

## TWENTIETH DIVISION

[ CA-G.R. CR-HC NO. 01401, June 17, 2014 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
RODOLFO CABATAC ALIAS "NEGRO" AND "JUNJUN" (AT LARGE),  
ACCUSED, LLOYD ESCOTON ALIAS "DODIE" AND ARIEL NABONG  
ALIAS "AYING", ACCUSED-APPELLANTS.**

### D E C I S I O N

**AZCARRAGA-JACOB, J.:**

This is an appeal from the *Judgment*<sup>[1]</sup> dated 27 August 2009 of the Regional Trial Court, Branch 11, San Jose, Antique, in Criminal Case No. 2002-12-8726, finding both accused Lloyd Escoton *alias* Dodie and Ariel Nabong *alias* Aying (appellants) guilty of the crime of murder.

In an Information<sup>[2]</sup> dated 21 November 2002, appellants, together with a certain Rodolfo Cabatac *alias* Negro or Junjun, were accused of killing Roman Aungon, Sr., qualified by abuse of superior strength, *viz*:

That on or about the 27th day of July, 2002, in the Municipality of San Jose, Province of Antique, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused being then armed with knives, conspiring, confederating and mutually helping one another, did then and there, willfully, unlawfully and feloniously attack, assault and stab with said knives one Roman Aungon, Sr. thereby inflicting fatal wounds on his body which caused his instantaneous death.

With the qualifying circumstance of abuse of superior strength.

Contrary to the provisions of Article 248 of the Revised Penal Code, as amended by R.A. 7659.

#### *The People's Version of the Facts*

Testimonial evidence for the prosecution showed that on 27 July 2002, at about 9:00 o'clock in the evening, Delia Salvador was preparing a report in her house at Del Pilar Street, Barangay 8, San Jose, Antique when she heard a commotion outside. Upon hearing a man's voice asking for help, she immediately peeped through the window, and there she saw Roman Aungon, Sr. being chased by appellants Escoton and Nabong, together with accused Cabatac. When Roman was cornered at the gate of a certain Mrs. Bergantino's house, appellants Escoton and Nabong, each armed with sharp-pointed knife, took turns in stabbing Roman to death, while accused Cabatac was standing behind them, unarmed. After Roman had fallen to the ground--dead, appellants Escoton and Nabong and accused Cabatac hurriedly fled from the scene.

The post mortem examination<sup>[3]</sup> conducted by Dr. Maria Rosie G. Autajay, the Municipal Health Officer of San Jose, Antique, revealed that the victim sustained thirteen (13) stab wounds in the different parts of his body, particular in the neck, midline between the two clavicles, below the right clavicle, chest, abdomen, thigh, and below the armpit.

#### *The Defense's Version of the Facts*

On his part, appellant Escoton invokes self-defense. He contends that at around 9:00 o'clock in the evening of 27 July 2002, he went out of his house to buy cigarettes when Roman Aungon, Sr. blocked his path, and suddenly stabbed him with a knife, hitting him in the nose. Fearing for his life, appellant ran away but Roman chased him to the gasoline station. When he fell down facing up, Roman stabbed him again, this time hitting him in his left arm. Having been able to push Roman, he successfully grabbed the knife from Roman's hold, and stabbed the latter several times. After the incident, he hid at the concrete culvert behind the building of the Department of Education until 5:00 o'clock the next morning. He then proceeded to his sister's house in Guimbal, Iloilo where he stayed for three days. Thereafter, he went to Manila and remained there for two years until his surrender to the police authorities in December 2004.

Appellant Nabong, on the other hand, denies any participation in the killing, and claims that when the incident happened he was in the house of his aunt in Angono, Rizal. He alleged that he had been there since December 2001 until his return to Antique on 12 October 2005 to wed his live-in partner Romilyn Hugo whom he met in Manila. It was upon his return that he came to know of the stabbing incident through his cousin Epigenio Dioso who informed him that he was one of the accused.

#### *The Ruling of the Trial Court*

After due proceedings, the court *a quo* rendered a verdict convicting appellants Escoton and Nabong as charged, sentencing both of them to suffer a prison term of *reclusion perpetua*, and ordering them to pay jointly and severally the heirs of their victim in the form of civil indemnity, and actual, moral and exemplary damages.<sup>[4]</sup>

#### *The Issues*

Aggrieved, appellants interposed the instant appeal, ascribing the following errors allegedly committed by the trial court: (i) in giving credence to the testimony of prosecution witness Delia Salvador despite that it did not conform to the post-mortem examination of the victim's body; (ii) in not appreciating incomplete self-defense as a privileged mitigating circumstance in favor of appellant Escoton; (iii) in finding them to have acted with abuse of superior strength; and (iv) in finding that the prosecution has proven their guilt beyond reasonable doubt.<sup>[5]</sup>

*First*, appellants point out inconsistencies between (a) the testimony of Delia Salvador where she declared that Roman was stabbed six <sup>[6]</sup> times by appellant Escoton, and three <sup>[3]</sup> times by appellant Nabong, hitting the victim in the chest, abdomen, and thigh; and (b) the post-mortem examination findings of Dr. Autajay

which showed that the victim's body suffered thirteen <sup>[13]</sup> stab wounds in the neck, clavicle, chest, abdomen, thigh, and armpit.

*Second*, appellants claim that, although the means employed in repelling the attack was not reasonably necessary, the privileged mitigating circumstance of incomplete self-defense should have been applied in favor of appellant Escoton inasmuch as it was the victim who committed unlawful aggression when he stabbed the former despite the latter's lack of sufficient provocation.

*Third*, appellants likewise argue that appellant Nabong should be acquitted because he had no participation in the crime, as he was working in Manila from December 2001 until his return to Antique on 12 October 2005. This was even confirmed by appellant Escoton who himself declared that it was he alone who perpetrated the killing of the victim.

*Fourth*, appellants allege that appellant Escoton should only be guilty of homicide because the killing was not attended by abuse of superior strength as he merely acted in incomplete self-defense, thus entitling him to the reduction of his penalty by one degree lower than that prescribed by law for the offense proven.

#### *The Ruling of this Court*

The arguments of appellants wield no merit.

Upon careful scrutiny of the entire record, this Court is all the more convinced that prosecution witnesses, specifically Delia Salvador, had concretely established the death of Roman Aungon, Sr. in the hands of appellants Escoton and Nabong on that murderous evening of 27 July 2002. The trial court was convincingly correct in so concluding and We find no reason to deviate from that finding. Too well-settled is the rule that factual findings and conclusions of the trial court are accorded not only great weight and utmost respect<sup>[6]</sup> but also finality, absent a showing that some facts or circumstances of weight and substance which could have affected the outcome of the case have been overlooked, misunderstood or misapplied.<sup>[7]</sup> Quite unfortunate for appellants, the murder case at bar is no exception.

The clear, straightforward, and positive testimony of Delia Salvador clearly proves in no uncertain terms that it was appellants Escoton and Nabong, along with accused Cabatac, who carried out the execution of the ghastly crime. Delia Salvador vividly narrated how she saw appellants Escoton and Nabong, with accused Cabatac, chase the victim Roman Aungon, Sr. to the gate of the house of Mrs. Bergantino. She also saw appellants Escoton and Nabong, each armed with sharp-pointed knife, take turns in stabbing the victim several times, while accused Cabatac stood watch behind them, unarmed, thus—

Q. Madam witness, at about 9:00 o'clock in the evening of July 27, 2002, where were you?

A. I was inside our house.

Q. At that time, what were you doing inside your house?

A. I am doing my report which was to be submitted the following day.

Q. When you were doing your report that 9:00 o'clock in the evening of July 27, 2002 inside your house at Del Pilar St.,

- Barangay 8, San Jose, Antique, was there an unusual incident?
- A. Yes, sir.
- Q. What was that unusual incident?
- A. I heard a commotion outside.
- Q. So, what did you do after you heard a commotion outside?
- A. I peeped through our window.
- Q. After you peeped through your window, what did you see, if any?
- A. I saw Roman Aungon, Sr. being chased by three persons.
- Q. Were you able to identify the three persons that you saw chasing Roman Aungon, Sr.?
- A. They are Ariel Nabong, Lloyd Escoton and Rodolfo Cabatac.
- Q. You refer to all the three accused chasing Roman Aungon, Sr. when you peeped through your window. What else happened?
- A. There were able to corner Roman Aungon, Sr. at the gate of Mrs. Bergantino.
- Q. How far is the gate of Mrs. Bergantino from where you were peeping to your window?
- A. Ten to fifteen meters.
- Q. After they cornered Roman Aungon, Sr. by the gate of Mrs. Bergantino ten to fifteen meters away, what else did the three accused do?
- A. I saw them stabbed [*sic*] Roman Aungon, Sr.
- Q. You mean the three accused stabbed Roman Aungon, Sr.?
- A. I saw two of them stabbed [*sic*] Roman Aungon.
- Q. Who were these two accused who stabbed Roman Aungon?
- A. Lloyd Escoton and Ariel Nabong.
- Q. That time, where was Rodolfo Cabatac?
- A. He was just standing beside them.
- Q. Were you able to see the instrument that was used by Lloyd Escoton in stabbing Roman Aungon, Sr.?
- A. Yes, sir.
- Q. What was that instrument?
- A. Sharp-pointed knife.
- Q. How about the instrument used by Ariel Nabong? Were you able to see it?
- A. The same, sir, sharp-pointed knife.
- Q. That time, madam witness, was Rodolfo Cabatac also armed?
- A. No, sir.
- Q. Now, tell the Honorable Court why were you able to see the three accused cornered Roman Aungon, Sr. and the two started stabbing him when that was already 9:00 o'clock in the evening?
- A. Yes, sir, because I was standing on the bed and I transferred to another window and I peeped through it by standing on the bed.
- Q. And the place where the stabbing occurred, was it lighted?
- A. Yes, it was well lighted because our place is beside Petron gas station.
- Q. When Lloyd Escoton stabbed Roman Aungon, Sr. was he able to hit any part of the body of Roman Aungon, Sr.?
- A. Yes, sir.
- Q. What part of the body of Roman Aungon, Sr. was hit when Lloyd Escoton stabbed him?
- A. Right side of the chest.

- Q. About how many times did you see Lloyd Escoton stabbed Roman Aungon, Sr.?
- A. Six times.
- Q. When accused Ariel Nabong stabbed Roman Aungon, Sr., was he able to hit Roman Aungon, Sr.?
- A. Yes, sir.
- Q. Which part of the body of Roman Aungon, Sr. was hit by the stabbing blows of Ariel Nabong?
- A. Left side of the chest.
- Q. About how many times did you see Ariel Nabong stabbed [*sic*] Roman Aungon, Sr.?
- A. I saw three stabbing blows.
- Q. Now, madam witness, what was the position of Roman Aungon, Sr. when these two accused stabbed him?
- A. He was lying flat on the ground face up.
- Q. How about at the time when the stabbing of these two accused occurred, what was the position of the victim?
- A. Roman Aungon was standing.
- Q. In relation to the victim Roman Aungon, Sr., where were the two accused, Ariel Nabong and Lloyd Escoton, when they stabbed the victim?
- A. In front of Roman Aungon, Sr.
- Q. How about Rodolfo Cabatac, where was he located in relation to the victim?
- A. Rodolfo Cabatac was standing behind them.
- Q. Now, madam witness, during the entire attack by the two accused, Ariel Nabong and Lloyd Escoton, was Roman Aungon, Sr. able to defend himself?
- A. No, sir. But he was struggling.
- Q. Now, then, after the accused stabbed Roman Aungon, Sr., what happened to Roman Aungon, Sr.?
- A. He fell to the ground face up.
- Q. How about the accused? What did they do after stabbing Roman Aungon, Sr.?
- A. They went away, sir.<sup>[8]</sup>

By contrast, appellants failed to cast any reasonable doubt upon their positive identification as the malefactors. They failed miserably to discredit or impair the positive testimony of prosecution witness Delia Salvador, which had been shown to have contained no inconsistencies and contradictions so as to affect her credibility. Equally noteworthy is the lack of ulterior motive on the part of this witness to testify falsely against appellants. Since there is no evidence that the witness was actuated by ill will or ill motive, her testimony should be given credit and credence.<sup>[9]</sup>

Ironclad is the rule that categorical identification of the accused by the prosecution witnesses has greater weight than the plain denial of participation in the commission of the crime by the accused.<sup>[10]</sup> In weighing contradictory declarations and statements, greater weight is given to the positive testimony of the prosecution witnesses to the denials and alibis of the accused-appellants. Elsewise stated, the accused's defenses of denial and alibi cannot prevail when juxtaposed with the positive, straightforward, and clear identification and declaration of prosecution witnesses.<sup>[11]</sup> Denial and alibi, being evidence which are self-serving and negative in nature, cannot attain more credibility than the testimonies of prosecution