

FIRST DIVISION

[G.R. No. 107801, March 26, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROSARIA V. IGNACIO, ACCUSED-APPELLANT.**

D E C I S I O N

VITUG, J.:

Rosaria V. Ignacio was accused of parricide before the Regional Trial Court of Rizal, Branch 76 (Criminal Case No. 1700),^[1] for fatally hitting her husband, Juan Ignacio, with a wooden club (palo-palo). The deceased was Rosaria's fourth husband. Juan died after having lived with Rosaria for two (2) years and seven (7) months.

On 19 February 1992, the following information was filed against accused Rosaria Ignacio:

"That on or about the 10th day of February 1992 in the Municipality of Rodriguez, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill and while armed with the wooden club (palo-palo) did then and there willfully, unlawfully and feloniously attack, assault and hit her lawfully wedded husband Juan Ignacio, whereby inflicting upon the latter serious injuries which directly caused his death.

"Contrary to law."^[2]

Rosaria pleaded not guilty to the charge.^[3]

The prosecution gave the following narration of its version of the incident.

Rosaria Ignacio, then 44 years of age, lived with her husband, Juan Ignacio, 67 years old, in a small two-storey house of sawali and cogon grass in Sampaguita Street, San Jose, Montalban (Rodriguez), Rizal. Residing with them was Rosaria's daughter, Milagros V. Cabanilla, by a previous marriage.

On the night of 09 February 1992, Rosaria and Juan had a heated argument. Milagros, entreated them to stop but the couple were in no mood to heed her. The following night (10 February 1992), at dinner, Juan and Rosaria had another quarrel. Milagros grudgingly went upstairs and tried instead to put her child to sleep. She could hear, after a brief moment, that the fight had become somewhat violent (nagrarambulan). Milagros peeped. She saw by the gas lamp (batutoy), that both were pulling a piece of lawanit and each tried to take possession of it. Juan ultimately released the lawanit and turned to go for his bolo when Rosaria picked up a palo-palo and hit Juan on the nape.^[4]

Rosaria left the straggling (kikisay-kisay) Juan and surrendered to the police at the municipal building. Rolando Ignacio, Juan's son by his former wife, was fishing in the San Jose river when he learned of the unfortunate incident. At the municipal hall in Montalban, Rizal, Rosaria voluntarily disclosed before Rolando and Pat. San Diego that she hit Juan with a wooden club.^[5] She repeated this statement at the Office of the Prosecutor in Marikina in the presence of Rolando.

Juan died the following day.^[6] His body underwent postmortem examination at the Francisco Memorial Homes in Montalban, Rizal, by Dr. Emmanuel Aranas of the PNP Crime Laboratory Service.^[7] Dr. Aranas found a contusion on the left occipital region, a lacerated wound on the right occipital area and an abrasion on the right elbow. The cause of death, per the autopsy report, was attributed to hemorrhage resulting from the traumatic injuries on the head.^[8] Dr. Aranas opined that the contusion and laceration on Juan's head, which fractured the bones of the skull,^[9] had badly affected the cranial cavity of the brain.

Testifying in her defense, Rosaria did not deny having inflicted the fatal wounds on her husband. According to her, between seven and eight o'clock in the evening of 10 February 1992, while she was resting on the wooden bed near the kitchen, after having returned home from her laundry work, her husband arrived. He was drunk. Armed with a bolo, he went around the wooden bed and then faced her. Exasperated, she finally stood up, pulled his hair, got hold of a palo-palo and hit him once on the head. The assault sent Juan hovering down the floor seriously wounded. Rosaria went to the municipal hall and surrendered to police officer San Diego.

No other witness was presented by the defense.

On 08 September 1992, the trial court rendered judgment convicting the accused and concluded:

"WHEREFORE, premises considered, judgment is hereby rendered finding herein accused Rosaria V. Ignacio guilty beyond reasonable doubt of the crime of Parricide as defined and penalized under Art. 246 of the Revised Penal Code, and sentencing her to suffer the penalty of reclusion perpetua, and to indemnify the heirs of Juan Ignacio in the amount of P30,000.00."^[10]

Rosaria has interposed this appeal praying that she be acquitted on the basis of self-defense or, in the alternative, that she be held guilty only of homicide rather than of parricide.

An accused who interposes self-defense admits the commission of the act complained of. The burden of proving self-defense would now be on the accused who must show by strong, clear and convincing evidence that the killing is justified and that, therefore, no criminal liability has attached.^[11] The first paragraph of Article 11 of the Revised Penal Code requires, in a plea of self-defense, (1) an unlawful aggression on the part of the victim, (2) a reasonable necessity of the means employed by the accused to prevent or repel it, and (3) the lack of sufficient provocation on the part of the person defending himself.^[12]

Unlawful aggression is a condition sine qua non for the justifying circumstance of self-defense. Without it, there can be no self-defense, whether complete or incomplete, that can validly be invoked.^[13] The importance of this requisite must remain underscored. In *De Luna vs. Court of Appeals*,^[14] the Court has explained:

"x x x. We did repeatedly say before that, whether complete or incomplete, self-defense, by its very nature and essence, always would require the attendance of unlawful aggression initiated by the victim which must clearly be shown. When unlawful aggression on the victim's part is alone established, incomplete self-defense is so appreciated merely as an ordinary mitigating circumstance under Article 13, paragraph 1, of the Code. When such unlawful aggression is coupled with still another element of self-defense, incomplete self-defense becomes a privileged mitigating circumstance, referred to in Article 69 of the Revised Penal Code, that entitles the accused to a reduction of the penalty imposed by law for the felony by one or two degrees depending on the conditions and circumstances therein obtaining."^[15]

The presence of the requisite of unlawful aggression is pivotal. In the case at bench, appellant has sought to prove unlawful aggression by her testimony; thus -

Q. Please tell the court what was that unusual incident?

"A. That night, as I was taking a rest, my husband arrived and he was drunk. When I was on top of our wooden bed, I saw him armed with a bolo going around me, I lost my patience (nagdilim ang aking paningin), I got hold of a palo-palo and hit him on his head, sir.

"Q. And what was your relative position as compared to the position of the victim when you hit him with a palo-palo?

"A. He was facing me and I was on top of the wooden bed and as I was on top of it, I hit him, sir.

"x x x

x x x

x x x.

"Q. You also testified that prior to that incident, before you hit your husband with a palo-palo, he was armed with a bolo, is that correct?

"A. Yes, sir.

"Q. Where did he get that bolo, if you know?

"A. At the post, near the wooden bed, sir.

"Q. Are you aware as to the whereabouts of that bolo now?

"A. I do not know, sir."^[16]

In *People vs. Pletado*^[17] the Court, quoting from *People vs. Bausing*,^[18] has reiterated the acceptable test in determining the presence of unlawful aggression; viz:

"x x x. (F)or unlawful aggression to be appreciated, there must be an actual, sudden, unexpected attack or imminent danger thereof, and not merely a threatening or intimidating attitude (*People vs. Pasco, Jr.*, supra; *People vs. Rey*, 172 SCRA 149 ^[1989]) and the accused must