

## FIRST DIVISION

[ G.R. No. 150030, May 09, 2003 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ERNESTO MUÑEZ @  
"TOTO", APPELLANT.**

### D E C I S I O N

**YNARES-SANTIAGO, J.:**

Appellant Ernesto Muñoz alias "Toto" was charged with murder in an Information, which reads:

That on or about the 4<sup>th</sup> day of January, 1998, at around 9:00 o'clock in the evening, at Sitio Pantalan, Brgy. Poblacion, Municipality of Aborlan, Province of Palawan, Philippines, and within the jurisdiction of this Honorable Court, the said accused with evident premeditation, treachery and with intent to kill, while armed with a bladed weapon, did then and there willfully, unlawfully and feloniously attack, assault and stab with his bladed weapon, one JOEY TEGAS, hitting him in the vital part of his body and inflicting upon him stabbed wound that cause cardio-respiratory arrest which was the direct and immediate cause of his instantaneous death.

CONTRARY TO LAW.<sup>[1]</sup>

The case was filed with the Regional Trial Court of Palawan and Puerto Princesa City, Branch 49, and docketed as Criminal Case No. 14280. Appellant pleaded not guilty when arraigned. Trial on the merits then ensued.

The prosecution alleged that in the early evening of January 4, 1998, spouses Marivic and Joey "Toy" Tegas went to the house of a certain Menor at Sitio Pantalan, Poblacion, Aborlan, Palawan to watch a movie on his video cassette player. At 8:45 p.m., the Tegas spouses went home. Joey lit a gas lamp and placed it on the balcony of their house. As he was about to lay the sleeping mat on the floor, he heard someone calling him, "*Toy, come here.*" Marivic also heard the voice calling her husband and recognized it as that of Emerson Abarquez. She saw that Abarquez was accompanied by appellant Ernesto "*Toto*" Muñoz.

Joey went down to meet Abarquez. Suddenly, the latter held him at the back of his shoulder and appellant stabbed him on the neck, causing him to fall down. Abarquez and appellant left. Joey got up and went to the kitchen to get a bolo. He ran after his assailants but he stumbled to the ground and expired. Marivic, who was standing two meters away from her husband, witnessed the whole incident.

Jomar Tegas, the five-year old son of Joey and Marivic Tegas, testified and corroborated her mother's testimony.

Dr. Fidel Salazar, who conducted the post-mortem examination, declared that Joey Tegas died of a lone stab wound on the neck which was fatal.<sup>[2]</sup>

In his defense, appellant denied the accusation against him and claimed that he acted in self-defense. He alleged that Joey Tegas was the brother of his former live-in partner. On the night of the incident, he was in the house of one Menor Almeniana watching a movie on the video cassette player. After the movie, he went home together with Abarquez. On their way home, Joey waylaid and attacked him with a bolo, hacking him four times on different parts of his body. In order to defend himself, he took out a knife and stabbed Joey.

Emerson Abarquez corroborated appellant's story. He alleged that at around 10:00 p.m., while he was walking home with appellant and Joey, the two had an altercation. When they reached Joey's house, the latter went inside his house. Moments later, he came out holding a bolo and hacked appellant, hitting him on the right arm and on the thigh. Appellant fought back with a knife and stabbed Joey on the neck.

Dr. Romulo Robles of the Aborlan Medicare Hospital examined appellant on January 6, 1998 and found that appellant suffered four wounds — an incised wound on the left arm, an avulsion on the left finger, a linear abrasion on the right thigh and a contusion on the upper left arm.

On June 4, 2001, the trial court rendered a decision, the dispositive portion of which reads:

Premises considered, the Court finds accused Ernesto Muñoz guilty beyond reasonable doubt of the crime of *Murder* for having killed Joey Tegas with treachery and hereby imposes upon him the penalty of **reclusion perpetua** and to pay the heirs of the victim the amount of P50,000.00 as civil indemnity.

SO ORDERED.<sup>[3]</sup>

Appellant interposed an appeal and raised the following assignment of errors:

I

THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT DESPITE THE FACT THAT HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT;

II

ASSUMING ARGUENDO THAT ACCUSED-APPELLANT KILLED THE VICTIM, THE TRIAL COURT ERRED IN RULING THAT TREACHERY QUALIFIED THE KILLING INTO MURDER; AND

III

THE TRIAL COURT ERRED IN RULING THAT ACCUSED-APPELLANT DID

## NOT ACT IN DEFENSE OF HIS LIFE.<sup>[4]</sup>

In the first assigned error, appellant cites inconsistencies in the testimonies of Marivic and her son, Jomar. While Marivic testified that Joey only got his bolo after he was stabbed,<sup>[5]</sup> Jomar testified on cross-examination that his father was holding a bolo when he was stabbed and that he even used this to fight back.<sup>[6]</sup> Appellant also cites Jomar's admission that he was coached by his mother on what to say during his testimony. He further points to the contradiction between Marivic's statement that her husband was stabbed in the chest and the autopsy report and the testimony of the doctor that he was stabbed on the right side of the neck. On account of those inconsistencies, appellant claims that one or both of them must be lying.

We disagree. It is not necessarily true that when the testimony of one witness is inconsistent with that of another, one or both of them must be lying or that their version of what happened was just a concoction. Certain factors must be considered before the trial court can arrive at the conclusion suggested by appellant. Factors such as age, intelligence and articulateness aid the trial court in the assessment of the credibility of a witness' testimony.

In the case at bar, Jomar Tegas was only five years old when he testified. In any event, the trial court disregarded Jomar's testimony because he "admitted that what he knew of the stabbing incident was what her mother told him."<sup>[7]</sup>

On the other hand, the trial court held that the testimony of Marivic Tegas "consists of positive assertions which are credible and worthy of belief."<sup>[8]</sup> Moreover, she had no ulterior or sinister motive to testify against appellant.<sup>[9]</sup>

The inconsistency in the location of the stab wound is a peripheral issue which does not, in any way, affect the credibility of the prosecution evidence as a whole.

We have consistently ruled that the trial judge is the best person to evaluate the veracity of a witness's testimony as he is in the most ideal position to see his demeanor, actuation and countenance. Hence, we do not generally disturb the findings of the trial court except in cases where the judge acted arbitrarily.<sup>[10]</sup> In this case, the trial court's reliance on Marivic's testimony and its disregard of the inconsistencies pointed out by appellant did not amount to arbitrariness.

Appellant invokes self-defense. It is settled that when an accused claims self-defense, the *onus probandi* to show that the killing was justified shifts to him. Even if the prosecution evidence was weak, it could not be readily dismissed considering that appellant openly admitted his responsibility for the killing.<sup>[11]</sup>

To prove self-defense, appellant must show with clear and convincing evidence that: (1) he was not the unlawful aggressor; (2) there was lack of sufficient provocation on his part; and (3) he employed reasonable means to prevent or repel the aggression. Self-defense, like alibi, is a defense easy to concoct. Once appellant admitted that he inflicted fatal injuries on the deceased, it is incumbent upon him, in order to avoid criminal liability, to prove the justifying circumstance with clear, satisfactory and convincing evidence.<sup>[12]</sup>