

THIRD DIVISION

[G.R. No. 144505, August 06, 2002]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ERNESTO SAN JUAN Y DELA PEÑA, ACCUSED-APPELLANT.**

D E C I S I O N

PUNO, J.:

It came from the mouth of the accused San Juan himself that the blood of the victim Cortez is on his hands. He claims that he killed his prey to defend himself, but the Court is not persuaded.

On January 17, 1996, an information was filed against the accused San Juan, viz:

"The undersigned accuses ERNESTO SAN JUAN Y DELA PEÑA alias NESTOR BUWANG of the crime of Murder, committed as follows:

That on or about (the) 13th day of January 1996, in the City of Manila, Philippines, the said accused did then and there willfully, unlawfully and feloniously, with intent to kill and with treachery and evident premeditation, attack, assault and use personal violence upon one BERNARDO CORTEZ Y CEZAR, by then and there stabbing the latter with a bladed weapon once in the body thereby inflicting upon the latter mortal wounds which were the direct and immediate cause of his/her death thereafter.

Contrary to law."^[1]

The accused pleaded not guilty. Trial ensued.

Valentino Socorro, Chief Barangay Tanod, took the witness stand. He knew the victim Cortez because the latter always loitered at the corner of Salvador Street, Paco, Manila, where the barangay hall was located. At around 2:30 a.m. on January 13, 1996, Socorro was at the door of the barangay hall. He was then on duty. He saw Cortez running to the hall and asking for help as he had a stab wound below his left breast. Socorro also saw the accused running from Salvador Street to Trece de Agosto Street. He knew the accused and saw him always drinking with the victim and a group of men on Salvador Street. Socorro and another person known as Tikoy brought Cortez to the hospital on a pedicab. Tikoy drove while Socorro and the victim occupied the sidecar.

On the way to the hospital, Socorro asked Cortez who stabbed him and he answered that it was Ernesto Buwang. Cortez uttered, "Tulungan ninyo ako at sinaksak ako ni Ernesto Buwang."^[2] According to Socorro, Cortez' condition was "fifty-fifty" at the time he said this. It took the group 30 minutes to reach the Philippine General Hospital. The victim was still alive when they arrived. When the doctors were already attending to Cortez, Socorro fetched the victim's parents. The latter

immediately went to the hospital. The following day, Cortez' parents told Socorro that their son had expired. Socorro executed a Sworn Statement regarding the stabbing incident. Later, Barangay Kagawad Cesar Lopez informed Socorro that he apprehended the accused.

Socorro identified the accused during his testimony. According to him, the accused was called "Ernesto Buwang" in their neighborhood.^[3]

Barangay Chairman Cesar Lopez testified. On January 13, 1996, at about 1:30 a.m., he was at Leroy Street, Barangay 679, Zone 74, District 5, Paco, Manila. He was then peeling squash. All of a sudden, there was a commotion and when he looked around, he saw a person stab another. He was about eight meters away. The place where the stabbing took place was well-lighted. The back of the assailant was towards him. The culprit immediately ran away after stabbing the victim. Being a barangay official, Lopez approached the victim and recognized him as Cortez. The latter told him that he was stabbed by Totoy Buwang. Cortez looked like he was dying. He was weak and very pale. He, along with two barangay tanods, brought the victim to the Philippine General Hospital, but the victim was already dead when they arrived there. He and two policemen then looked for the victim's assailant. Two to three days after the stabbing incident, between 2:00 a.m. to 3:00 a.m., they found the accused at the corner of Paz and Trece de Agosto Streets. They apprehended him and brought him to the police headquarters.

Lopez identified the accused in court. He also said that the accused is the only person known as "Totoy Buwang" in their barangay. He executed a Sworn Statement regarding the stabbing incident.^[4]

The accused took the witness stand. On January 13, 1996, he was in his house near the Paco Church. Cortez went to his house. They talked and later on had a heated exchange of words regarding the job that he (the accused) gave Cortez. The latter boxed him on the forehead. When he testified, he showed the court his scarred forehead.

On cross-examination, the accused added that Cortez also had a fan knife at the time he boxed him. Aside from boxing him, he claims that Cortez also stabbed him with a fan knife on the left side of his face.^[5]

After one week, the accused retaliated. In another part of his testimony, he stated that he retaliated on the same day that Cortez boxed him. He was very angry. He stabbed the victim Cortez with a knife and hit him on the left side. That same day, he learned that Cortez died. He then surrendered to his parents and the Manila Police. He told the police that he killed Cortez in self-defense.

The trial court convicted the accused San Juan, viz:

"The accused admitted stabbing the victim, but asserted that he did it in retaliation for earlier being boxed on the forehead by the victim. The previous act of the victim in hitting with his fist the forehead of the accused, could not justify the felony committed by the accused, given the fact that at the time the victim was stabbed he was sleeping so, there was no unlawful aggression on his part. Neither could such act of the victim be considered as a mitigating circumstance since the boxing

incident did not immediately precede the stabbing incident (Arts. 11 & 13, Revised Penal Code).

WHEREFORE, the accused, Ernesto San Juan, is hereby convicted of the crime of murder and sentenced to suffer the penalty of reclusion perpetua with all the accessory penalties provided by law and to pay the costs.

On the civil liability of the accused, he is ordered to pay the legal heirs of the victim moral and nominal damages in the sum of P200,000.00 and P100,000.00, respectively, and compensation for the loss of the life of the victim in the amount of P50,000.00 with interest at the legal rate of 6% per annum from this date until fully paid.”^[6]

The accused appealed the decision to this Court. But before filing his Brief, he filed a “Motion to Remand Case to the Court a Quo for Further Reception of Defense Evidence.” The PAO lawyers handling his case on appeal averred that while studying the case, they discovered that a Medical Certificate dated October 6, 1997 and prepared by Senior Inspector and Medical Officer Arthur G. Lorenzo of the Bureau of Jail Management and Penology was attached to the case records. It stated that accused San Juan was diagnosed to have “R/O Schizophrenia.” The medical certificate was not, however, formally offered by the last PAO lawyer who handled the case in the lower court. Neither was Dr. Lorenzo presented in court. Invoking substantial justice, the accused’s new PAO lawyers prayed for the remand of the case to the court a quo for further reception of evidence of the accused’s insanity at the time of the commission of the crime as his mental state would exempt him from liability.^[7]

The Solicitor General filed an Opposition to the Motion to Remand, pointing out that the medical certificate, even if admitted, would only prove the accused’s insanity when he was diagnosed on October 6, 1997, and not at the time the crime was committed on January 13, 1996. The Solicitor General argues that, in fact, the accused “consciously admitted in court that he stabbed Bernardo Cortez with a knife on the date in issue allegedly in retaliation for hitting (punching) him on his forehead. . . Such admission indicates in clear terms that appellant understood the nature of his act and the consequences thereof. In short, the act was willfully, voluntarily and knowingly executed.”^[8] Finally, the Solicitor General avers that the Motion to Remand is procedurally flawed as it aims to reopen the case, but a motion to reopen a case is proper only after either or both parties have formally offered and closed their evidence, but before judgment.^[9]

The parties then filed their respective Briefs. The accused makes the following assignment of errors:

“I.

THE TRIAL COURT GRAVELY ERRED IN FINDING ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF MURDER DESPITE INSUFFICIENCY OF EVIDENCE FOR THE PROSECUTION.

II.

ASSUMING ARGUENDO, THAT ACCUSED-APPELLANT IS GUILTY, THE TRIAL COURT ERRED IN AWARDING DAMAGES WHICH ARE NOT ONLY

EXCESSIVE BUT ARE BEREFT OF ANY FACTUAL AND LEGAL BASIS.” [10]

The Solicitor General correctly points out that even assuming that the October 6, 1997 medical certificate were admitted in evidence, it would only prove the mental condition of the accused on that date, and not at the time of the commission of the crime on January 13, 1996, over a year prior to the issuance of the medical certificate. In *People v. Madarang*, [11] we held that the evidence of insanity must relate to the time preceding or coetaneous with the commission of the offense with which he is charged. Although the accused is diagnosed with schizophrenia a few months after the stabbing incident, the evidence of insanity after the commission of the offense may be accorded weight only if there is also proof of abnormal behavior immediately before or simultaneous to the commission of the crime. [12] The Motion to Remand is thus denied.

The accused asserts in his first assignment of error that the prosecution’s evidence to establish that he was Cortez’ assailant is insufficient. The accused, however, must not forget that in his testimony, he admitted that he stabbed the victim, but invoked self-defense. Thus, he cannot now raise the issue of identity which he has already admitted. When the accused theorized self-defense, he, in effect, assumed the onus probandi to substantiate the same. It became his inescapable burden to prove clearly and convincingly the elements of self-defense provided in Article 11, paragraph 1 of the Revised Penal Code. [13]

The Revised Penal Code provides in Article 11, par. 1, viz:

“Art. 11. Justifying circumstances. - The following do not incur criminal liability:

1. Anyone who acts in defense of his person or rights, provided that the following circumstances occur:

First. Unlawful aggression;

Second. Reasonable necessity of the means employed to prevent or repel it;

Third. Lack of sufficient provocation on the part of the person defending himself.”

The Code also provides in Article 13, par. 1, viz:

“Art. 13. Mitigating circumstances. - the following are mitigating circumstances:

1. Those mentioned in the preceding chapter, when all the requisites necessary to justify the act or to exempt from criminal liability in the respective cases are not attendant.”

Unlawful aggression is an indispensable element of self-defense, whether complete or incomplete under Articles 11 or 13, respectively. [14] Unlawful aggression refers to an actually materialized attack or at the very least, a clearly imminent attack. [15] When an unlawful aggression has ceased to exist, the one making a defense has no right to kill or injure the former aggressor. [16]