

## SECOND DIVISION

[ G.R. Nos. 143435-36, November 28, 2003 ]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ALEX FLORES Y LOPEZ, APPELLANT.**

### DECISION

**CALLEJO, SR., J.:**

This is an appeal from the Decision<sup>[1]</sup> of the Regional Trial Court of Quezon City, Branch 95, convicting appellant Alex Flores y Lopez of attempted murder in Criminal Case No. Q-99-84269 and consummated murder in Criminal Case No. Q-99-84270 and sentencing him to suffer the penalty of *reclusion perpetua* in the latter case.

#### The Indictments

The appellant was charged with attempted murder in an Information, the accusatory portion of which reads:

That on or about the 7<sup>th</sup> day of June 1999, in Quezon City, Philippines, the said accused, with intent to kill, qualified by evident premeditation and treachery taking advantage of superior strength, did then and there willfully, unlawfully and feloniously commence the commission of the crime of murder directly by overt acts by then and there stabbing one GERY QUEZON y BUO with a fan knife, but the said accused was not able to perform all the acts of execution which would produce the crime of murder as a consequence by reason of some causes, other than by his own spontaneous desistance, that is, said GERY QUEZON y BUO was able to parry the thrust, to the damage and prejudice of the said offended party.

CONTRARY TO LAW.<sup>[2]</sup>

He was charged of murder in an Information, the accusatory portion of which reads:

That on or about the 7<sup>th</sup> day of June 1999, in Quezon City, Philippines, the said accused, with intent to kill, qualified by evident premeditation and treachery, taking advantage of superior strength, did then and there willfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of SONY QUEZON y BUO, by then and there stabbing the victim with a fan knife, hitting him on the chest, while said victim was sleeping, thereby inflicting upon said SONY QUEZON y BUO serious mortal wound, which was the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of the said accused.

CONTRARY TO LAW. [3]

The appellant was arraigned on June 28, 1999, assisted by counsel, and entered a plea of not guilty.

As synthesized by the trial court, the evidence of the prosecution is as follows:

The prosecution presented Dr. Tomas Suguitan, the medico-legal officer who conducted the autopsy on the body of the victim of the murder case, Sony Quezon y Buo; Gery Quezon y Buo, the prosecution's eyewitness; PO2 Marlon Rivera, the police investigator; Dr. Aida Ico, the medico-legal officer who treated the victim in the attempted murder case, Gery Quezon y Buo; and S/G Rotelo Miro, the security guard of Baliwag Bus Terminal, whose testimonies may be summed as follows:

On June 7, 1999 at 4:00 in the morning, inside the construction site at Annapolis Street, Cubao, Quezon City, Gery Quezon, the victim in the attempted murder case (Crim. Case No. Q-99-84269) and his brother, Sony Quezon, the victim in the murder case (Crim. Case No. Q-99-84270) were sleeping when the accused, Alex Flores, a co-worker of the victims, who slept on the upper portion of the building being constructed, suddenly stabbed the chest of Sony Quezon who was lying on the floor. Thereafter, Gery Quezon, who was sleeping near his brother Sony Quezon heard his brother shouting "*Putang ina mo*" that awakened him. Before Gery Quezon could help his brother, the accused suddenly stabbed Gery Quezon twice with a batangas knife which the latter was able to parry. The two (2) stabbing thrusts, however, caused injuries on Gery's hands. Thereafter, the accused, Alex Flores, ran while the two brothers, Sony and Gery, gave chase. The two (2) brothers, Gery and Sony, however, failed to catch up with the accused as the latter was running very fast and Sony Quezon suddenly stumbled on the pavement. When Gery Quezon saw his brother stumbling on the pavement, Gery Quezon carried and boarded him to the hospital. At the hospital, Gery Quezon was treated as may be shown from the Medical Certificate (Exhs. "F" to "F-2"), while Sony Quezon was declared dead on arrival. As a result of the incident, Gery Quezon executed a Sworn Statement (Exhs. "G" to "G-2") detailing as to how the stabbing incident took place.

In the meantime, the accused Alex Flores, who ran away from the construction site, was seen in the vicinity of the Baliwag Transit not far from the place of the incident by a tricycle driver who called the attention of security guard, Rotelo Miro, from the bus station. Alex Flores was immediately apprehended by the said security guard. The accused was turned over to the police station for further investigation. Security guard Rotelo Miro later on gave his sworn statement (Exhs. "J" & "J-1") to the police investigator.

Meanwhile, police investigators led by PO2 Marlon Rivera, respondent to the crime scene and found within the vicinity of the place of the incident a *balisong* or *lanseta* which the police officer turned over to the Crime Laboratory Services to determine the presence of human blood as

evidenced by the Letter-Referral addressed to the PNP Crime Laboratory Services (Exhs. "I" to "I-2").

The body of Sony Quezon was then referred to the PNP Crime Laboratory for autopsy as seen in the Letter-Request dated June 7, 1999 (Exhs. "A" & "A-1") and in connection therewith, Gery Quezon, brother of Sony Quezon, executed a Certificate of Identification and Consent for Autopsy (Exhs. "B" & "B-1").

Dr. Tomas Suguitan, medico-legal officer, then conducted an autopsy on the body of Sony Quezon and placed in writing his findings in Medico-Legal Report No. M-0512-99 (Exhs. "C" to "C-4"), the pertinent findings of which state as follows:

...

1. Abrasion, frontal region, measuring 0.5 x 0.2 cm., 6.5 cms. right of the anterior midline.
2. Stab wound, left mammary region, measuring 1.7 x 0.7 cm., 1.5 cms. from the anterior midline, 8 cms. deep, 119 cms. from the heel, directed posteriorwards, upwards and medialwards, fracturing the sternum at the level of the 3<sup>rd</sup> rib, piercing the pericardial sac and the ascending aorta.

...

Aside from the Medico-Legal Report, Dr. Suguitan likewise prepared a human sketch detailing the locations of the wounds (Exhs. "D" to "D-2") sustained by the victim. Finally, he prepared a Certificate of Death (Exhs. "E" to "E-3") of Sony Quezon which he signed at the dorsal portion.

Dr. Suguitan gave the expert opinion that the victim died because of the stab wound on the chest (Exhs. "D" to "D-2") as it penetrated the aorta, a big blood vessel which connected directly to the heart, and the stab wound was caused by a bladed instrument. He further testified that the abrasions might have been caused by a direct contact of the skin with a rough surface and are consistent with falling to the ground.

Gery Quezon, the eyewitness and the victim of the attempted murder case, was himself treated at the East Avenue Medical Center for his wounds by Dr. Aida Ico which medico-legal findings are embodied in the Medico-Legal Certificate issued on June 7, 1999 (Exhs. "F" to F-2"), the pertinent portion of which are hereby quoted as follows:

...

1. laceration dorsum, L wrist (4 cms.)
2. laceration web bet. thumb & index finger L (4 cms.).

After the investigation of the case and the pieces of evidence already collated, P/Insp. Timoteo Gascon Pacleb made a

Letter-Referral (Exhs. "H" to "H-2") addressed to the Office of the City Prosecutor for the conduct of inquest proceedings.<sup>[4]</sup>

The trial court summarized the evidence of the appellant, thus:

On June 6, 1999 at about 11:00 in the evening, the accused was having a drinking session with Gery, the victim in the attempted murder case, and a certain Rick inside the construction site at Annapolis Street, Cubao, Quezon City. Gery and Rick had a heated argument regarding the liquor that they were drinking. Because there was so much noise, he called Gery's attention and demanded him to be quiet which irritated Gery. Thereafter, he went to the upper floor on the left side while Gery and Rick were left behind. At 4:00 in the morning of the following day, while he was going down near the door, Gery hit him with a piece of wood. After he was hit, he turned around and picked up a piece of wood and both he and Gery were struggling for the possession of a piece of wood. During the struggle, the fan knife of Gery Quezon fell from Gery's waist to the ground which he picked up. While Gery was attacking him, he saw Gery's brother armed with a piece of wood and at that point, the two Quezon brothers hit him with pieces of wood and in defense of himself, the knife he picked up was used by him to repel and prevent the attack of the two (2) brothers which unfortunately hit the chest of Sony Quezon. Thereafter, he ran away and proceeded to the Baliwag Bus Terminal to surrender to the police authorities. Thereat, he was arrested by the security guard and was later brought to the hospital for treatment of the wounds he sustained as shown in the Medico-Legal Certificate dated June 7, 1999 (Exhs. "1" & "1-A" issued by Dr. Enouel Steve C. Battung of the East Avenue Medical Center, which is quoted as follows:

...

"Laceration, 2 cms. (L) zygomatic area."

...

Aside from the medico-legal certificate, the doctor likewise prepared a diagram (Exhs. "2" to "2-C") indicating the location of the wound.<sup>[5]</sup>

The trial court rendered judgment convicting the appellant of the crimes charged, the decretal portion of which reads:

WHEREFORE, judgment is hereby rendered in the following:

1. In Crim. Case No. Q-99-84269, the Court finds the accused, Alex Flores y Lopez, GUILTY beyond reasonable doubt of the crime of Attempted Murder and, there being one mitigating circumstance of voluntary surrender (par. 7, Art. 13, Revised Penal Code), is hereby sentenced to suffer the indeterminate penalty of from six (6) months and one (1) day of *prision correccional* minimum, as the minimum penalty, to six (6) years of *prision correccional* maximum, as the maximum penalty; and

2. In Crim. Case No. Q-99-84270, the Court finds the accused, Alex Flores y Lopez, GUILTY beyond reasonable doubt of the crime of Murder defined in and penalized by Article 248, Revised Penal Code, as amended by Republic Act No. 7659 and, there being one mitigating circumstance of voluntary surrender (par. 7, Art. 13, Revised Penal Code), is hereby sentenced to suffer the penalty of *reclusion perpetua*.

The accused is hereby ordered to pay the heirs of the victim, Sony Quezon y Buo, the amount of P50,000.00, as death indemnity. The Court cannot award actual or compensatory and moral damages as the prosecution offered none in the recovery of the same.

IT IS SO ORDERED.<sup>[6]</sup>

The appellant appealed the decision of the RTC contending that the trial court erred in finding him guilty despite the manifest inconsistencies in the testimony of prosecution witness Gery Quezon; and in rejecting his plea of self-defense.

The appellant asserts that it was impossible for him to have stabbed Gery Quezon, as he was lying on top of the table and Sony Quezon was between them. He could not have stabbed Gery Quezon on the left portion of the chest, because the appellant was on the latter's right side. Thus, Gery Quezon could not have parried the appellant's thrusts, considering that the deceased Sony Quezon had been stabbed on the chest and was bleeding profusely. It is incredible that he managed to give chase to the appellant as he fled from the *situs criminis*.

The appeal is partially meritorious.

Like alibi, self-defense is a weak defense. It is easy to fabricate and difficult to disprove.<sup>[7]</sup> It is a time-worn excuse resorted to by assailants.<sup>[8]</sup> If the accused invokes self-defense, the burden of evidence is shifted on him, to prove with clear and convincing evidence, the confluence of the following essential elements: (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. The accused must rely on the strength of his own evidence and not on the weakness of the prosecution's evidence, because having admitted the killing, the testimony of the witnesses of the prosecution can no longer be disbelieved.<sup>[9]</sup>

Whether the accused acted in self-defense, complete or incomplete, is a question of fact best addressed to the trial court.<sup>[10]</sup> The consistent ruling of this Court is that the findings of facts of the trial court, its calibration of the testimonial evidence of the parties and its assessment of the probative weight of the evidence on record, as well as its conclusions on its findings are accorded high respect if not conclusive effect. This is because of the trial court's opportunity to observe and monitor at close range, the conduct, demeanor and deportment of witnesses as they testify. This rule, however, is inapplicable where the trial court ignored, overlooked, misconstrued, or misinterpreted cogent facts and circumstances which if considered would alter the outcome of the case.<sup>[11]</sup> The Court scrutinized the records of the case and we find no reason to deviate from the trial court's finding that the appellant failed to prove with clear and convincing evidence that he acted in self-defense when he stabbed the victims.