

SECOND DIVISION

[G.R. No. 121897, August 16, 2001]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
GIL TEMPLA ALIAS "GEORGE," EMMANUEL ALAGON ALIAS
"AWE," AND FLORIANO JUNGAO ALIAS "ANOY", DEFENDANT-
APPELLANTS.**

DECISION

BUENA, J.:

At around 2:00 o'clock in the morning of October 28, 1988, 11 year-old prosecution witness Pompeo Malse Alo was awakened by a loud noise coming from outside their house in Guiwanon Bacayon, Bohol. Because of the noise, Pompeo Alo together with his 14 year-old sister Ferlina who was likewise awakened, looked through the window of their house and saw the three appellants Emmanuel Alagon alias "Awe", Floriano Jungao alias "Anoy", Gil Templa alias "Imok" also known as "George", with Rito Magtahas, Tasyo Jungao and his cousin Babalu Alo, sitting on the bench in their yard, which is about 5 fathoms away from the window where they were looking. Though it was dawn, Pompeo recognized them because of the brightness of the moon. He also saw appellants having an altercation with the victim Isaias Lagura, also known as Sonny Boy Lagura. Subsequently, appellant Templa, using a piece of wood about three (3) inches in diameter and about two (2) feet long, beat the victim Sony Boy and hit him below his right ear. Appellant Jungao was next to beat the victim, using a piece of wood about the same size and length used by Templa, hitting the victim on the right neck, near the area struck by Templa in the first blow. While Templa and Jungao took turns in beating the victim, Emmanuel Alagon threw a stone at Sonny Boy, hitting him at the back. Consequently, making him, Sonny Boy fall on the dirt road where he was left alone. Appellants then went back to the bench where they sat, about 10 meters away from where Sonny Boy fell. After about three (3) minutes, Sonny Boy stood up, and walked towards the coffee plants. While walking, appellants got stones by the road, threw them at Sonny Boy, but did not hit him. Thereafter, appellants, with the rest of the group, proceeded to the store of Pedring Jungao which is about 100 meters away from the scene of the incident. At this, Pompeo Alo and his sister beside him at the window, and who also saw the series of incidents, went back to sleep.

On the same day, around 6 o'clock in the morning, the victim's brother Wilson Malon Lagura, upon seeing blood oozing out of Sonny Boy's nose and the swelling on his lower left jaw asked the victim what had happened. Sonny Boy answered that nothing was wrong, there was no problem, then went to sleep. Sonny Boy woke up at around 11 o'clock in the morning, and did not take lunch, but stayed and reflected, on the place where he was staying, making his brother Wilson ask him what really happened. The victim answered that he was beaten up and ganged up by appellants Alagon, Jungao, and Templa.

Early in the afternoon of November 2, 1988, Sonny Boy collapsed and was brought to Gallares Memorial Hospital in Tagbilaran City. The victim never regained consciousness and ultimately died on November 3, 1988 at the age of thirty-six (36).

On January 6, 1989 an information for murder was filed against appellants Gil Templa, Emmanuel Alagon and Floriano Jungao for the death of Isaias Lagura. The information reads:

"That on or about the 28th day of October, 1988, at barangay Guiwanon, municipality of Baclayon, province of Bohol, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping with each other, with intent to kill, abuse of superior strength, and without justifiable cause, did then and there willfully, unlawfully and feloniously attack, assault, box and strike one Isaias Lagura y Malon with the use of a piece of wood and pieces of stones thereby inflicting upon the vital parts of the body of the victim mortal wounds or injuries which resulted directly to the immediate death of Isaias Lagura y Malon; to the damage and prejudice of the heirs of the said victim.

"Acts committed contrary to the provisions of Article 248 of the Revised Penal Code." [1]

When arraigned, appellants pleaded not guilty.

At the trial, the prosecution presented Pompeo Malse Alo, Wilson Malon Lagura, Loreto Majikina Magtahas, Dr. Carlomagno Sepe Misa and Pacifico Mayoganti Lagura as its witnesses. For its part, the defense presented appellants who testified in their own behalf with Madeline Templa Borromeo, Anastacio Ugboc Jungao and Jose Batoy Alo.

After trial, the court *a quo* rendered a Decision on April 24, 1995 convicting appellants of the crime of murder and sentencing each of them to suffer the penalty of *reclusion perpetua*. The dispositive portion of the decision reads:

"WHEREFORE, the Court finds accused Gil Templa, a.k.a. George, alias `Imok,' Emmanuel Incog Alagon, alias `Awe,' and Floriano Ugboc Jungao, alias `Amoy,' guilty beyond reasonable doubt of the crime of murder, and imposes upon each of them the penalty of Reclusion Perpetua, to suffer the accessory penalties imposed by law, and to indemnify the heirs of the victim the sum of P15,000.00 representing actual damages, and the further sum of P50,000.00 as moral damages, but without subsidiary imprisonment in case of insolvency.

"Without pronouncement as to costs.

"SO ORDERED." [2]

Aggrieved, appellants interposed an appeal before this Court seeking their acquittal of the crime charged. Appellants submit that the court *a quo* committed the following errors:^[3]

"I

"THE LOWER COURT ERRED IN CONVICTING ACCUSED EMMANUEL ALAGON, AND FLORIANO JUNGAO OF MURDER DESPITE EVIDENCE THAT ONLY GIL TEMPLA FOUGHT AGAINST ISAIAS LAGURA WITH A PIECE OF WOOD.

"II

"THE LOWER COURT ERRED IN CONVICTING THE ACCUSED GIL TEMPLA OF MURDER, DESPITE PROSECUTION'S FAILURE TO ESTABLISH EVIDENCE BEYOND REASONABLE DOUBT."

In fine, appellants' arguments revolve on the matter of credibility of witnesses. They assail the trial court's evaluation of the evidence, specifically the narration of Pompeo Alo on the incidents that transpired which resulted in the death of the victim Isaias Lagura. Appellants impugn the facts established by the prosecution that the victim was mauled by them. On the contrary, they invoked self-defense in that appellant Templa merely defend himself from the attack of the victim.

Pompeo Alo positively maintained that the appellants mauled and ganged up on the victim. We find the testimony of said witness as clear, credible and replete with the details of the commission of the crime. His testimony finds corroboration in the findings of the doctor who conducted the medical examination on the victim. The doctor testified that upon admission to the hospital, the victim was unconscious and, upon inquiry, it was known from the relatives that the victim was hit by a solid object on his head. These findings were confirmed and supported by the x-ray and the physical examination conducted on the victim where it was shown that he suffered four (4) fatal injuries. Postmortem examination revealed the following:

- (1) Cardiorespiratory arrest;
- (2) There was an epidural hematoma, measuring 9x 8 x 2.5 cm. left temporo parietal;
- (3) There was a cerebral edema with cingulate, uncus and cerebellar tonsillar herniation which was bilateral in both sides;
- (4) Contusion, hematoma 7 x 6 cm at the right temporo parietal, subgaleal area, which is the area above the skull or within the scalp layer of the head;
- (5) There was skull fracture, linear 5 cm length at the right temporo parietal and 4 cm length at the left temporo parietal;
- (6) Abrasion with scab formation at the right temporal area of the head.

Appellants Jungao and Alagon corroborated each other's testimony that neither one of them participated in the commission of the offense and imputes to Templa the injuries sustained by the victim. The trial court finds these declarations not

plausible since they could not explain the reason why the victim suffered many injuries. It is doctrinally settled that the determination of the trial court on matters of credibility of witnesses are usually accorded great weight and respect on appeal.

[4] The rationale for this is that the trial court has the advantage of observing the witnesses through the different indicators of truthfulness or falsehood, such as the angry flush of an insisted assertion or the sudden pallor of a discovered lie, or the tremulous mutter of a reluctant answer, or the forthright tone of a ready reply, the furtive glance, the blush of conscious shame, the hesitation, the sincere or the flippant or sneering tone, the heat, the calmness, the yawn, the sigh, the candor or lack of it, the scant or full realization of the solemnity of an oath, the carriage and mien. [5] Our conscientious review of the records reveal that the evidence has been objectively and fairly calibrated by the court *a quo*. The trial court's assessment of credibility of witnesses is binding on this court because of its unique opportunity of having observed that elusive and incommunicable evidence of the witness' deportment on the stand while testifying, which opportunity is denied to the appellate court. [6]

Appellants utterly failed to substantiate their claim of self-defense and that the victim was the unlawful aggressor. Well-entrenched is the rule that a finding of guilt must rest on the strength of the prosecution's evidence who has the burden of proving it by the required quantum of proof beyond reasonable doubt, not on the weakness or even absence of evidence for the defense. [7] In cases, however, where self-defense is invoked, the burden of proof is shifted to the accused.

Loreto Majikina Magtahas, the third witness for the prosecution, narrated the incident which negates the claim that the victim was an unlawful aggressor. In fact he testified that he knows the appellants and relates that, on October 27, 1988, at around 8:00 in the evening, he was in the house of Aniano Alagon, the father of appellant Emmanuel Alagon, to help in butchering 4 dead cows which ended around 11:00 in the evening. Aside from the family members of Aniano Alagon, who were present in butchering the cow, Fernando Alagon, younger brother of appellant Emmanuel Alagon, Floriano Jungao and Alejandro Alo were present. After butchering the cow, they ate and proceeded to the house of Emmanuel Alagon. Later, they were joined by Ricardo Borromeo, appellants Gil Templa and Emmanuel Alagon at around 11:00 in the evening and consumed two (2) gallons of *tuba*. At 12:00 midnight, the three appellants, together with Ricardo Borromeo, Fernando Alagon, Anastacio Jungao, Euologio Alagon, Rodrigo Gonzaga, Joselito Gonzaga and Jose Alo, proceeded to the store of Proserfida Jungao which is more or less 100 meters from the house of Aniano Alagon to drink more wine upon the invitation of Ricardo Borromeo. Magtahas further testified on the succeeding incidents as follows:

"ATTY. CLARIN:

"Q - While the group was drinking at the store of Proserfida Jungao, was there anyone who joined the group?

"A - Yes, sir, there was.

"Q - Who?

"A - Isaias Lagura.

"COURT:

"Q - This Isaias Lagura was there already when the group arrived, or he arrived later?

"A - Arrived later.

"ATTY. CLARIN:

"Q - More or less, what time did Isaias Lagura arrive?

"A - More or less, 1:45 o'clock dawn. (sic)

"Q - That was already at the dawn of October 28, 1988?

"A - Yes, sir.

"Q - Did Isaias Lagura have a companion when he arrived?

"A - No, sir.

"Q - Then, when Isaias Lagura arrived what happened?

"A - He was approached by Ricardo Borromeo and they have (sic) a conversation.

"Q - While Ricardo Borromeo and Isaias Lagura were talking what transpired next?

"A - A while later, while they were engrossed of their conversation, I noticed a commotion ensued.

"ATTY. CLARIN:

"Q - Please tell the Court, who were involved in that commotion?

"A - What I mean, your Honor, is after the conversation between Isaias Lagura and Ricardo Borromeo, a commotion ensued took place. (sic)

"Q - Please answer the question, who were involved in that commotion?

"A - The group, involved in the commotion, but I did not notice Isaias Lagura.

"Q - Then, what happened later?

"A - While in the course of the commotion, the group proceeded to the store of Emereto Borromeo.

"x x x x x x x x x

"Q - Now, while you were already in the store of Emereto Borromeo, what happened?

"A - We did not ultimately arrive at the store of Emereto Borromeo.

"Q - Why?

"A - Because George Templa and Isaias Lagura..... the group did not actually reach the store of Emereto Borromeo because as we were approaching the store of Emereto Borromeo, we already noticed Gil Templa and Isaias Lagura seated on a bench facing each other, very near to the store of Emereto Borromeo.

"Q - How far, more or less, from the store of Emereto Borromeo Gil Templa and Isaias Lagura sitting?

"A - Around seven meters.

"Q - Now, when the group saw that Gil Templa and Isaias Lagura were seated on a bench, what happened next?

"A - Isaias Lagura was again approached by Ricardo Borromeo and they have a conversation with each other.

"Q - Then, while Ricardo Borromeo and Isaias Lagura were conversing, what happened next?

"A - Emmanuel Alagon approached the two, namely: Isaias Lagura and Gil Templa.

"Q - Then, what transpired next?

"A - Emmanuel Alagon approached them in an aggressive manner and Isaias Lagura stepped backward, and as Isaias