



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Appellee,

G.R. No. 198050

Present:

- versus -

VELASCO, JR., *J.*, Chairperson,
PERALTA,
ABAD,
PEREZ,* and
MENDOZA, *JJ.*

JOEL ARTAJO y ALIMANGOHAN,
Appellant.

Promulgated:

14 November 2012

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X

DECISION

ABAD, J.:

This case is about an accused who claims self-defense in killing the victim but is convicted of murder qualified by treachery of a somewhat dubious kind.

The Facts and the Case

On November 26, 2002 the public prosecutor charged accused Joel Artajo y Alimangohan (Joel) with murder qualified by treachery before the Regional Trial Court (RTC) of Butuan City in Criminal Case 9683.¹

* Designated Acting Member, per Special Order 1299 dated August 28, 2012.

¹ Records, p. 1.

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Edgardo Hanopol Herana (Edgardo) testified that at about 1:00 p.m. on November 6, 2002 he passed time at a store in Barangay Pianing, Butuan City, drinking liquor with accused Joel, Liklik Degorio (Liklik), and Joel Degorio.² They were still at it at 3:00 p.m. when Clarence Galvez (Clarence), the victim, passed by, carrying a wild fox or “*milo*” that he caught. Accused Joel suggested that the group transfer to Clarence’s house.

After Joel bought a jumbo size *Kulafu*, they proceeded to Clarence’s house. Joel Degorio did not, however, join them. While enjoying their drinks there, Edgardo observed that Joel who was shirtless had a knife tucked on his waist. Clarence cooked and served the wild fox, then joined the accused Joel, Edgardo, and Liklik in their drinking. At about 5:00 p.m. Edgardo left intoxicated.³

Dolor G. Bacarat (Dolor), Clarence’s daughter, testified that she briefly entered her father’s house at around 3:00 p.m. and found him drinking and partaking of the cooked fox with accused Joel, Edgardo, and Liklik. Dolor was staying in an adjacent house. When she returned to her father’s house three hours later at 6:00 p.m., she noticed that only accused Joel remained among his father’s guests. Clarence crossed over to Dolor’s house briefly and brought back the latter’s four-year-old daughter. For her part, Dolor returned to her house.

Shortly after, Dolor heard her daughter cry. As she went out to see what had happened, she saw accused Joel stabbing his father who was trying to fight back. But Joel repeatedly stabbed him on the neck and shoulder, causing him to fall. Joel stopped and fled on seeing Dolor. The latter sought help and they brought her father to the Butuan City Medical Center where he was declared dead on arrival.⁴

² Id. at 131.

³ Id.

⁴ Id. at 130-131.

A neighbor of Clarence, Enrique Petilo (Enrique) testified that he saw Clarence and Joel at around 6:00 p.m., coming out of Clarence's house by the back door. Enrique watched as Joel drew a knife from his waist and stabbed Clarence three times. Clarence tried to hold on to Joel but he fell on the ground flat on his face. Joel sat astride Clarence and stabbed him for about ten more times. When Joel left, Enrique approached Clarence and helped bring him to the hospital.⁵

Dr. Edgar S. Savella, a medico-legal expert of the National Bureau of Investigation conducted an autopsy of Clarence. The doctor found 7 stab wounds and 11 incised wounds. Four of the stab wounds were on the victim's chest, which he described as fatal, while three other stab wounds were on his back. The rest of the wounds were inflicted on the different parts of the victim's body.⁶

Accused Joel admitted killing Clarence but pleaded self-defense. He claimed that he went to a nearby store after supper to buy cigarettes when he met Clarence and Edgardo. The two invited Joel to come to Clarence's house for drinks and requested him to bring a bottle of *Kulafu*. Joel accepted the invitation.⁷

Joel further claimed that at about 7:30 p.m., after they consumed the liquor they had, Clarence demanded that Joel go out and get more liquor to drink. Joel refused since he had no money left. This angered Clarence, who grabbed Joel's glass and banged it on the table. To avoid trouble, Joel tried to leave. As he passed Clarence's videoke house, however, Clarence, holding a knife, approached and shouted at him to stop. As he grappled with Clarence for the knife, Joel suffered cuts on his arm and elbow. Joel

⁵ Id. at 129.

⁶ Id. at 131-132; TSN, January 18, 2005, pp. 9-12.

⁷ Id. at 133.

wrestled the knife from Clarence and stabbed him out of fear for his own life. Joel fled but surrendered to the authorities three days later.⁸

On December 18, 2008 the RTC rendered a decision finding accused Joel guilty of murder qualified by treachery. The RTC ruled that Joel appeared determined to kill Clarence because even as the latter lay prostrate, he continued to stab him, evidenced by the many wounds on his body. The autopsy showed the nature, character, and location of the wounds. These substantiate a determination to kill the victim. The RTC held that the mode of attack rendered the victim incapable of defending himself, thus treachery was present.

Appreciating the mitigating circumstance of voluntary surrender, the trial court imposed on Joel the penalty of *reclusion perpetua*. It also awarded Clarence's heirs with actual damages of ₱8,000.00, temperate damages of ₱25,000.00, moral damages of ₱50,000.00, and death indemnity of ₱50,000.00. The accused appealed to the Court of Appeals (CA) but on April 29, 2011 the latter court affirmed *in toto* the RTC decision.⁹ The case is before this Court on automatic appeal.

The Issues Presented

The case presents two issues:

1. Whether or not accused Joel killed Clarence in self-defense;
and
2. Whether or not treachery attended the killing.

The Court's Rulings

The Court will address the two issues one after the other.

⁸ Id.

⁹ Docketed as CA-G.R. CR-HC 00683-MIN, penned by Justice Edgardo A. Camello and concurred in by Justices Rodrigo F. Lim, Jr. and Edgardo T. Lloren.

One. By invoking self-defense, accused Joel needed to prove by clear and convincing evidence the following requisites: (a) unlawful aggression; (b) reasonable necessity of the means employed to prevent or repel it; and (c) lack of sufficient provocation on the part of the person defending himself.¹⁰

Here, the testimonies of Dolor and Enrique, accepted as credible by both the trial court and the CA, show that accused Joel, not Clarence, was the armed aggressor. Enrique saw Joel draw a knife from his waist and proceed to stab Clarence. Indeed, both witnesses testified that it was Clarence who was trying to put up a futile defense against Joel's continued thrusts. The location of the wounds on the victim's body corroborates such testimonies.

For his part, accused Joel did not bother to offer any corroborative evidence, such as a medical report establishing the wounds he allegedly sustained in his struggle to seize Clarence's knife from him or someone who saw those wounds around the time they were supposedly inflicted. Joel's claim of self-defense is hallow.

Two. As to the issue of treachery, the Court finds difficulty in concurring with the findings of the RTC and the CA that accused Joel resorted to treachery in killing Clarence. There is treachery, according to Article 14, paragraph 16 of the Revised Penal Code, when the offender employs means, methods, or forms in attacking his victim which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.

Here, Dolor's testimony contains nothing that hints upon treachery being employed. She did not see how the attack began. As she went outside

¹⁰ REVISED PENAL CODE, Article 11, par. 1.


and looked, accused Joel was already attacking his father. Quite curiously, what she further saw was that his father was trying to “fight back,” not just trying to parry Joel’s blows, indicating that the latter had not employed means that would eliminate any risk to him arising from the defense which Clarence might make. If he employed treachery, Joel could very well have aimed his first blow to immediately disable Clarence.

On the other hand, Enrique, a neighbor, testified that he saw Clarence and Joel come out of the back door of the house together. Clearly then Joel did not lie in ambush. Since they came out together, Clarence must have perceived the attack for he even tried to keep his grip on his assailant after it started. And the evidence is clear that Joel did not purposely stab Clarence on the back. Enrique testified that it was only when Clarence fell to the ground flat on his face that Joel sat astride on him and stabbed him on the back. Those back wounds were not treacherously delivered at the beginning with the victim having no premonition of their coming.


For the above reasons, the Court must conclude that, although Joel killed Clarence, the killing was not accompanied by the qualifying circumstance of treachery. Accused Joel is guilty only of homicide.

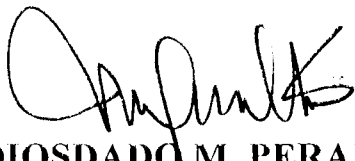
WHEREFORE, the Court **SETS ASIDE** the Decision of the Court of Appeals in CA-G.R. CR-HC 00683-MIN dated April 29, 2011 and the Decision of the Regional Trial Court of Butuan City in Criminal Case 9683 dated December 18, 2008 and, in place of those decisions, **RENDERS** judgment finding accused Joel Artajo y Alimangohan guilty of the crime of homicide, mitigated by voluntary surrender, and **IMPOSES** on him the penalty of 10 years of *prision mayor*, as minimum, to 12 years and 1 day of *reclusion temporal*, as maximum. In addition, the Court **ORDERS** him to pay the heirs of Clarence Galvez actual damages of ₱8,000.00, moral damages of ₱50,000.00, and death indemnity of ₱50,000.00.


SO ORDERED.


ROBERTO A. ABAD
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice