

## THIRD DIVISION

[ G.R. No. 131851, February 22, 2001 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ALFREDO BASADRE, ACCUSED-APPELLANT.**

### D E C I S I O N

**GONZAGA-REYES, J.:**

At around 4:30 in the afternoon of 2 September 1995, Dionesa Naguio went to the store of Ramon Maria in order to look for her common-law husband, Tirso Naguio, who had gone to buy their food. Upon arriving at the store, Dionesa found her husband drinking "fighter" wine with accused-appellant Alfredo Basadre<sup>[1]</sup> and Sonny Bernabe. Ramon was also there. Accused and Tirso were joking around, pretending to be gay. Using the dull side of a bolo, accused pretended to slash the penis of Tirso, compelling Dionesa to exclaim, "Don't do that, that is not good. It is an indecent act." Accused explained that they were just playing around. Alex Basadre, elder brother of accused, told the latter to go home, but accused refused to go without first consuming the contents of the wine bottles. Alex then told Tirso to leave the place. Tirso and his wife left.

On their way home, Dionesa heard a whistle and saw a man pass by on a path parallel to the road they were taking. The man stopped near a coconut tree to their right, about two armslength away. Dionesa recognized the man to be the accused. Accused was clutching a bolo in his right hand, which he raised and pointed at Dionesa, who jumped to the left. Accused turned to Tirso and said, "Bay." When Tirso answered "Ha?" accused hacked him at both his shoulders. Tirso tried to parry the blow by covering his face with his hands, at the same time asking, "What is this Jun?", but accused slashed at his forearms. When Tirso repeated his question, accused hacked at both his knees, causing him to fall to the ground in a kneeling position. Tirso pleaded with accused, saying "Jun, that is enough." In response, accused stabbed Tirso in his right and left chest and in the abdomen. Tirso fell to the ground, face down, and was trembling. Accused repeatedly hacked at Tirso's back.

During the attack, Dionesa shouted for help, but no one came, although the store of Ramon was only fifty meters away. Dionesa ran to the house of her husband's aunt, Lusina Pajo, and told her that Tirso was killed by accused. Lusina accompanied Dionesa to the house of the Barangay Chairman, Buenaventura Labininay, to whom Dionesa related the details of the attack.<sup>[2]</sup>

While walking home from the house of Ramon, Sonny Bernabe met accused holding a bloodstained bolo. Accused's right hand was bloodied. Accused told him that he had killed someone. Sonny and accused returned to the house of Ramon, who suggested to accused that he surrender. Accused agreed and so Sonny and Ramon accompanied him to the house of Barangay Chairman Labininay. Upon reaching the

barangay chairman's house, accused surrendered himself and also gave up the bolo he had used to kill Tirso.<sup>[3]</sup>

The post mortem examination conducted by Dr. Cesar Tiro revealed that Tirso Naguio sustained seventeen (17) wounds which were most probably inflicted by a sharp-edged instrument. These wounds caused an internal hemorrhage which resulted in Tirso's untimely death.<sup>[4]</sup>

On 9 October 1995, accused was charged with the crime of murder, punishable under Article 248 of the Revised Penal Code, in an information which reads as follows:

That on or about September 2, 1995 at around 6:30 in the evening at Malasag, Cugman, Cagayan de Oro City, and within the jurisdiction of this Honorable Court, the said accused did then and there wilfully, unlawfully and feloniously, with intent to kill and with treachery and evident premeditation, attack, assault and use personal violence upon the person of one Tirso J. Naguio by then and there stabbing him suddenly on his arm, chest, thigh, abdomen and other parts of his body, thereby inflicting upon the latter mortal wounds which were the direct and immediate cause of his death thereafter.<sup>[5]</sup>

Upon arraignment on 15 February 1996, accused pleaded not guilty to the charge.<sup>[6]</sup> Accused claimed that he acted in self-defense and expectedly, he gave a totally different version of the events which transpired on the evening of 2 September 1995.

According to accused, he was hunting for birds in the forests of Malasag, Cagayan de Oro City from 8 a.m. until 5 p.m. On his way home, at 6:30 p.m., he met Tirso, 100 meters away from the house of Ramon. Since it was dark, accused did not recognize Tirso at first, but nevertheless he greeted him with a perfunctory "Good evening." The accused narrated the details of the attack as follows -

Q After saying those words what did you reply?

A That is all what [sic] he said.

Q What happened after that?

A He came near me.

Q How did he come near you?

A He had bad intention on [sic] me.

Q How did you come in [sic] that conclusion that he had bad intention on you?

A Because his position at the time was unusual.

Q Will you please demonstrate his position which you interpret [sic] not good?

A He was in a position as if to strike me. (Witness demonstrating by turning to his right and his left hand in the act of striking)

Q Upon saying that what did you say?

A I did not say anything.

Q What did you do then?

A Because I know that he has [sic] bad intention with me and it was dark [,] I pulled out my bolo.

Q From where did you pull out your bolo?

A From my left waist.

Q What held your bolo in your side?

A A scabbard.

Q What did you do with that bolo?

A I held that in preparation.

Q How about Tirso Naquiao [,] what did he do?

A He rushed at me.

Q What did you do after he rushed at you?

A I met him and stabbed him.

Q How did you meet him?

A When he rushed at me [,] I met him.

(Witness demonstrating his right hand forward)

Q Towards where [did] the bolo hit when you thrust it forward?

A Here. (Witness pointing to his chest on the vicinity of his upper sternum)

COURT:

He was hit at the middle of his body.

ATTY. ROA: (CONT'NG)

Q So what happened to him?

A His body passed by me (nasaylo).

Q Why his body passed by you? [sic]

A Because he was hit, then he fell.

Q When he fell [,] was he facing downward?

A Facing downward.

Q What else happened after that?

A He was not able to stand up.

Q How about you what did you do?

A I finished him off (Gitiwasan) [.]

Q How did you do that?

A I stabbed and hacked him.

COURT:

- Q Did you deliver some more thrust on his body?  
A No, Your Honor.
- Q What you did is slashing and stabbing him?  
A Hacking, slashing and stabbing him, Your Honor.
- Q How many times?  
A Three times.
- Q You are sure that there were only three [-] the slashing, hacking and stabbing?  
A Yes, Your Honor.
- Q You could feel your bolo entering the body of the victim?  
A Yes, Sir.
- Q Just cutting meat in the kitchen?  
A Yes, Your Honor.
- Q Can you remember the parts of the body where the bolo landed?  
A I can still remember.
- Q What part?  
A Here (Witness demonstrating middle of the chest, back and lower waist, near scapular area, left lumbar region, middle of the back)
- Q Why did you not try to avoid the person you meet [sic] that is fierce from the beginning?  
A Because he was very near me at the time.

On cross-examination, accused gave further details on his unfortunate encounter with the victim -

- Q When you first met the deceased[, ] how far were you to [sic] him?  
A About 1 fathom or 1 meter away.
- Q And that was the time you greeted him and you said, 'Good evening'.  
A Yes, Sir.
- Q When you greeted him and he responded[, ] he stayed to [sic] where he was standing?  
A He was moving and came near me.
- Q You also declared that he moved to his right and moved back his left arm as if to strike you?  
A Yes, Sir.
- Q How far was he to [sic] you at the time?  
A One (1) fathom.
- Q Still one fathom away when you pulled out your bolo from

A your left waist?  
Yes, Sir.

Q Where did you place your bolo?

A On my right hand.

Q Did the victim move forward to your direction or stayed in the place about one fathom from you?

A He rushed at me.

COURT:

Q You never mentioned that the deceased has a bolo because there was none?

A I did not observe because it was dark and I could not see clearly.

Q In short, you attacked him without you not being attacked?

A When he came near me I understood that he has evil motives towards me.

Q Don't you know that boxing involves only fists?

A Yes, Sir.

Q It did not occur to you because it was nighttime you cannot determine whether you were attacked or not?

A It was too late (Apiki naman kaayo.)

Q Why too late?

A Because it was slippery.

Q But you are walking by a road built by Mayor Magtajas?

A Yes, Your Honor.

PROS. DAMASING: (CONT'NG)

Q You said that the deceased cam rushing towards you, is that correct?

A Yes, Sir.

Q What was your distance or how far was he able to go near you before you thrust forward your bolo?

A Two steps.

Q He was still about one meter away from you before you thrust your bolo?

A Very near.

Q About two feet away from you?

A Yes, Sir.

Q As a matter of fact as you declared earlier you met him when you thrust your bolo?

A Yes, Sir [,] when he made two steps I met him.