

EN BANC

[G.R. No. 123143, July 19, 1999]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GIL TADEJE Y ALGER AND JOSE MEN DOZA Y MALLARI, ACCUSED-APPELLANTS.

D E C I S I O N

PARDO, J.:

The case before the Court is an automatic review of the decision^[1] of the Regional Trial Court of Quezon City, Branch 217, convicting accused Gil Tadeje y Alger^[2] and Jose Mendoza y Mallari of murder, and sentencing each of them to the supreme penalty of death, and to indemnify the heirs of the victim Antonio Alegre in the amount of forty thousand pesos (P40,000.00) as actual damages, and fifty thousand pesos (P50,000.00) as death indemnity.

On July 8, 1994, Assistant City Prosecutor Meynardo Bautista of Quezon City filed with the Regional Trial Court, Quezon City, an information charging Gil Tadeje y Alger and Jose Mendoza y Mallari with murder, committed as follows:

"That on or about the 5th day of July 1994, in Quezon City, Philippines, the above-named accused, conspiring together, confederating with and mutually helping each other, did then and there, willfully, unlawfully and feloniously, with intent to kill, with treachery, taking advantage of superior strength and with evident premeditation, attack, assault and employ personal violence upon the person of ANTONIO ALEGRE y GABAWA, by then and there stabbing the latter with a paint scraper or spatula hitting him on the different parts of his body thereby inflicting upon him serious and grave wounds which was the direct and immediate cause of his death, to the damage and prejudice of the heirs of said ANTONIO ALEGRE y GABAWA.

"CONTRARY TO LAW."^[3]

At the arraignment on August 15, 1994, both accused pleaded not guilty to the crime charged. The lower court set the case for pre-trial on September 14, 1994.^[4] Thereafter, the court conducted the trial in the reverse order, upon motion of accused Gil Tadeje, as the accused claimed self-defense.

On September 27, 1995, the lower court rendered a decision, the dispositive portion of which reads:

"WHEREFORE, premises considered, the Court hereby finds the accused GIL TADEJE Y ALEGRE and JOSE MENDOZA Y MALLARI guilty of MURDER qualified by treachery and hereby sentences them to suffer the penalty of

death.

"Both accused are further ordered to indemnify the heirs of the victim Antonio Alger in the amount of P40,000.00 as and by way of actual damages and the amount of P50,000.00 as indemnity for the death of the victim.

"SO ORDERED.

"Quezon City, Philippines, September 27, 1995.

"(s/t) GIL P. FERNANDEZ, SR.

"J u d g e"^[5]

Hence, this automatic review.

The facts are as follows:

Accused Gil Tadeje and Jose Mendoza worked as painters at the construction site of Mazda Auto Center, located along Quezon Avenue, Quezon City.

On July 5, 1994, at around 11:00 in the evening, Gil Ceballos, the general foreman at the construction site, was eating "balut" together with Antonio Alegre and other workers. Accused Tadeje and Mendoza, arrived, drunk, and taunted people to challenge them to a fight.

Junior Bunda, another worker, approached accused Tadeje and Mendoza. Accused Tadeje immediately stabbed Bunda on the forehead with a spatula, an instrument four inches long with a three-inch blade used as paint scraper. As Bunda ran away from the scene, Antonio Alegre approached accused Tadeje and tried to pacify him. Accused Tadeje and Mendoza then took turns in stabbing Antonio Alegre successively. The victim fell to the ground.

Gil Ceballos tried to appease accused Tadeje and Mendoza, who in turn, attempted to stab him. Gil Ceballos parried the blow, ran away and sought police assistance.

The victim Alegre was brought to the hospital by his co-workers but was pronounced dead on arrival. The autopsy report revealed the following:

"incised wounds on the right and left portion of the neck; a total of seven (7) stab wounds sustained by the victim, could have been caused by a sharp instrument."^[6]

Policemen arrested accused Tadeje that same night inside a passenger jeep. Accused Mendoza was arrested at the job site the following day.^[7]

Accused Gil Tadeje interposed self-defense. He alleged that on July 5, 1994, at around 10:00 in the evening, he woke up from his barracks bed where he and several other workers were staying, and went out of the construction site to the canteen for some snacks. At that time, Gil Ceballos, Junior Bunda, Marcial Diaz and a person named Nonoy were having a drinking spree. The accused Tadeje returned

to the barracks and invited accused Jose Mendoza to accompany him to the canteen. When they reached the canteen, accused Tadeje decided to remain outside, while accused Mendoza proceeded inside the canteen.

Accused Tadeje struck a conversation with Jonathan Bunda in front of the canteen. Later, they started arguing and raised their voices. At this point, the victim Antonio Alegre, a co-worker, approached them and suddenly boxed accused Tadeje in the face, causing him to fall to the ground. The victim pinned him down and punched his chest. The victim then held accused Tadeje's head and banged it on the concrete pavement several times. Accused Tadeje, almost losing consciousness, grappled with the victim. Accused Tadeje touched his head and noticed blood on his forehead. When he realized that the victim would not stop from harming him, accused Tadeje managed to get hold of a spatula from his pocket and stabbed the victim with it. He could not recall the number of times he stabbed the latter, for he was losing consciousness at that time.

After the incident, accused Tadeje returned to the job site. He noticed several persons, including two policemen in plainclothes, milling around. The policemen brought accused Tadeje to the Galas Police Station and imprisoned him. After three days, accused Tadeje's mother visited him. She noticed the wound on his forehead and requested for its treatment. Accused Tadeje was then allowed to go to the hospital for medical treatment.

Dr. Generoso Sison, Jr. of the Philippine Orthopedic Center examined accused Tadeje and issued a medical certificate stating that he suffered from "contusion, hematoma, sigmatic area, left and right," perhaps caused by a fistblow, and an "abrasion 1.5 cm. Pyreathal area left" located on the head.^[8] According to the physician, bumping the head against a hard surface, or repeatedly hitting a concrete pavement may have caused the injury.^[9]

After undergoing medical examination and treatment, accused Tadeje was brought back to the police station.^[10]

On his part, accused Jose Mendoza denied any participation in the crime. He averred that on the night of July 5, 1994, at around 10:00 p.m., he entered the canteen and ordered food. He saw the victim emerge from the canteen and yell at accused Tadeje.^[11] He sought for help but the general foreman and his other companions were drunk at that time. He then went inside the job site and slept. The following morning, Gil Ceballos, the foreman, arrived with two policemen in plainclothes. The policemen placed handcuffs on accused Mendoza and brought him to the Sto. Domingo Police Station.

In this automatic review, appellants contend that the lower court erred in rejecting the claim of self-defense. They also assail the lower court's finding of conspiracy.

Self-defense as a justifying circumstance must satisfy the following requirements: (1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to repel the aggression; and (3) lack of sufficient provocation on the part of the accused.^[12] The burden of proving self-defense by clear and convincing evidence is on the accused. In doing so, he must rely on the strength of his evidence and not on the weakness of that of the prosecution.^[13]