

THIRD DIVISION

[G.R. No. 117689, January 30, 1997]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ELISEO ALVAREZ Y VILLALVA, VILMA ALVAREZ Y MAGADA, AND
ALBERTO ALVAREZ Y MAGADA, ACCUSED-APPELLANTS.**

D E C I S I O N

FRANCISCO, J.:

Herein appellants - spouses Eliseo and Vilma Alvarez, together with their son Alberto were charged before the Regional Trial Court of Boac, Marinduque with the murder of one Benito Paez. Docketed below as Criminal Case No. 98-93, the information reads:

"That on or about 4:00 o'clock in the afternoon of October 12, 1993 in barangay Masaguisi, municipality of Sta. Cruz, province of Marinduque, Philippines and within the jurisdiction of this Honorable Court the above-named accused, armed with boloes and ax, conspiring, confederating and mutually helping one another, did then and there, wilfully, unlawfully and feloniously, with deliberate intent to kill, and with treachery, attack, assault, stab and hack one Benito Paez inflicting upon him the following fatal injuries, to wit:

'1. 4 inch long non penetrating laceration in the sternal area along the level of the 2nd - 3rd rib;

2. 3 inch linear laceration left shoulder joint;

3. 1 inch linear shallow laceration left chin area;

4. 2 inch linear shallow laceration left chin area;

5. 4 inch linear laceration in parietal area with brain tissue protruding out of the broken skull;

6. Left arm was severed up to the bone with only the skin keeping the arm intact;

7. 7 inch linear laceration extending from right lumbar area to the left scapular area;

8. 4 inch laceration penetrating mid lumbar area;

9. 2 inch laceration penetrating ingastric area possibly compatible with wound Number 8;

10. 3 inch linear laceration in right scapular area.'

which injuries directly caused the instantaneous untimely death of afore-named Benito Paez, and to the damage and prejudice of his legal heirs represented by his wife Rosalinda Paez."

A separate information for frustrated homicide was filed against appellant Vilma, docketed as Criminal Case No. 21-94, arising out of her alleged assault on Benito Paez's wife Rosalinda Paez committed on the same occasion of Benito's murder. Thus:

"That on or about the 12th day of October 1993, at around 4:00 o'clock in the afternoon, in barangay Masaguisi, municipality of Sta. Cruz, province of Marinduque, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with bolo, with intent to kill, did then and there wilfully, unlawfully and feloniously, attack, assault and stab one Rosalinda Permejo-Paez, inflicting upon the latter the following fatal injuries, to wit:

'2. Multiple Injury

- Incised wound of the middle finger right cutting the metacarpal bone.
- Incised wound of the thumb right cutting the tip.
- Incised wound of the right index and fourth finger tip.
- small skin deep incised wound on the right latero-infraorbital area.

thereby performing all the acts of execution which would have produced the crime of homicide but nevertheless, did not produce it by reason of some cause other than the spontaneous desistance of the said accused, which was, the timely medical assistance rendered to Rosalinda Permejo-Paez, and to the latter's damage and prejudice."

Trial of the appellants' son Alberto (in Criminal Case No. 98-93) was suspended upon his commitment to the National Center for Mental Health for psychiatric examination.

The two cases were tried jointly. In brief, the prosecution presented its version of the incident in this wise:

"In Barangay Masaguisi, Sta. Cruz, Marinduque, about 4:00 o'clock in the afternoon of October 12, 1993, Rosalinda Paez and her victim-husband, Benito Paez, were threshing palay in their hut. While Rosalinda and Benito were doing their chores, appellant Eliseo Alvarez, coming from his farm with his wife, appellant Vilma Alvarez, went near Benito and instantly hacked him on the shoulder. Eliseo had been irked by the barkings of their dog which was blocking his path (TSN, pp. 3-6, March 25, 1994). This angered Eliseo who drew his bolo with Vilma and demanded of the spouses Paez to pacify the dog (TSN, p. 24, March 25,

1994). Eliseo then turned his ire on the spouses and hacked Benito whose back was turned against him. Benito tried to stand but Vilma stabbed him with her own bolo at the left breast obliquely to the center and above the nipple. As a result, Benito fell to the ground (TSN, p. 7, March 25, 1994).

"Rosalinda tried to carry Benito with both arms but she was struck by Vilma. She parried the blow with her right palm, which disabled her four fingers from the thumb to the right finger. Vilma also hit her on the right side of the eye (TSN, p. 11, March 25, 1994). Scared, Rosalinda then fled and hid in a bushy area, about twenty-five (25) meters from the crime scene. From there, she saw Alberto hit her husband on the head, followed by stabbing blows and a kick from Eliseo. After five (5) minutes, Rosalinda ran to the house of a certain Ka Juaning where her injured hands were treated and bandaged (TSN, pp. 12-15, March 25, 1994).

"Thereafter, while on her way to the house of the barangay captain, Rosalinda remembered that her three-year-old daughter was left behind in their hut; she then decided to go back. Upon her arrival, the hut was already full with people including the barangay captain who informed Rosalinda that her husband was already dead (TSN, p. 16, March 25, 1994).

"Another prosecution witness, Jimmy Ornos, declared that about 4:00 o'clock in the afternoon of October 12, 1993, he passed by the hut of the spouses Paez after coming from the house of his manager in Masaguisi. Aside from the spouses, also inside the hut were the spouses' daughter and a helper by the name of Lauro (TSN, p. 9, March 28, 1994). Benito and Rosalinda were sitted side by side threshing palay. Suddenly, Eliseo, coming from behind, hacked Benito at the back with a long bolo. Then Vilma stabbed Benito on the chest with her own bolo (TSN, pp. 10-12, March 28, 1994). Alberto ran to their house and came back with an axe, which he used in hitting Benito on the left shoulder, right forearm, and left part of the face (TSN, p. 13, March 28, 1994). Mustering enough courage, Jimmy approached Alberto and took away from him the axe. Jimmy then threw away the axe (Ibid). Seeing that the spouses' daughter was fast approaching Benito, Jimmy grabbed the child and ran away. The witness corroborated the testimony of Rosalinda that appellants were irked by the barkings of the spouses' dog which prompted Eliseo to utter 'Pag hindi sinaway ang aso ay tatabakin ko' (TSN, p. 18, March 28, 1994). However, instead of stabbing the dog, Eliseo hacked Benito."^[1]

Appellant Eliseo's story is one of self-defense. He claims that while he and son Alberto were bound for home coming from their ricefield, the spouses Paez's (deceased Benito and Rosalinda) dog blocked their path. Eliseo requested the Paez's to pacify the dog, which the latter did not do. Instead, Benito challenged him by saying, "Ngayon tayo magkaintindihan." To this, Eliseo replied, "Bakit ako ay hinahamon mo ay wala naman akong galit sa iyo?" Thereafter, Benito struck Eliseo's head with a branch of a "tangkal" tree which broke into three pieces. After having been hit and when Benito was about to get another "pamalo", Eliseo hacked Benito

on his back with a bolo. When Benito fell on his back, Eliseo followed up on his assault by twice hitting Benito on the throat with the blunt side of the bolo which caused the latter's death. Eliseo also claims that his wife appellant Vilma, was beaten up by Jimmy Ornos and Lauro Red upon the prodding of Benito's wife Rosalinda. Rosalinda then delivered a hacking blow on the fallen appellant Vilma, hitting her on the right sole and below the right knee. Eliseo was then hit by Rosalinda twice on the head with a "madre cacao" wood when he was going near appellant Vilma. He retaliated by hacking Rosalinda on her right hand, and after which Rosalinda ran towards her brother's place located at the adjacent barrio. Eliseo denies that appellant Vilma and her son Alberto participated in the hacking of Benito and Rosalinda.^[2]

For her part, appellant Vilma testified that at the time of the incident in question, she was weeding at the garden of their house. Eliseo was approaching the garden carrying two pails of water when Rosalinda, in the presence of Jimmy Ornos and Lauro Red, hit Eliseo on the head. Vilma later on said that she also saw Benito lying down, the reason for which she, however, does not know. Continuing with her story, Vilma said that when she approached Eliseo to pacify his assailants, Rosalinda instead ordered her companions (Jimmy and Lauro) to also pounce on her ("upakan na raw po ako"). Rosalinda then hacked her, wounding her right sole and knee. Vilma was brought to the hospital for treatment. And despite of what happened, she did not file any complaint against Rosalinda.^[3]

Judgment of conviction was thereafter handed down by the trial court, the dispositive portion of which reads:

"WHEREFORE, finding both accused Eliseo Alvarez y Villalva and Vilma Alvarez y Magada guilty beyond reasonable doubt of the crime of Murder charged in the Information (Criminal Case No. 98-93) with the qualifying circumstance of treachery and confederating with one another through their simultaneous action, but without any aggravating nor mitigating circumstance attendant to its commission, both accused Eliseo Alvarez y Villalva and Vilma Alvarez Magada are hereby sentenced to each suffer the penalty of reclusion perpetua and the accessory penalty thereof. Both are hereby ordered to indemnify the heirs of the victim the sum of P50,000.00 as death indemnity of Benito Paez.

"The charge against Alberto Alvarez under the same Criminal Case No. 98-93 is hereby archived and will be brought back to the active calendar of this court after this Court has been informed by the National Center for Mental Health that the said accused is already fit for trial.

"However, in Criminal Case No. 21-94, charging Vilma Magada Alvarez with the offense of Frustrated Homicide, appreciating the medical certificate (Exh. C) which did not reveal that the injury suffered by Rosalinda Paez is fatal, as in fact immediately after the hacking of the right palm she was given first aid with the use of guava leaves and net, the crime committed is not frustrated one but only an attempt. While it may be true that with the injuries sustained by Rosalinda, Vilma Magada Alvarez had started the commission of the crime of homicide, she was not, however, able to perform all the acts necessary for the commission