

SECOND DIVISION

[G.R. No. 96092, August 17, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ALEXANDER BAUTISTA, ACCUSED-APPELLANT.**

D E C I S I O N

MENDOZA, J.:

This is an appeal from the decision of the Regional Trial Court of Manila, Branch V, Special Criminal Court, finding accused-appellant Alexander Bautista guilty of murder. The information against accused-appellant alleged

That on or about January 12, 1987, in the City of Manila, Philippines, the said accused did then and there wilfully, unlawfully and feloniously, with treachery and with evident premeditation and with intent to kill, attack, assault and use personal violence upon ALLAN JONE CLEMENTE Y PADDAYUAN, by then and there embracing the shoulders of said Allan Jone Clemente y Paddayuan, whipping out a fan knife and stabbing him on the right portion of his body thereby depriving him of a chance to defend himself from the said attack and inflicting upon him mortal stab wound, which wound was the direct and immediate cause of his death thereafter.

Contrary to law.^[1]

The prosecution evidence tends to show the following:

On January 12, 1987, at around 5:30 in the afternoon, while the victim Allan Jone Clemente was having drinks with Orlando Ocares in a house at 3427 F. Aguilar Street, Barrio Obrero in Tondo, Manila, accused-appellant Alexander Bautista arrived and asked Clemente to accompany him home. Clemente obliged and the two walked down F. Aguilar Street with accused-appellant placing his left arm around Clemente's shoulder. When they passed in front of the house of Danilo Enrique Cancio, they stopped. Danilo was on the terrace, on the second floor of his house, watching those playing basketball near the street. Henry Narciso, another resident of F. Aguilar Street, met accused-appellant and Clemente while the two were on their way to accused-appellant's home.

Suddenly accused-appellant pulled out a *balisong* (fan knife) with his right hand and stabbed Clemente with it, hitting the latter on the lower right abdomen. Accused-appellant afterwards fled to an alley leaving his victim in critical condition.

Clemente managed to go home, but he collapsed upon reaching their house. He was rushed to the Chinese General Hospital in Sta. Cruz, Manila, where he later expired.

During the trial, the prosecution presented Danilo Enrique Cancio and Henry

Narciso, both residents of F. Aguilar Street, Barrio Obrero, Tondo, Manila, as witnesses.

Cancio testified that sometime between 5:30 and 6:00 in the afternoon of January 12, 1987, while watching a basketball game in a nearby court from the second floor terrace of his house at 3393 F. Aguilar Street, he saw Clemente stabbed by accused-appellant as the two passed by his house. Cancio testified that the stabbing was not preceded by any quarrel between Clemente and accused-appellant.^[2] In fact, accused-appellant had his left arm around Clemente's shoulder when accused-appellant pulled out his *balisong* and stabbed Clemente with it. Accused-appellant then walked towards an alley.^[3]

Clemente staggered as he walked towards his house, shouting, "I was stabbed."^[4] Cancio said he rushed downstairs to help Clemente, but his brother stopped him from doing so. Clemente was taken to the Chinese General Hospital on a tricycle by Orlando Ocares and an unidentified person.

Narciso testified that on January 12, 1987 he met his friend, Clemente, and accused-appellant on F. Aguilar Street. Accused-appellant's left arm was around Clemente's left shoulder when all of a sudden he heard someone exclaim, "*aray*."^[5] He saw Clemente bloodied as accused-appellant held in his hand a bloodstained nine-inch *balisong*.^[6]

Sgt. Patricio Balanay of the Western Police District also testified. He investigated the incident and prepared the progress report and the booking and information sheet of accused-appellant.^[7] Dr. Nelson Tiu, attending physician at the Chinese General Hospital, also testified. Dr. Marcial Ceñido, a medico-legal officer of the Western Police District, prepared the post-mortem findings and death certificate of the victim^[8] showing the following:

EXTERNAL INJURY AND EXTENSION INTERNALLY:

1. Penetrating stab wound, right lower quadrant of the abdomen, 33 ins. from the heel, 7.5 cm. from the anterior midline, measuring 1.5 cm. x 0.9 cm. x 9 cm. in depth, directed obliquely backwards, slightly downwards and towards the midline and almost transecting the right common iliac artery.

INTERNAL FINDINGS:

1. Stab wound of the right common iliac artery with massive hemoperitoneum and generalized pallor; and
2. Recovered from the stomach about a glassful of partially digested rice with vegetables and with alcoholic odor.

CAUSE OF DEATH:

Penetrating stab wound, right lower quadrant, abdomen, almost transecting the right common iliac artery.^[9]

Maribeth Morales, the victim's widow, was the last witness for the prosecution. She testified on the hospital and funeral expenses incurred by her as a result of the death of her husband.

Accused-appellant admitted that on January 12, 1987, he and the victim Allan Jone Clemente met on F. Aguilar Street. Accused-appellant claimed that he and his wife were going home with their eight-year old son, after coming from the house of his in-laws. As befitted a friend, he said he put his arm around Clemente's shoulder and the two of them walked together. However, he claimed that while they were thus walking, Clemente tried to attack him with the *balisong*. He grappled with the deceased for possession of the knife. Clemente cried in pain apparently because he had been accidentally hit. Accused-appellant said he then left Clemente and proceeded to his aunt's house in Caloocan City.^[10]

Ricardo Espinosa, a Caloocan City resident, corroborated the testimony of accused-appellant that it was Clemente who pulled out the *balisong* and that the two engaged in a struggle.^[11]

Cancio was recalled to the witness stand. He said that when he saw accused-appellant and the deceased on F. Aguilar Street, accused-appellant's wife and child were not there. He insisted that it was accused-appellant, not the deceased, who pulled out a *balisong* and stabbed the deceased with it.

After the trial, the Regional Trial Court found accused-appellant guilty of murder and sentenced him as follows.

WHEREFORE, finding accused ALEXANDER BAUTISTA Y TORRES GUILTY beyond reasonable doubt of the crime of Murder sentences him to suffer the penalty of LIFE IMPRISONMENT, indemnify the heirs of deceased ALLAN JONE CLEMENTE Y PADDAYUAN the sum of Thirty-Thousand (P30,000.00) Pesos, and to pay the cost.

SO ORDERED.^[12]

Hence, this appeal. On February 20, 1996, accused-appellant wrote the Court expressing his desire to withdraw his present appeal. However, in view of the objections of the Office of the Solicitor General, accused-appellant's request was denied. Accordingly, we shall dispose of the appeal of accused-appellant.

Accused-appellant contends that the evidence is insufficient to show that the killing was attended by treachery or evident premeditation so as to qualify it to murder.

The Solicitor General agrees that there was no evident premeditation but argues that treachery attended the killing of Allan Jone Clemente. He further contends that the imposable penalty should be *reclusion perpetua* and that the indemnity should be increased to P50,000.00.

The Court finds the Solicitor General's contention to be well taken.

To begin with, the findings of the trial court are entitled to great respect considering its opportunity of observing the demeanor of the witnesses while testifying. As has been held:

The trial court's ruling that the testimonies of the prosecution witnesses were more credible is entitled to respect. This Court accords the highest respect for the findings of the trial court on the issue of credibility of witnesses because the trial court is in a better position to decide the question, having heard the witnesses testify and observed their demeanor and deportment while testifying, absent any showing that the trial court overlooked, misunderstood, or misapplied some facts or circumstances of weight and substance which would have affected the result of the case.^[13]

In this case, the trial court found:

There are actually two eyewitnesses, Danilo Cancio and Henry Narciso for the prosecution. Danilo and Henry testified with clarity that they saw the unprovoked and unmitigated stabbing of Allan Jone Clemente by accused Bautista. Danilo and Henry had no reason in the world to testify against accused Bautista. Danilo had known accused since childhood. He even considered himself as a friend of the accused. Henry is a neighbor of both the accused and the victim Clemente. There is no reason for him to testify in favor of either the accused or the victim. A neighbor like Danilo and Henry will have to think many times before they testify for or against a neighbor. . . .

On the other hand, what has accused Alexander Bautista to show on his claim of self-defense? The defense presented Ricardo Espinosa to support his claim that it was victim Allan Jone Clemente who pulled the knife and tried to stab accused Bautista. And that it was in his self-defense that Bautista was able to turn the table and instead stabbed and killed Allan Jone Clemente. Instead of presenting a witness who hailed from the place which the court is sure there were many who actually witnessed the incident, he presented Espinosa who hails from Caloocan City. A man, because of his distance of domicile, could bring forth any version to his heart's desire without fear of being chastised by the neighborhood. Aside from his being from another place, he admitted as it should be, that he did not actually see what transpired between accused Bautista and deceased Clemente. All that he knew was that, there is some kind of a trouble between the two.

With the testimony of Espinosa, accused Bautista brought to the fore his claim of self-defense. Accused Bautista's claim that it was deceased Clemente who without provocation on his part suddenly drew a knife, hold on the hand with the knife of deceased Clemente, struggled for its possession and in the process stabbed Clemente. A statement the court cannot take as gospel truth. If it were true that the deceased Clemente was armed with a knife and had an intention as he was pictured by accused Bautista to stab and kill him, deceased Clemente would not have allowed himself to be lulled into allowing Bautista to embrace him and with Bautista's arm around his shoulder, not only lower his guard, open himself to attack.

To the mind of the Court, Bautista's claim of self-defense is a last minute thought-up story designed to exculpate himself, or at least mitigate the