

THIRD DIVISION

[G.R. No. 114971, November 19, 1996]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDDIE ISLETA, ACCUSED-APPELLANT.

DECISION

PANGANIBAN, J.:

The Court reiterates, in this instance, (a) the essential elements of self defense that an accused must prove, and (b) the well-known rules for appreciating the qualifying circumstance of treachery, and the mitigating circumstances of voluntary surrender, plea of guilty to a lesser crime and lack of intent to commit so grave a wrong.

This is an appeal from the Decision^[1] of the Regional Trial Court of Lucena City, Branch 58,^[2] in Criminal Case No. 91-498, dated December 13, 1993, convicting appellant of murder and sentencing him to suffer the penalty of *reclusion perpetua* and to pay the heirs of the deceased the amount of P50,000.00 as indemnity and P30,000.00 as burial expenses, and costs.

The Antecedent Proceedings

On July 17, 1991, appellant Eddie Isleta, together with Celso Bulahan, Leon Magbuhos and Gregorio de Gala, was charged by Provincial Prosecutor Dante H. Diamante with murder under the following Information:^[3]

"That on or about the 10th day of November, 1990, at Nadres Street, Labak, Municipality of Candelaria, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the accused Eddie Isleta, armed with a bladed weapon, with intent to kill, with treachery and evident premeditation, conspiring and confederating together with the accused Celso Bulahan, Leon Magbuhos and Gregorio de Gala, and mutually helping one another, did then and there willfully, unlawfully and feloniously attack, assault and stab with the said weapon one Moises Balbarosa, thereby inflicting the latter a stab wound on his abdomen, which directly caused his death.

That the accused Eddie Isleta attacked and stabbed with the said weapon said Moises Balbarosa suddenly and unexpectedly without giving the latter any opportunity to defend himself or to escape.

That the accused Celso Bulahan, Leon Magbuhos, and Gregorio de Gala participated in the commission of the crime as principal (sic) by inducing the accused Eddie Isleta to kill said Moises Balbarosa and by participating in planning said offense.

Contrary to law."

Upon arraignment, appellant assisted by counsel *de parte* pleaded "not guilty".^[4] After trial, the court *a quo* rendered a judgment of conviction. The dispositive portion of the Decision reads as follows:

"WHEREFORE, premises considered, judgment is hereby rendered finding accused EDUARDO "EDDIE" ISLETA, 36 years old, married, former janitor and a resident of Rizal, Laguna, guilty beyond reasonable doubt, as principal, of the crime of murder, as defined and penalized under Article 248 of the Revised Penal Code and, in the absence of any mitigating or aggravating circumstance, and considering the provisions of the Indeterminate Sentence Law, hereby sentences said accused to suffer the penalty of reclusion perpetua and to pay to the heirs of the deceased Moises Balbarosa the amount of P50,000.00 as indemnity and the amount of P30,000.00 as the burial expenses and to pay the costs.

As against accused CELSO BULAHAN and accused GREGORIO DE GALA, judgment is hereby rendered finding said accused persons not guilty and they are, therefore, ACQUITTED. It is to be recalled that consequent to the death of accused LEON MAGBUHOS pending trial, the case as against him had priorly been dismissed.

SO ORDERED."

Hence, this appeal. The First Division of this Court granted appellant's motion to withdraw the appeal in the Court's Resolution dated August 29, 1994; however, the appeal was reinstated by the same division, per its June 26, 1995 Resolution, upon the manifestation of counsel for appellant that he was not inclined to confirm said withdrawal. Thereafter, this case was referred to the Third Division via the Court's Resolution of November 13, 1995, and assigned to the undersigned ponente.

The Facts

According to the Prosecution

On November 10, 1990, at around 5 o'clock in the afternoon, prosecution witness Moises Roberto Balbarosa, son of the victim Moises Balbarosa, was resting near the gate (*tarangkahan*) of the Balbarosa residence at Nadres Street, Candelaria, Quezon. From where he sat, he noticed that Bulahan, de Gala, Magbuhos and the appellant were having a drinking spree inside the house of Bulahan which was also situated along Nadres St.

While resting, he saw appellant Isleta come out twice from the house of Bulahan, accompanied first by Bulahan and later by Magbuhos. On these two occasions, both Magbuhos and Bulahan pointed to deceased Balbarosa's house.

Afterwards, appellant went out of Bulahan's house and seated himself on a bench at a store located in front of Balbarosa's house, about twenty (20) meters from Bulahan's place. When the victim Moises Balbarosa arrived a little later, appellant stood up and without any warning immediately stabbed the former, who thereupon

fell to the ground.

Moises Balbarosa was brought to the Candelaria Municipal Hospital, but was later taken in an ambulance for transfer to a hospital in Lucena City. However, he expired along the way.

Corroborating witness Gina Dimaunahan testified that at around 5 o'clock that afternoon, she happened to look out the front window of her grandmother's house at Nadres Street, and noticed appellant sitting on a bench at a store. When her father Moises Balbarosa arrived, the appellant immediately stood up and suddenly, without provocation, stabbed the former. The hapless Balbarosa tried to parry the thrust by attempting to hold a bamboo pole used as a clothesline support ("*tukod*"), but was unsuccessful because he could not budge said pole. Appellant stabbed Balbarosa in the stomach, and thereafter, fled the scene of the crime. (Nine months later, appellant was apprehended by Policeman Jaime Bagsik of the Laguna Police Station.)

In addition to Gina Balbarosa Dimaunahan and Moises Roberto Balbarosa, the prosecution presented Maria Theresa Balbarosa-Galang who testified that appellant acted upon the inducement of the other accused.

She claimed that the four accused plotted to kill a person whose identity she did not know at the time. She said she went to Bulahan's house earlier in the afternoon of that fateful day to collect the contribution of Felisa Bulahan, wife of accused Bulahan, to their "*turnohan*" (a financial accommodation scheme practised locally, also known as "*paluwagan*"). She did not enter said house because the appellant and the other accused were having a drinking spree inside. But as she stood near the window outside Bulahan's house, she overheard their conversation. She allegedly heard Magbuhos say, "*Gori , may problema si Celso.*" De Gala (Gori) answered, "*Huwag kang mag-alala, akong bahala, killer ang kasama ko.*" Appellant then boasted, "*Basta ituro n'yo, isang tusok lang yan.*" Bulahan replied, "*Ituturo ko sa iyo pero wala akong sabit.*"

Anxious about what she heard, Galang changed her mind and desisted from collecting Felisa Bulahan. She also did not realize the full import of the conversation she had overheard. When she left for the next house, she heard some shouting, but it was only later on that she learned from a certain Jovy Salazar that her father had been stabbed.

She recalled that prior to this incident, her father and Bulahan had an altercation over the former's side-swiping of the latter's vehicle. The matter was even brought to the attention of their Barangay Captain sometime in October 1990.

She also presented her father's death certificate (Exhibit "A")^[5] which attributes the victim's death to hemorrhage due to stab wound. She further testified that her family incurred burial expenses amounting to P30,000.00.

According to the Defense

The defense relied solely on appellant's uncorroborated testimony. Appellant admitted stabbing the victim, but denied that it was at the instance of Bulahan. Claiming he acted alone, he explained that he was de Gala's brother-in-law, and that

he went to Candelaria that day upon the latter's invitation regarding a job. Upon arriving in Candelaria around 2:30 p.m., he and de Gala were invited by Bulahan to his house for a drinking spree.

During the drinking session, he went to a nearby store to buy cigarettes, and noticed someone, whom he later learned was Moises Balbarosa, staring ("*masamang tingin*") at him. After buying cigarettes, he returned to the house. When he went out of the house again, Balbarosa approached him and suddenly tried to stab him with a pointed bamboo pole. He was hit in his arm pit. As the victim thrust the pole at him again, he caught it and struggled for possession of the bamboo. In the scuffle, he accidentally stabbed the victim in the abdomen.

Appellant fled to Dalahican, Lucena City. He allegedly went with his wife to a certain Barangay Captain Magadia of Dalahican to report the incident. But said barangay captain died before he could be presented in court.

The Trial Court's Ruling

The trial court found that the victim was killed by a single stab wound in the abdomen inflicted by appellant, as testified to by prosecution witness Moises Roberto Balbarosa and Gina Dimaunahan and confirmed by appellant himself. Said court rejected appellant's plea of self-defense. It ruled that such claim cannot prevail against the positive testimony of witnesses showing premeditated killing. Treachery was appreciated by the court *a quo*, qualifying the crime to murder under Article 248 of the Revised Penal Code.

The trial court held:^[6]

"Even accused Isleta himself admits having stabbed Moises Balbarosa. The Court, however, rejects accused's claim of self-defense. Accused claims that Moises Balbarosa attacked and stabbed him with the point of a bamboo and he accidentally stabbed Moises Balbarosa in their ensuing struggle. This claim cannot stand as against the positive testimony of prosecution witnesses Gina Dimaunahan and Moises Roberto Balbarosa. Accused's flight, when he fled from the scene of the crime, militates against his claim of self-defense.

The attendance of the qualifying circumstance of treachery makes the killing of Moises Balbarosa the crime of murder. The sudden and unexpected attack made by the armed accused Eduardo Isleta against Moises Balbarosa who was not armed, thus not affording said victim any chance of defending himself, constitutes treachery."

As mentioned earlier, accused Bulahan and de Gala were acquitted by the trial court as their participation by inducement had not been duly proven, and the testimonial evidence against them had not been accorded credence by the trial court. On the other hand, accused Magbuhos died pending trial, and so the case against him was dismissed.

The Issues

In his Brief,^[7] appellant vigorously argues that the trial court erred:

"I

"x x x in failing to decide that the element if treachery was absent, as in fact no evidence was introduced to prove said element.

II

x x x in not appreciating the elements of self-defense to exculpate the appellant from criminal responsibility.

III

x x x in not considering the circumstances of voluntary surrender and that the appellant had no intention to commit so grave a wrong.

IV

x x x in convicting the appellant instead of acquitting him."

The threshold issue in this case is whether the trial court erred in rejecting the claim of self-defense and in convicting appellant of the crime murder.

Appellant argues that he had adduced sufficient evidence to prove self-defense. In any event, he maintains that treachery was not proven, and that his voluntary surrender, plea of guilty to the lesser crime of homicide and the absence of any intention on his part of committing so grave a wrong should be appreciated in his favor.

The Court's Ruling

First Issue: Treachery

Contrary to appellant's contention, treachery was sufficiently shown by the prosecution. It is basic in our penal law that treachery is present when the offender employs means, methods or forms which tend directly and especially to insure the execution of the crime, without risk to himself arising from the defense which the offended party might make.^[8] Treachery is present when the attack is sudden and unexpected, which renders the victim unable to defend himself.^[9]

This qualifying circumstances was established by prosecution witnesses Gina Dimaunahan and Moises Roberto Balbarosa. The gist of their testimony is that after waiting for about seven to ten minutes for the victim to arrive, appellant upon seeing the victim, immediately stood up and, suddenly and unexpectedly, stabbed the victim *sans* provocation or warning. Testified Dimaunahan:^[10]

"Q On Nov. 10, 1990 in the afternoon do you remember where were you?

A At home with my grandmother, sir.

x x x x x x x x x

Q And during that time in that particular place do you