

EN BANC

[G.R. No. 130708, October 22, 1999]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
CARLITO ARIZALA Y VALDEZ, ACCUSED-APPELLANT.**

D E C I S I O N

GONZAGA_REYES, J.:

Before us by way of automatic review is the judgment of conviction imposing the death penalty upon CARLITO ARIZALA y VALDEZ for the killing of SGT. ROLANDO CARA.

The Information dated February 17, 1997 states:

"That on or about 5:00 o'clock in the evening of February 14, 1997, along Cabarroguiz Street, District IV, municipality of Bayombong, province of Nueva Vizcaya, Philippines and within the jurisdiction of the Honorable Court, the above-named accused with intent to kill and treachery, did then and there willfully, unlawfully and feloniously attack, assault and stabbed from behind SPO4 Rolando Cara y Roduta for several times, thereby inflicting mortal wounds on the different parts of the body which directly caused his death to the damage and prejudice of the heirs.

CONTRARY TO LAW."^[1]

Upon arraignment on February 28, 1997, herein accused-appellant, duly assisted by counsel, entered a plea of "not guilty." Thereafter trial on the merits ensued.

The Office of the Solicitor General summarized the facts as viewed by the prosecution witnesses, to wit:

"At around 5:00 o'clock in the afternoon of February 14, 1997, when Sgt. Rolando Cara saw Manolito de Guzman on a street in Barangay Salvacion, Bayombong, Nueva Vizcaya, the former asked if they could both go to the latter's house to talk about something. Manolito acceded and they went to his house. They had just entered the place when Sgt. Cara saw some women on the road and decided to talk to them first. Their conversation lasted for quite sometime, and when Manolito could no longer wait he went out to the street to call back Sgt. Cara. At this point, Manolito saw Reynaldo Barut, Marco Barut and Carlito Arizala approaching (TSN, 4/15/97, pp. 2-3; 4/23/97, pp. 6-7). The men had just come from the cemetery where they were contracted to demolish a tomb and were on their way home (TSN, 7/23/97, pp. 2-3). Sgt. Cara called Reynaldo Barut, a former chief of the Bantay Bayan, to join him and Manolito in the latter's house as he wanted to talk to both of them (TSN, 4/15/97, p. 4; 7/23/97, p. 6). Meanwhile, Carlito, who appeared drunk, directly proceeded to his house which he rented from Manolito

(TSN, 7/23/97, pp. 7, 10). It was actually a room in the latter's house with its own entrance which was at the edge of the road facing east, while the gate leading to the entrance of the main house occupied by Manolito was situated on the northern side (TSN, 7/24/97, pp. 6-8).

Manolito walked ahead of Sgt. Cara and Reynaldo, and when he was about to enter the gate of his house he turned to Sgt. Cara who was about three (3) meters behind and told him to come inside (*id.*, pp. 4-7). Just then Manolito saw Carlito suddenly rush out of the door of his house which was about 2.5 meters away from where Sgt. Cara was, saying, "Vulva of your mother you policemen, I hate all of you" and at the same time pushed and stabbed the latter at the back with a knife ("hinalong") about 10 inches long (TSN, 4/5/97, p. 4; 4/29/97, p. 4; 5/6/97, p. 2). Sgt. Cara fell prone on the ground. Manolito was taken aback and when Carlito made a motion to thrust at him he ran away. He saw Carlito stab Sgt. Cara three (3) times before running away for safety (TSN, 4/15/97, p. 5 4/29/97, pp. 4-5). Manolito then reported the incident to Sgt. Mario Lopez who immediately proceeded to the crime scene. Later when he returned to the place of the incident, Manolito saw that Sgt. Cara was already loaded in the police vehicle, while Carlito was lying on the ground in a prone position about 18 meters away from where he attacked Sgt. Cara (TSN, 4/30/97, pp. 2-4).

Dr. Nestor Domingo, Municipal Health Officer of Bayombong, Nueva Vizcaya who conducted the autopsy on the cadaver of Sgt. Cara, found that he sustained fourteen (14) stab wounds, nine (9) of which were fatal. Of the nine fatal wounds, seven (7) were at the back and two (2) were on the left lateral side of his body. Dr. Domingo testified that only one type of weapon was used to inflict them, which was a single bladed weapon (TSN, 6/3/97, pp. 7-11).^[2]

On the other hand, accused-appellant presented his own account of the incident in his brief, to wit:

"Accused-appellant CARLITO ARIZALA admitted having inflicted the injuries sustained by Sgt. Rolando Cara in self-defense. He said that on February 14, 1997, from morning til afternoon, they (he, Reynaldo and Marco Barut) were in the cemetery of Bayombong to gather the bones belonging to a certain Mr. La Corda so that a new body could be interred in the tomb. Before they started working, they consumed a bottle of San Miguel Gin. At around 5:00 p.m., they left the cemetery and went to La Corda's house to return the tools used in the cemetery. Then, they proceeded home after receiving their compensation for the job. On their way home, they passed at a store to have their P1,000.00 bill changed into smaller denominations. When he was already near his house, he noticed Sgt. Cara at the place of Manolito de Guzman. He entered his house, gave his earning to his wife and rested for a while. Afterwards, he assisted his wife to cook by slicing meat. He was not able to finish slicing meat as Sgt. Cara was shouting at him and ordering him to get out of his house. At first, he was reluctant to go out as Sgt. Cara appeared to be mad but later on he did come out. Sgt. Cara scolded and uttered invectives at him blaming him for the illegal logging activities in Salvacion, Bayombong. His repeated denial of the said accusation made

Sgt. Cara uttered the words ""I will shoot you""and acted as if he would make true of his words by trying to draw something from his left waist. Alarmed, he embraced Sgt. Cara and struggled with him as he (Cara) was trying to draw his gun from his waist. The knife he was using in slicing meat was unconsciously carried by him when he went out. While struggling with Sgt. Cara, somebody hit his head. He unconsciously thrust the knife at Sgt. Cara in reaction to the blow he received. Afterwards, Sgt. Cara fell on the ground. He went near the house of his parents-in-law and waited for policemen who later handcuffed him. He was brought to the hospital for the treatment of his injured head."^[3]

On September 3, 1997 the trial court promulgated its judgment of conviction and disposed as follows:

"WHEREFORE, finding the accused, Carlito Arizala y Valdez, GUILTY beyond reasonable doubt of the offense of Murder, he is hereby sentenced to suffer the capital punishment of DEATH by lethal injection, to pay the heirs of Sgt. Rolando Cara the sums of P51,000.00 as actual damages, of P50,000.00 as civil indemnity and the costs of the suit.

SO ORDERED."^[4]

In this automatic review, herein accused-appellant raised the following assignment of errors, to wit:

I

THE LOWER COURT ERRED IN NOT APPRECIATING THE JUSTIFYING CIRCUMSTANCE OF SELF-DEFENSE IN FAVOR OF ACCUSED-APPELLANT.

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.

We find no merit in this appeal.

We have carefully reviewed the testimonies of both witnesses for the prosecution and the defense and we are convinced that the guilt of herein accused-appellant has been proved beyond reasonable doubt.

It is axiomatic that where an accused pleads self-defense, he thereby admits authorship of the crime, as in this case. Consequently, the burden of proving the guilt of the accused which lies upon the prosecution is shifted to the accused who must prove the elements of his defense.^[5] He has to justify the taking of the victim's life by the standards of the law for such absolution.^[6] Otherwise, having admitted the killing, conviction is inescapable.^[7] It is necessary that self-defense must be alleged with certainty coupled with a strong, clear, sufficient and convincing proof that the killing is justified. Accordingly, the accused-appellant must convincingly prove the essential elements of self-defense: (1) unlawful aggression on the part of the victim; (2) reasonable necessity to prevent or repel the attack; and (3) lack of sufficient provocation on the part of the person defending himself.^[8] Although all three elements must concur, self-defense must rest on proof of unlawful

aggression on the part of the victim.^[9] If no unlawful aggression attributed to the victim is established, there can be no self-defense, complete or incomplete.^[10] Unlawful aggression is a condition *sine qua non* for the justifying circumstance of self-defense to apply.

In pleading self-defense, accused-appellant argues that since the victim is a Senior Police Officer 4 of the P.N.P. of Bayombong, Nueva Vizcaya, the latter's act of attempting to draw his gun from his waist was not just a mere threatening stance or posture or intimidating attitude. It already posed an imminent danger to his life and limb that caused him to react immediately, otherwise he would have been the victim. There was also a reasonable necessity to defend himself because when he stabbed the late Sgt. Cara, he only acted according to what an ordinary prudent and reasonable man would do. It was the deceased who provoked accused-appellant to defend himself when the former uttered invectives implicating him in the illegal logging activities in Salvacion, Bayombong, Nueva Vizcaya.

The claim has no merit. As correctly pointed out by the Solicitor General in the People's Brief:

"Two witnesses to the incident, namely, Manolito de Guzman and Reynaldo Barut whose testimonies have not been validly assailed on the ground of improper motive, controverted appellant's version of the incident as they both testified that the stabbing of Sgt. Cara by appellant was not preceded by any argument or even conversation between them (TSN, 4/23/97, p. 8; 7/23/97, p. 9). According to the witnesses, they and Sgt. Cara were closely following each other on the way to Manolito's house when appellant suddenly appeared from behind and stabbed Sgt. Cara at the back as he said, "I hate all policemen" in Ilocano ("Kagura kayo amin nga polis") (TSN, 4/15/97, p. 4; 7/30/97, p. 6). The force of the attack caused Sgt. Cara to fall on the ground but appellant continued to stab him at the back (TSN, 7/23/97, p. 8), inflicting upon him no less than fourteen (14) stab wounds. Nine (9) of these were fatal, of which seven (7) were inflicted at the back."^[11]

Even if we give credence to accused-appellant's version of the events, specifically that the deceased Sgt. Cara hurled invectives at him and moved as if to draw something from his waist, we are unable to establish a finding of unlawful aggression on the victim's part. Unlawful aggression presupposes an actual, sudden, unexpected attack or imminent danger thereof, not merely a threatening or intimidating attitude and the accused must present proof of positively strong act of real aggression.^[12] Here, aside from the accused-appellant's uncorroborated and self-serving claims, the unlawful aggression on the part of the victim was not proven. For one, the *locus criminis* was a public street where people came and went about freely. Thus, it would seem unusual that the victim, who was then the deputy chief of police in their place, would openly accuse the appellant without resorting to normal police procedure in apprehending purported violators of the law. More importantly, other than accused-appellant's self-serving allegation, the latter failed to prove that the victim was armed with his service firearm. The prosecution witness Manolito de Guzman positively testified that though the deceased Sgt. Cara was in police uniform the latter did not have a firearm or a holster for the same^[13] and, indeed, none was retrieved from the scene of the crime. Finally, as pointed out in the People's Brief, the nature and the location of the wounds sustained by the

deceased, numbering 14 stab wounds, nine (9) of which were fatal and of the nine (9) fatal wounds, seven (7) were found at the back, constitute physical evidence that strongly militates against accused-appellant's pretensions of the incident.^[14] The presence of the large number of wounds inflicted on the victim clearly indicates a determined effort on the part of the accused-appellant to kill his prey^[15] and belies the reasonableness of the means adopted to prevent or repel an unlawful act of an aggressor which is an element of self-defense.

Accused-appellant could not even explain why he had to inflict 14 stab wounds on the body of the deceased. His vain effort to exculpate himself from the consequences of his act can be gleaned from his own evasive testimony on the witness stand, *viz*:

"CONTINUATION OF THE CROSS-EXAMINATION BY ATTY. ORDOÑEZ:

Q. Were you drunk after the 5 bottles were consumed together with the others mentioned by you?

A. Just moderate, sir.

Q. Are you saying that after consuming 5 bottles of gin you were still in your right senses?

A. I could still think normally.

Q. Considering that you have drunk moderately and that you were still feeling normal as you have stated, you knew what you were doing, is it not?

A. Yes, sir.

Q. How many times did you stab the late Mr. Cara?

ATTY. CORNEJO:

The best evidence is the medical certificate.

COURT:

He is on cross-examination, let him answer.

A. I do not know how many times, sir because I was mixed with nervousness.

Q. You do not know that you stabbed Mr. Rolando Cara once?

A. I do not know, sir.

Q. You also did not know if you have stabbed him several times?

A. Yes, sir.

Q. You do not know that you stabbed him at his back?

A. How could I stab him at the back when we were facing with each other as we were confronting?