

## FIRST DIVISION

[ G.R. No. 132669, September 25, 2002 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
SAMUEL "SONNY" EMPERADOR Y LOPEZ, ACCUSED-APPELLANT.**

### D E C I S I O N

**VITUG, J.:**

The hard day's work would have been easily gratified with whorish talks with his brothers and a few friends but, as darkness crept in the small and quiet barangay in Agoo, La Union, Danilo Collado was struck dead by accused Samuel Emperador, still now claiming guilelessness.

The accusatory Information for murder against Samuel Emperador read:

"The undersigned Chief Investigator of the Agoo Police Station, Agoo, La Union, after having been first duly sworn to an oath in accordance with law, accuses SAMUEL `SONNY' EMPERADOR y LOPEZ, alias BANENG, for the crime of MURDER, committed as follows:

"That on or about 6:30 P.M. of September 14, 1996, at Barangay San Roque West, Municipality of Agoo, Province of La Union, Philippines, and within the preliminary jurisdiction of this Honorable Trial Court, the above-named accused, with intent to kill, did then and there willfully, unlawfully, feloniously and suddenly attack and stab one DANILO `DANIEL' COLLADO y BALTAZAR, 48 years old, married, resident of San Roque West, Agoo, La Union, several times, with the use of a hunting knife, inflicting him multiple fatal stab wounds on the different parts of his body, which was the direct cause of his death, to the great damage and prejudice of the family of the victim."<sup>[1]</sup>

Arraigned, the accused pled "not guilty" to the charge. When trial ensued, the prosecution called Mario Collado, Benigno Collado and Ligaya Collado, brothers and wife of the victim, respectively, to the witness stand. The medico-legal officer, Dr. Fredesvinda Pacis, testified on the result of her autopsy on Danilo. The defense, during its turn, presented accused Emperador himself, Emelita Lopez and Roberto Miranda.

Mario Collado was the first to take the witness stand. He narrated that on the early evening of 14 September 1996, about six-thirty, he and his brothers Danilo and Benigno were seated along the barangay road of San Roque West, Agoo, La Union. Edgardo Emperador, a brother of the accused, was also with them. The group was conversing about a funny incident that involved a common friend, Pito Dacanay, when the accused arrived and poised himself in front of Danilo. Without apparent provocation, he pulled out his blade, a japanese hunting knife or bayonet, from his waist and stabbed Danilo on the chest. Danilo ran but the accused caught up with him. Danilo was thrown to the ground face down and repeatedly stabbed by the

accused. When Mario tried to rescue the victim, the accused vent his blows on him. Mario fled with a deep cut on his forearm. He went to the hospital where he later learned that Danny died because of multiple stab wounds.

Benigno Collado testified that he was with his brothers, Mario and Danilo, when the stabbing incident happened. He could not understand why the accused would stab his brother Danilo without any provocation. Samuel Emperador came from his left side and surged towards Danilo, striking the latter with his Japanese hunting knife. Benigno was horrified and glued to his seat. It was only when Samuel chased Danilo and the accused continued hitting the victim that Benigno came to his senses. He rushed to help Danilo but it was too late. Danilo was already sprawled on the ground. The accused then turned his ire on Benigno. Benigno was able to get away but not before being hit himself by a hacking blow delivered by the accused.

Dr. Fredesvinda Pacis, the physician who conducted the autopsy on Danilo, declared that she found five stab wounds on the body and several abrasions on the face, forehead and nose of the deceased. The immediate cause of death was attributed to hypovolemic shock caused by the stab wound on the left ventricle of the heart. When asked whether she could tell, by the nature of the wounds, if the victim was stabbed at close range, she answered in the affirmative.

Ligaya Collado testified that the death of her husband Danilo was a great loss to the family. The couple had ten surviving children of school age. When Danilo was alive, he was a farmer and a fisherman. He earned 24 sacks of palay in one year and a weekly income of P500.00 as a fisherman and an additional P300.00 as a farm worker. The family spent a good sum of money - P14,500.00 for the coffin and funeral cost, P500.00 for religious services, P900.00 cost of the tomb and the sum of P18,080.00 for food and other expenses – for her husband's wake and funeral. The sudden death of her husband also caused extreme pain and suffering to her and the others he left behind.

The accused interposed self-defense and claimed that he was drinking in front of his house with Domingo Collado, Benigno Collado, Pito Dacanay and Edgardo Emperador when Danilo arrived boisterously and shouted invectives at him. Danilo kicked a bottle of gin and lunged his scythe to stab the accused. The latter punt the scythe out of Danilo's hands. Danilo then got hold of a knife that the group had used in slicing their pulutan. He wrestled with Danilo for possession of the knife, and it was while they were grappling that the latter was stabbed. He surmised that if he did not fight back, he could have easily been the one killed.

Emelita Lopez, a neighbor, corroborated the version given by the accused. She said that from her window she could see the accused drinking gin with his brother Edgardo, along with Pito, Domingo and Benigno Collado, near her house. Danilo, who was drunk, arrived and threw insults on Samuel. He kicked a bottle of gin and it hit the ankle of Samuel. Pito and Edgardo scampered away from the scene but the Collado brothers remained where they were. Danilo and Samuel soon engaged in a fistfight. Domingo and Benigno picked up a hollow block and threw it at Samuel who was able to evade it. She tried to then pacify Domingo but he told her not to interfere. She backed off when she noticed that he was holding an 8-inch long knife. She saw Danilo running away but bumped himself into a post and collapsed to the ground.

Roberto Miranda, the barangay Captain of San Roque West, said that Samuel came to see him on 14 September 1996, between six-thirty to seven-thirty in the evening and said that he was surrendering to the authorities. Miranda called up the police and turned in Samuel who likewise turned over the Japanese hunting knife or bayonet.

The court *a quo*, convinced of the case made out at the trial by the prosecution rather than the version proffered by the defense, adjudged the accused guilty of the killing but appreciated the mitigating circumstances of voluntary surrender, as well as passion and obfuscation, holding thusly-

"WHEREFORE, in view of all the foregoing considerations, the Honorable Court finds the accused Samuel 'Sonny' Emperador Y Lopez GUILTY of the crime of MURDER beyond reasonable doubt. The accused is hereby sentenced to suffer the penalty of Reclusion Perpetua together with all its accessory penalties; to indemnify the heirs of the victim for Moral Damages in the amount of P50,000.00 for the death of the victim; P35,000.00 in actual expenses; P60,000.00 for loss of earning capacity and to pay the cost of the proceeding."<sup>[2]</sup>

In his appeal to this Court, the convicted accused made the following assignment of errors; to wit:

I

"THE COURT A QUO ERRED IN NOT HOLDING THAT ACCUSED-APPELLANT ACTED IN COMPLETE SELF-DEFENSE.

"II

"GRANTING THAT ACCUSED-APPELLANT DID NOT ACT IN SELF-DEFENSE, THE LOWER COURT ERRED IN CONCLUDING THAT THE ATTACK UPON THE VICTIM WAS PERPETRATED WITH TREACHERY, THUS, QUALIFYING THE KILLING TO MURDER.

"III

"GRANTING THAT ACCUSED-APPELLANT DID NOT ACT IN SELF-DEFENSE, AND THAT TREACHERY WAS PROVEN DURING TRIAL, THE LOWER COURT ERRED IN QUALIFYING THE KILLING TO MURDER DESPITE THE NON-ALLEGATION OF TREACHERY IN THE INFORMATION."<sup>[3]</sup>

Appellant would insist that the trial court failed to recognize his "natural instinct" to protect himself from the impending danger posed by the victim. The infliction by him of a fatal wound on the deceased, he said, was unavoidable. Appellant would also fault the trial court for appreciating treachery which was neither specifically alleged nor proved.

A close look at the records, the Court believes, sufficiently establishes the accountability of appellant for the death of Danilo Collado but only for homicide and not murder. The narration of eyewitness Mario Collado of the facts about the incident suffers no ear-mark of falsehood.

"Q On September 14, 1996, at around 6:30 in the afternoon, where were you?

"A I was at Brgy. San Roque West, Agoo, La Union.

"Q What were you doing then at that time?

"A We were conversing there and sitting.

"Q Who were with you then?

"A Ricardo Emperador, Benigno Collado, Danilo Collado and me.

"x x x

x x x

x x x

"Q Was there [any] unusual incident at that time?

"A Yes, sir.

"Q And what was that incident?

"A He suddenly stabbed my brother.

"Q Who is that `he' that you are referring to that stabbed your brother?

"A Sonny Emperador.

"Q And what is the name of your elder brother?

"A Danilo Collado.

"Q And who stabbed Danilo Collado?

"A Sonny Emperador. (Witness pointing again to the accused.)

"Q Is that Sonny Emperador and Samuel Emperador the same person?

"A Yes, sir.

"Q And how many times did this Sonny Emperador stab your brother?

"A When my brother was sitting, Samuel stabbed him on his left breast. He was able to stand and run for about 5 arms length away and Samuel still chased him.

"Q And what happened when Samuel Emperador chased your brother Danilo?

"A He was able to run after him.

"Q And what did Samuel Emperador do when he was able to run after Danilo?

"A He again stabbed him. (Witness making a sign by holding an imaginary weapon and he stabbed Danilo.)

"Q And what part of the body of Danilo was stabbed?

"A At the back on the left.

"Q How many times?

"A For three (3) times at the back and once at the left side of the waist.

"Q And what did you do when Samuel Emperador was stabbing Danilo?

"A I wanted to lend succor to my brother but because the accused turned on me, so I ran.

"Q What do you mean by your statement that Sonny turned on you?

"A He wanted to stab me.

"COURT QUESTION:

"Q So you were stabbed by Sonny Emperador, is that what you mean?

"A Yes, sir.

"PROSECUTOR CATBAGAN:

"Q And after that, what did you do?

"A I ran.

"COURT QUESTION:

"Q How many times did Sonny Emperador stab you?

"A Only once, sir. (Witness pointing to the scar.)

"Q Were you hit when Sonny Emperador stabbed you?

"A Yes, sir.

"Q Where were you hit?

"A My right forearm. (Witness pointing to a scar measuring around 3½ inches long.)

"PROSECUTOR CATBAGAN:

"Q After that what happened next?

"A I ran away but Samuel saw my younger brother Benigno and he again turned on him.

"x x x

x x x

x x x

"Q You claimed that your brother Danilo, Benigno and Ricardo were seated at the barangay road, how were you seated there?

"A On both sides of the barangay road particularly on the west side, my brother Danilo and Benigno were seated on the western side, while on the eastern side seated were Ricardo and me.

"Q Where were you seated?

"A A bamboo bench.

"Q So you were facing each other?