

THIRD DIVISION

[G.R. No. 140544, December 07, 2001]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ELMER DAMITAN Y MANTAWEL, DEFENDANT-APPELLANT.

DECISION

CARPIO, J.:

In self-defense, the basic rule that the burden of proving the guilt of the accused lies on the prosecution is reversed and the burden of proof is shifted to the accused to prove the elements of his defense. It then becomes incumbent upon him to rely on the strength of his own evidence and not on the weakness of the evidence of the prosecution, for even if the latter were weak, it could not be disbelieved after he had admitted the killing.^[1]

The Case

This is an appeal from the Decision^[2] dated 14 September 1999 of the Regional Trial Court of Malaybalay, Branch 8, in Criminal Case No. 8965-98 finding Elmer Damitan y Mantawel guilty beyond reasonable doubt of the crime of Murder and sentencing him to suffer the penalty of *reclusion perpetua*.

The Charge

On 15 June 1998, Elmer Damitan y Mantawel was charged in an Information^[3] for the crime of Murder which reads:

"That on or about the 27th day of April 1998, in the morning, at Sitio Likoliko, Barangay Butong, Municipality of Quezon, Province of Bukidnon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill by means of treachery, armed with a sharp bladed weapon, did then and there willfully, unlawfully and criminally attack, assault and stab LEON CAHAPON, SR., inflicting upon the latter mortal injuries which caused the instantaneous death of LEON CAHAPON, SR., to the damage and prejudice of the legal heirs of LEON CAHAPON, SR. in such amount as may be allowed by law.

Contrary to and in violation of Article 248 of the Revised Penal Code, as amended by R.A. 7659."

Arraignment and Plea

Upon arraignment, accused Damitan, assisted by counsel, pleaded not guilty.^[4] Thereafter, trial ensued.

The Trial

The prosecution presented Conrado Sumin-ao, Junine Cahapon and Trinidad Cahapon as witnesses. The defense presented as its sole witness accused Damitan himself who admitted having stabbed the victim Cahapon but invoked the justifying circumstance of self-defense.

Version of the Prosecution

The prosecution presented as its first witness Conrado Sumin-ao, 61 years old, a farmer and a datu chieftain of the Manobo tribe and resident of Butong, Quezon, Bukidnon.^[5] He testified that on 27 April 1998, at around five o'clock in the morning, he was at the barrio hall in Butong with the victim Leon Cahapon, a purok leader in the sitio. They had agreed the day before to meet at the barrio hall to transfer the basketball court.^[6] Cahapon's grandson Junine, who was riding a horse, arrived at the barrio hall and asked his grandfather to fix the rope of the horse. While victim Cahapon was fixing the rope of the horse, accused Damitan arrived and suddenly stabbed Cahapon twice with a hunting knife about ten (10) inches long.^[7]

Witness Sumin-ao was more or less one (1) meter away from the victim when the stabbing incident took place. He saw the first strike hit the victim's right breast and the second hit the lower portion of the first stab wound. Witness Sumin-ao testified that the "strike of Elmer came from behind towards the front" of Cahapon.^[8] When victim Cahapon fell down after the first stabbing, witness Sumin-ao held him. Accused Damitan stabbed victim Cahapon for the second time while the latter was already lying down.^[9] Thereafter, Damitan surrendered himself to the military detachment at BUSCO. Witness Sumin-ao went to the barangay captain to report the incident.^[10]

Prosecution witness Junine Cahapon, a 13-year old Grade 5 pupil and resident of Sitio Likoliko, Butong, Quezon, Bukidnon is the grandson of the victim.^[11] He testified that he went to the barrio hall and requested his grandfather to fix the rope of his horse which was detached. He was about one and a half (1½) meters away from his grandfather when he saw accused Damitan stab his grandfather at the right side of the breast.^[12]

Trinidad Cahapon, the 60-year old widow of the victim, testified that she grieved upon learning of her husband's death. Trinidad spent P27,000.00 for the burial expenses of her husband. ^[13]

The testimony of Dr. Romeo Egang, the attending physician, was dispensed with in view of the admission by the defense of victim Cahapon's Death Certificate as proof of the fact of death. The cause of death was "Cardio-respiratory arrest, blood loss due to stab wounds."^[14]

Version of the Defense

Accused Damitan admitted that he stabbed victim Cahapon but claimed that he acted in self-defense. Thereafter, he went to the military detachment at BUSCO, Butong, Quezon, Bukidnon to surrender.^[15]

Accused Damitan testified that on 25 April 1998, at four o'clock in the afternoon, while he was cooking supper at their yard, he saw the victim's wife shooing away his chickens to the house of the victim. He told her that the chickens belonged to him and in fact one of the chickens had a tie on its leg. On 26 April 1998, at two o'clock in the afternoon, accused Damitan saw victim Cahapon catch his chicken. This prompted accused Damitan to see Datu Sumin-ao to complain against victim Cahapon who became angry and threatened the accused.

On 27 April 1998, at five o'clock in the morning, victim Cahapon went to Damitan's house and, in a very harsh tone, challenged the accused to go down from his house. While accused Damitan was going down the third step of the "ladder", victim Cahapon boxed him twice, causing him to fall on his back. Cahapon knelt on Damitan's belly and tried to stab the latter with a knife. Damitan evaded the strike and was able to wrest the knife from Cahapon. Then, Cahapon with his two hands choked Damitan who lost consciousness. Damitan did not realize that he had stabbed Cahapon twice until the latter fell down. Damitan ran away towards the military detachment at BUSCO to surrender.^[16] On cross-examination, Damitan testified that he used the knife of Cahapon to stab the latter.^[17]

Trial Court's Ruling

On 14 September 1999, the trial court rendered judgment finding accused Damitan guilty beyond reasonable doubt of the crime of Murder, the dispositive portion of which reads as follows:

"WHEREFORE, the court finds accused Elmer Damitan guilty beyond reasonable doubt of the crime of murder and (sic) defined and penalized under the pertinent provisions of Republic Act No. 7659, and there being no ordinary aggravating nor mitigating circumstances present, he is hereby sentenced to suffer the penalty of reclusion perpetua, and to indemnify the heirs of his victim Leon Cahapon the sum of P50,000.00."

The Issues

Hence, the present appeal. Accused-appellant Damitan raised the following assignment of errors:

"I

THE TRIAL COURT GRAVELY ERRED IN DISREGARDING THE DEFENSE INTERPOSED BY THE ACCUSED-APPELLANT.

II

THE TRIAL COURT ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF MURDER.

III

THE TRIAL COURT ERRED IN NOT APPRECIATING THE MITIGATING

CIRCUMSTANCE OF VOLUNTARY SURRENDER ON THE PART OF THE
ACCUSED-APPELLANT."

The Court's Ruling

We find the appeal without merit.

In the first assignment of error, appellant contends that the trial court failed to appreciate the justifying circumstance of self-defense. He avers that the elements of self-defense are present. He claims that there was unlawful aggression on the part of the victim Cahapon. It was Cahapon who called him in a very harsh tone and challenged him to go down from his house. When appellant was going down the "ladder", Cahapon allegedly boxed him. Thereafter, Cahapon tried to stab him with a knife but he was able to disarm Cahapon and then they struggled. Appellant further argues that the knife belonged to the victim and he merely prevented or repelled the attack against his person.

We uphold the trial court's rejection of appellant's plea of self-defense.

When the accused admits killing a person but pleads self-defense, the burden of evidence shifts to him to prove by clear and convincing evidence the elements of his defense.^[18] However, appellant's version of the incident was uncorroborated. His bare and self-serving assertions cannot prevail over the positive identification of the two (2) principal witnesses of the prosecution.^[19] There was no evidence to indicate that the prosecution witnesses were moved by improper motive to testify against the appellant. Hence, the testimonies of the prosecution witnesses are entitled to full faith and credit. The rule is settled that factual findings of the trial court are accorded great respect since the trial court is in a much better position than an appellate court to properly evaluate the evidence and observe directly the witnesses' deportment and manner of testifying.^[20] The trial court gave credence to the testimonies of the prosecution witnesses and there is no reason to depart therefrom.

As found by the trial court and this Court, appellant Damitan went to the barrio hall and suddenly stabbed victim Cahapon from behind. He was clearly identified by prosecution witnesses Sumin-ao and Junine who were very near the victim. Appellant was likewise not a stranger to the two (2) prosecution witnesses. Sumin-ao knew appellant as a member of the same Manobo tribe of which Sumin-ao is the datu chieftain.^[21] Appellant was also a neighbor of prosecution witness Junine whose house is about thirty-five (35) meters from the house of appellant.^[22] Junine saw appellant coming from the latter's house and walking towards the barrio hall.^[23] Appellant, without uttering a word, suddenly stabbed victim Cahapon at the right portion of his breast. The first strike came from behind while victim Cahapon was facing the horse and fixing the rope. Then, appellant stabbed victim Cahapon for the second time while the latter was lying down.

Self-defense as a justifying circumstance must satisfy the following requirements: (1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel the aggression; and (3) lack of sufficient provocation on the part of the accused or the person defending himself.^[24] The absence of unlawful aggression negates the existence of self-defense.^[25] Here,