

FIRST DIVISION

[G.R. No. 119542, January 19, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AS
VERJANON RABANAL, ACCUSED-APPELLANT.**

D E C I S I O N

YNARES-SANTIAGO, J.:

Accused-appellant AS Verjanon Rabanal was charged with murder in an Information^[1] which reads:

"That on or about April 19, 1992, in the City of Cavite, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being then armed with Armalite rifle, with intent to kill and with treachery and evident premeditation, did then and there wilfully, unlawfully and feloniously assault, attack and shoot with the said rifle one FN2 ROLLY ATENDIDO Y ALILING, hitting and inflicting upon the latter mortal gunshot wounds which ultimately caused his death.

Contrary to law."

On arraignment, accused-appellant pleaded "not guilty" to the charge. Trial on the merits ensued.

The following facts, as found by the trial court, are undisputed:

At around 1:00 in the early morning of April 19, 1992, accused-appellant Rabanal and his victim Atendido, both members of the Philippine Navy, were aboard the navy ship "BRP Quezon" docked at Sangley Point Naval Base for repairs. Rabanal was then assigned as the Roving Guard of the ship. He had an altercation with Atendido which resulted in Rabanal shooting Atendido twice with his M-16 armalite rifle, one shot grazing the latter's forehead and the other piercing his back. Medical findings disclosed the following:

"1) Grazed gunshot wound frontal region, measuring 3.4 x 0.5 cm. along the anterior midline.

2) Gunshot wound, point of entry, right costal region, measuring 0.5 x 0.4 cm., 0.5 cm. from the posterior midline, with contusion collar, measuring 0.2 cm. laterally and 0.1 cm. medially, superiorly and inferiorly, 116 cm. from the right heel, directed anteriorwards, medialwards and slightly upwards, fracturing the 11th right thoracic ribs, lacerating the right lobe of the liver, transverse colon and the pancreas, 2 metallic fragments are recovered embedded at the greater omentum at the epigastric region."^[2]

Rabanal claimed that he acted in self-defense. He alleged that Atendido and a companion were drunk when they boarded the ship after coming from Cavite City where they spent their off-duty hours. Once aboard the ship, Atendido allegedly dared Rabanal to a fistfight and thereupon punched him four times, but Rabanal did not return Atendido's blows. Thereafter, Atendido supposedly attacked him with a knife but he tried to avoid him by stepping back until he reached the edge of the ship at the fantail. Sensing that Atendido would stab him, he fired a warning shot but when Atendido still kept coming at him, he shot him twice. Rabanal immediately fled after the incident by jumping overboard and swimming towards the shore. He thereafter went in hiding in Pangasinan.

The Regional Trial Court of Cavite City, Branch 16, thereafter rendered a decision^[3] the dispositive portion of which reads as follows:

"IN VIEW OF ALL THE FOREGOING CONSIDERATIONS, this court finds accused VERJANON RABANAL GUILTY beyond reasonable doubt of the crime of Murder and sentences him to suffer the penalty of reclusion perpetua with all the accessories provided by law, to indemnify the heirs of Rolly Atendido the amount of P50,000.00 and the further amount of P50,180.00 as funeral expenses."

Aggrieved by the decision, accused-appellant interposes the instant appeal assigning the following errors:

I

THE HONORABLE TRIAL COURT COMMITTED GRAVE ERROR IN NOT APPRECIATING THE PLEA OF SELF DEFENSE OF THE ACCUSED.

II

THE HONORABLE TRIAL COURT COMMITTED GRAVE ERROR IN FINDING APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF MURDER.

Rabanal avers that he was not the unlawful aggressor but Atendido, who, while drunk, confronted him saying, "*You are on duty. Bakit hindi mo ginagampanan ang duty mo?*" When he told Atendido to stop, the latter replied, "*Isa ka pa,*" and thereafter punched him four times. As a result, Rabanal hit his head on "a 3 inch part located at the fantail". After regaining consciousness, he attempted to stop Atendido from making further trouble with the other crewmembers but Atendido instead turned to him, pulled a knife and attempted to stab him. He pleaded for Atendido to stop as he was already at the edge of the ship but the latter continued to approach him, prompting him to fire a warning shot. When Atendido did not heed his advice as well as the first warning shot, he fired a second warning shot at the same time telling him that he has one last chance to stop. Undeterred, Atendido dared him to fire his rifle at him. Honestly believing that he was in danger as Atendido was seemingly aiming his knife at vital parts of his body, Rabanal shot Atendido twice.

The appeal is without merit.

To prove self-defense, the accused must show with clear and convincing evidence,