution next presented Diosdado Padios, an alleged witness to the shooting incident. He testified that he had known the victim and the accused-appellant prior to the August 14, 1990 incident. On the said date, he saw the accused and the late Rufino Gestala drinking at a store near the latter's house in Tungkong Mangga, San Jose del Monte, Bulacan.^[6] He was at the store at that particular time as he was just called by the victim to discuss some matter. While the two were drinking, he saw accused-appellant suddenly shoot Rufino Gestala, who was then seated less than one meter away from the former. He himself, was one meter away from the two when the incident occurred.^[7]

On cross-examination, it was revealed that he left his former residence on September 1990 to live with a certain Cristy Balatbat, an aunt of the deceased. He admitted that while he was staying with Balatbat, he depended on her for his own subsistence.^[8] He likewise admitted that he was a close friend of the deceased for more than five (5) years prior to the incident.^[9]

The prosecution next presented Renato Panoso, another alleged witness to the shooting. He testified that he recalled the date of August 14, 1990 as that was the date that his best friend Rufino Gestala was shot.^[10] While he was on his way home from work, he stopped by the store of a certain Mr. Tiangko at the corner of Pecsonville, Barangay Tungkong, San Jose del Monte, Bulacan to talk to the victim about the job in Bahrain they were both applying for.^[11] They had been conversing for about four (4) minutes when Rudy Mangahas arrived. Thereafter, the accused bought three (3) bottles of beer and offered one each to him and the victim.^[12] They had been drinking for only a short time when the accused suddenly approached Rufino Gestala, pulled out a gun and shot him.^[13] After the shooting and upon seeing Gestala bloodied and clutching his chest, the witness ran away in the direction of his house and reported the matter to his uncle.^[14]

On cross-examination, it was gathered that Rufino Gestala was his best friend, having known him for about six (6) years prior to his death.^[15] *Ibid.*, p. 21.15 He also stated that he transferred his residence to Fort Bonifacio in the last week of October 1990 but prior to that, he, like witness Diosdado Padios, was staying in the house of Trinidad Balatbat, the aunt of the deceased. He admitted that he depended on Balatbat for his daily sustenance while he was staying with her and that he consulted with Trinidad Balatbat before giving his statement to the Office of the Public Prosecutor.^[16]

On questions propounded by the trial court, the witness testified that at the time of the alleged shooting incident, he was at the left side of the victim while the accused was in front of the victim. He was the only one sitting on the sill of the store while the victim was leaning on it.^[17] He likewise stated that the accused took only one step towards them as he was just in front of the victim and that the barrel of the gun was less than one foot away from the chest of the victim. He likewise recalled that at the time of the incident, he saw witness Diosdado Padios but the latter did not drink beer nor was he offered one as he was just passing by.^[18]

The aunt of the victim, Trinidad Balatbat, was likewise presented and she testified mainly on the expenses their family incurred as a result of the death of the victim.^[19]

For its part, the defense admitted that the accused shot the victim but alleged that the killing was done in self-defense. In support, counsel for the accused presented three witnesses, namely: the accused-appellant Rodrigo Mangahas, Nestor dela Rosa, and SP03 Mario Fernandez.

Accused-appellant narrated that on August 14, 1990 at past 1:00 p.m., he was on his way home from work to check up on his lunch.^[20] When he was near the sari-sari store of Tiangco, he was called by Renato Panoso who was then talking with the victim Gestala.^[21] Gestala was then sitting on the "*pasimano*" in front of the store while Renato Panoso was standing on the other side.^[22] When he approached them, Panoso got a gun from behind his waist, showed it to the accused and offered it to him saying, "*Bilihin mo na lang ito, mahusay ito*", to which the accused replied, "mahirap yan."^[23] Gestala, who was standing about one (1) meter away from them suddenly raised his voice and said, "*Putang-ina mo mahusay naman yong isinasanla namin sa iyo ba't ayaw mong tanggapin?*"^[24] In order to pacify them, he offered them bottles of beer. After they had consumed one-half of the bottles of beer, Gestala, who was then about two meters away from him, said, "*Putang-ina mo ba't ayaw mong tanggapin yon ay mahusay naman.*" Immediately thereafter, Gestala pulled out a gun from the right side of his body, poked it at him and squeezed the trigger. The gun did not fire however. The accused then moved away from Gestala towards the "*pasimano*" of the store and bumped Panoso. He was able to take hold of the gun which was on the "*pasimano*" of the store and he fired the same at Gestala.^[25]

The accused stressed that he fired only once at Gestala as he was only defending himself and that he threw away the gun which he used right after the incident.^[26] After he fired at Gestala, the latter, still carrying his gun, ran away towards the back portion of the store. He himself ran away after the shooting incident as he was confused and afraid of the group of Gestala.^[27] When he had calmed down, he went to the barangay hall of Barangay Tungkong Mangga to surrender himself and explain his side but nobody was there when he arrived. Upon returning to his house, he was told that the group of Panoso had been looking for him. Because of this threat on his life, he left the place and went to his in-laws at Sta. Maria, Bulacan.^[28]

On cross-examination, he testified that he has known Renato Panoso for about a year and Rufino Gestala for about 3 years before the incident.^[29] He characterized

Rufino Gestala as an intimidating person and that his group is known in Pecsonville as notorious for taking drugs.^[30] He further claimed that Gestala's source of income while he was still alive was selling marijuana and drugs.^[31] The accused also testified having seen witness Diosdado Padios in the store on August 14, 1990 talking to Gestala but when the shooting incident occurred, Padios was about 3 or 4 meters away from the store.^[32] He admitted that Padios's view of the shooting was unobstructed by any barrier.^[33] When asked why it was Gestala who got angry with him when he refused to get the gun from Panoso, the accused said that Gestala and Panoso were associates in the business of selling guns.^[34] He clarified that Gestala poked the gun at him only once, while he also shot at the victim only once while they were both standing up. He did not know that the victim was hit and had suffered three gunshot wounds.^[35] Finally, it was found out that after the accused failed to find anyone in the barangay hall, he did not try to report the matter to the police authorities within San Juan del Monte nor did he do so when he was in the house of his in-laws.^[36]

For his part, Nestor dela Rosa collaborated the accused's account of the incident. He testified that at about 1:00 p.m. on August 14, 1990 he was at the Quirino Highway, San Jose del Monte some 150 meters away from the place of his Comadre in Pecsonville.^[37] He was walking towards his destination when he saw four persons in front of a store but one was about to leave.^[38] Of the four, he was only able to recognize the accused as he had previously worked with him. As he continued walking; he saw one person whom he did not recognize holding a gun. He saw this person squeeze the trigger of the gun although it did not fire.^[39] He then saw the accused pick up something from the counter of the store and then he heard a shot. He did not know what happened right after as he ran away from the scene out of fear.^[40]

On cross-examination, he stated that the man on the right side of Mangahas did not do anything to pacify the man holding the gun.^[41] He testified that he heard only one shot fired by accused-appellant.^[42] He admitted further that he did not report the incident to the police authorities in San Jose del Monte because he was not advised by anyone.^[43]

Finally, the defense presented SP03 Mario Fernandez who testified on the procedures undertaken by his police detachment in investigating the shooting of Rufino Gestala.^[44]

On December 2, 1993, the Court *a quo* rendered the disputed judgment.

On January 26, 1994, accused-appellant, through counsel, filed a Motion for Reconsideration of the lower court's December 2, 1993 Decision where he urged the court to reconsider its ruling or if it should affirm its conclusion that self-defense was not duly proven, then he should be sentenced only for homicide, the qualifying circumstance of treachery not being present. After due hearing where accused-appellant testified anew on his behalf, the trial court denied the Motion for Reconsideration in an Order dated July 22, 1994.^[45]

Hence, the present appeal where accused-appellant raises the sole assignment of

error that the trial court erred in concluding that herein accused-appellant failed to prove any basic element of self-defense.

After a thorough review of the records of the case and a careful consideration of the arguments of accused-appellant, the Court does not find enough basis to reverse the judgment of conviction.

Accused-appellant's plea of self-defense once again brings the Court to the crucial question of credibility of witnesses and the weight that should be given to testimonial evidence. On this issue, the Court has almost invariably ruled that the matter of assigning value to the declaration of witnesses is best done by trial courts which, unlike appellate courts, can assess such testimony in the light of the demeanor, conduct and attitude of the witnesses at the trial stage and thus, unless cogent reasons are shown, the findings of the trial court are accorded great respect and credit.^[46]

In discrediting the defense of accused-appellant that he shot the victim in self-defense, the trial court held:

"Accused's defense is devoid of merit. At first, accused put up the defense of alibi when the instant case was being investigated by the Office of the Provincial Prosecutor of Bulacan (Exhs. N, N-1, and N-2). Then, he sets up self-defense at the trial on the merits of the case. These two defenses are incompatible with each other. They do not at all provide shield to the accused to ward off the commission of the crime charged against him. Setting up such contradictory defenses will lead to the conclusion that the accused is confused of what defense is for real. This being so, accused's testimony is wanting of credence at the outset.

Finally, however, accused adopts self-defense saying that the victim pulled out a gun from his right side then poked it to the accused, squeezed its trigger once but misfired. Reacting to the situation, accused picked up the gun from the "pasimano" of the store, fired it once to the victim and then ran away from the scene of the incident. Analyzing the testimony of the accused, the inevitable conclusion would be that such testimony is unreasonable and improbable. If the victim really intended to kill the accused, it is natural for him, under the situation, to squeeze the trigger of his gun not only once if the first squeeze missed, but for several times until his gun fired or to pick up the gun on the "pasimano" of the store and use it instead in shooting the accused. It is inconceivable also that the victim would have to kill the accused just because the latter refused to buy or accept as pledge the gun Renato Panoso was offering to the accused. Incidentally, the alleged gun of the victim was not presented in Court. Likewise unbelievable is the claim of the accused that he picked up the gun from the "pasimano" of the store then shot the victim. At the moment of the incident, accused was facing the store and 1 meter, more or less, away from the victim who was sitting on the said "pasimano" indicating that that the victim was nearer to the gun on the "pasimano" than him. This being so, the victim should have picked up the gun from the "pasimano" ahead of the accused or should have grappled for the gun taken by the accused after his gun misfired at first squeeze of the trigger. This should have been the natural reaction of the victim when his life was