

EN BANC

[G.R. No. 124127, June 29, 1998]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. REY SOLIS, ACCUSED-APPELLANT.

DECISION

VITUG, J.:

In a decision, promulgated on 21 December 1995, the Regional Trial Court of Dagupan City, Branch 43, presided over by Judge Silverio Q. Castillo, found accused Rey Solis guilty beyond reasonable doubt of the crime of murder. Since the sentence pronounced on him was the capital penalty of death, the case was elevated to this Court for automatic review.

The accused was earlier charged by the Office of the Provincial Prosecutor with murder in an information that read:

"That on or about October 12, 1994 at public Market, at Poblacion, municipality of Mangaldan, province of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife with intent to kill and treachery, did, then and there wilfully, unlawfully and feloniously embrace and stab EDUARDO ULIGAN y CAOILE inflicting upon him mortal wound which caused his death, to the damage and prejudice of his heirs.

"CONTRARY to Art. 248, Revised Penal Code as amended by R.A. 7659.

"Dagupan City, November 22, 1994."^[1]

With the assistance of Attorney Aurora E. Valle of the Public Attorney's Office ("PAO"), the accused entered a plea of not guilty when arraigned. The pre-trial conference was waived; forthwith, trial on the case ensued.

The prosecution submitted its case with a presentation of an eyewitness account of the incident, the medical findings on the victim by the attending physician, the autopsy report of the examining doctor and the findings of police officers who conducted an investigation of the crime and later apprehended the accused.

Flora Cera, an eyewitness, testified that on 12 October 1994 at around six o'clock in the afternoon, just after alighting from a tricycle at the Public Market of Mangaldan, Pangasinan, she saw Eduardo Uligan buying something from an ambulant vendor. Moments later, she beheld, from a distance of only around one and a half meters, accused-appellant Rey Solis come from behind Eduardo Uligan, then make a strangle hold on the latter and with his free right hand stabbed the victim with a "29" balisong (also commonly known as a "Batangas knife").^[2] Accused-appellant hurriedly left the scene and lost himself inside the public market. The victim was still able to walk some distance away until somebody came to his succor.

The victim was rushed to Dagupan City and brought to the emergency room of Medical City Dagupan, Inc., where he was promptly attended to by Dr. Eugenio De Leon. It was too late, however, for Eduardo Uligan. He expired soon after arriving at the hospital and before any medical treatment could be administered to him. Dr. De Leon testified that the wound sustained by the victim was fatal and could have been caused by a sharp and pointed instrument like a Batangas knife.^[3]

Dra. Ophelia T. Rivera conducted an autopsy on the cadaver. She found the victim to have sustained a single lacerated wound at the left chest that fractured ribs, penetrated the lungs and caused a partial perforation of the heart.^[4] The wound must have been caused by either a sharp single or double-bladed weapon. The injury sustained was fatal and death was inevitable. Dra. Rivera concurred with Dr. De Leon in concluding that it was possible for the assailant to have been in front or on the left side of, or behind, the victim when the fatal blow was delivered.

SPO4 Antonio Zabala testified that after receiving the report on the stabbing incident, he promptly proceeded to the Medical City Dagupan, Inc., to conduct an investigation. He attempted to interview the victim but he was unable to get any response from the dying man. He took, instead, the sworn statements of Flora Cera, Warlito Junio, Jr., and Delia Uligan.

SPO4 Salvador Samson, an intelligence officer of the Mangaldan Police, declared that on 22 October 1994 he was on duty at the police station when he received a report that accused-appellant was in Gapan, Nueva Ecija. SPO4 Samson, together with a fellow officer, Mario Espiritu, proceeded to Gapan, Nueva Ecija, where accused-appellant was apprehended and brought to the Mangaldan Police Station. The police officers were later able to recover the weapon used in the stabbing incident buried under one of the stalls in the public market of Mangaldan.

The victim's widow, Delia Uligan, testified that the family spent P68,000.00 by way of actual expenses^[5] occasioned by the death of the victim.

The defense presented its lone witness, accused-appellant Rey Solis, to negate the charge of murder against him. He admitted having killed the victim but he interposed the justifying circumstance of self-defense.

In his testimony, accused-appellant, a vegetable vendor, denied having personally known the victim. According to him, at about six o'clock in the afternoon of 12 October 1994, he was at the Mangaldan Public Market when he "accidentally bumped" the victim causing the latter to fall on the pavement. Still showing strong resentment despite accused-appellant's apology, the victim slapped accused-appellant on the face and then pulled out a knife. The two grappled for possession of the knife until accused-appellant was able to wrest it away from the victim and, holding the latter by the neck, stabbed him on the chest. After the incident, he left the crime scene and proceeded to Rosario, La Union, by tricycle. Two days later, he went to the house of one Leopoldo Visperas in Sta. Maria, San Jacinto, Pangasinan, to seek the latter's assistance on his intention to surrender to the authorities. He was brought to a certain Col. Lomibao in San Fernando, La Union.

The trial court found for the prosecution; it concluded:

"WHEREFORE, the COURT finds accused Rey Solis guilty beyond reasonable doubt of the felony of MURDER qualified by treachery defined

and penalized under Article 248 of the Revised Penal Code as amended by Republic Act No. 7659 and pursuant to law, the Court sentences him the capital penalty of DEATH and to pay Delia Q. Uligan the following to wit:

- "1. P68,000.00 as actual damages;
- "2. P50,000.00 as indemnity;
- "3. P50,000.00 as moral damages;
- "4. And costs.

"The fan knife 'balisong' (Exh. I) of the accused is ordered confiscated and forfeited in favor of the government.

"SO ORDERED."^[6]

In his appeal to this Court, accused-appellant sought to ascribe to the trial court the following "errors;" viz:

"1. The Court a quo gravely erred in finding the accused-appellant guilty beyond reasonable doubt of murder qualified by treachery (Article 248 of the Revised Penal Code as amended by R.A. No. 7659).

"2. The Court a quo gravely erred in sentencing the accused-appellant to death and in not taking into consideration the mitigating circumstance of voluntary surrender."^[7]

Accused-appellant, invoking self-defense, has admitted responsibility for the killing of the victim. In cases, such as here, where an accused owns up the killing of the victim, the burden of evidence is shifted to him to prove by clear and convincing evidence that he is entitled to an extenuating circumstance and that he has incurred no liability therefor.^[8] This time, he must rely on the strength of his own evidence and not on the weakness of the case submitted by the prosecution.^[9]

The justifying circumstance of self-defense may exempt an accused from criminal liability when the following requisites are met, viz: That (1) there has been an unlawful aggression on the part of the victim; (2) the means employed to prevent or repel such aggression are reasonably necessary; and (3) the person defending himself has not provoked the victim into committing the act of aggression.^[10] Unlawful aggression by the victim presupposes an actual, sudden and unexpected attack, or an imminent danger thereof, not merely a threatening or intimidating attitude, and there must exist a real danger to the life or personal safety of the person claiming self-defense.^[11] Along with it, there must be a reasonable necessity both in the action taken, as well as in the means used, to ward off the attack.

The Court has carefully examined the records and, unfortunately for accused-appellant, his plea of self-defense must fail.

The debilitating factor, more than anything else, against the self-defense theory was the testimony of Flora Cera, a 38-year old housewife, who positively identified accused-appellant and narrated in detail the incident she had witnessed. Flora Cera testified:

"PROS. MARATA:

"Q Do you know personally Rey Solis Madam Witness?

"A Yes, sir.

"Q If he is inside the courtroom would you be in the position to identify him?

"A Yes, sir.

"Q Will you please stand up and point to accused Rey Solis?

"A Witness pointed to a person seated inside the courtroom and when asked his name he answered Rey Solis.

"Q Do you likewise know Eduardo Uligan?

"A No, sir but I have seen him during the incident.

"Q Where is Eduardo Uligan now?

"A He is already dead, sir.

"Q On October 12, 1994 at 6:00 p.m. where were you Madam Witness?

"A I was in the market at that time, sir.

"Q What market are you referring to?

"A Mangaldan Public Market, sir.

"Q While you were at the Public market of Mangaldan, Pangasinan, did you see Eduardo Uligan?

"A Yes, sir.

"Q Where did you see him?

"A He was buying ingredients, sir.

"Q Where was he buying ingredients?

"A Outside of the public market, sir.

"Q Do you know the stall where he was buying ingredients?

"A It is not a stall but he is just buying from an ambulant vendor, sir.

"Q While he was buying ingredients from an ambulant vendor, do you know what happened?

"A When I alighted from a tricycle and while Eduardo Uligan was buying the items I saw that he was stabbed by him, sir.

"Q Whom are you referring to who stabbed Eduardo Uligan while he was buying ingredients?

"A The person who was wearing green t-shirt. Witness pointed to Rey Solis.

"Q Will you please tell the Honorable Court what was the position of Eduardo Uligan before he was stabbed by Rey Solis?

"A He was standing, sir.

"Q What was he doing before he was stabbed by Rey Solis?

"A He was buying the items, sir.

"Q And where did Rey Solis come from when he stabbed Eduardo Uligan?

"A He came from behind, sir.

"Q And when Rey Solis got near Eduardo Uligan coming from behind, what did Rey Solis do if any?

"A He did it like this. Witness demonstrating how Rey Solis attacked Eduardo Uligan by strangling him on his neck and his right hand stabbing the victim.

"Q Where was Rey Solis when he strangled the neck of Eduardo Uligan?

"A He was behind Eduardo Uligan, sir.

"Q What did Rey Solis use in stabbing Eduardo Uligan?

"A 29, sir. "COURT:

"Q You are referring to a knife or locally known as `balisong'?

"A Yes, sir.

"COURT:

Proceed.

"PROS. MARATA:

"Q And how long is the balisong which was used by Rey Solis in stabbing Eduardo Uligan?

"A WITNESS is showing the length of the balisong estimated by counsel to be 6 inches.

"Q What you demonstrated is 6 inches, are you referring to the length of the blade of the balisong or the entire length of the balisong?

"A The handle is already included, sir.

"Q What part of the body of Eduardo Uligan was hit when he was stabbed by Rey Solis?

"A Witness is pointing to his left chest.

"Q And how many times if you know did Rey Solis stab Eduardo Uligan?

"A Only one, sir.