

FIRST DIVISION

[G.R. No. 113257, July 17, 1997]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
JOHNNY LASCOTA Y CANDONG, DEFENDANT-APPELLANT.**

D E C I S I O N

KAPUNAN, J.:

On January 2, 1990, five young men went to a dance at the Purok Center in Sitio Mamonmon, Iraan, Aborlan, Palawan at the invitation of young ladies in that place. The dance was already in progress when the group arrived at around 9:00 in the evening. Before midnight, one of the young men was dead – a victim of senseless violence.

On June 13, 1990, as a result of the untimely death of the 18-year-old victim, Ramon Amarado, Jr., the following information for murder was filed against appellant Johnny Lascota:

That on or about the 2nd day of January, 1990, at Sitio Mamonmon, Barangay Iraan, Municipality of Aborlan, Province of Palawan, Philippines, and within the jurisdiction of this Honorable Court, the said accused with evident premeditation and treachery, armed with a bladed weapon and with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and stab with his bladed weapon one RAMON AMARADO, JR., hitting him in a vital part of his body and inflicting upon him a penetrating stab wound in his stomach that resulted to hemorrhage causing shock which was the direct and immediate cause of his death shortly thereafter.

CONTRARY TO LAW.^[1]

With Ramon Amarado, Jr. that fateful night were Danilo Domingo, Allan Fortin, Elmer Manuel and Aldrin Manuel. They came from Barangay Barake, Aborlan, Palawan some three or four kilometers away from Sitio Mamonmon.

The dance was held beside the Purok Center which was more of a waiting shed than a building. It was made of pawid and light materials. The area beside the Purok Center was enclosed with bamboo posts and around it were chairs for the ladies. In the center of the dance hall was a petromax to illumine the area.^[2] Another petromax was placed on the periphery of the dance floor near the gate and the fence.^[3]

After dancing to the song they requested, Ramon Amarado, Jr. and Allan Portin left the dance hall.^[4] On their way out, appellant approached Ramon and Suddenly stabbed him. Ramon fell face down to the ground.^[5] Allan, who was walking ahead

of Ramon, turned around to help him. Likewise, Danilo Domingo, who witnessed the whole incident, and the rest of the group hurried over to Allan and the wounded Ramon. They carried Ramon to the house of one Nestor Tañada where they borrowed a sledge and a carabao. The group boarded Ramon onto the sledge to bring him to the hospital. Ramon, however, died on the way there. Hence, instead of proceeding to the hospital, the group brought the lifeless body of Ramon to his house in the poblacion of Aborlan.^[6]

Ramon's body was autopsied by Dr. Rogelio C. Divinagracia, municipal health officer of Aborlan. The postmortem report prepared by Dr. Divinagracia shows that Ramon sustained a stab wound in the epigastric area which penetrated the liver. Ramon died of shock secondary to massive hemorrhage due to the injury to the liver which was caused by a "sharp pointed and sharp-edge(d) instrument."^[7]

Danilo and Allan executed sworn statements before the Aborlan police on January 4, 1990. Both pointed to appellant as the culprit in the killing of Ramon.^[8]

During the trial, Danilo Domingo recounted what he had witnessed that fateful night of 2 January 1990. At around 11:00 that evening, while he (Danilo) was dancing, he saw Ramon and Allan going out of the dance hall. Allan was walking ahead of Ramon. Danilo then saw appellant coming from outside the dance hall and walking towards Ramon. A towel was wrapped around appellant's head but Danilo nevertheless recognized him when his face exposed to the light. He also easily recognized the appellant through the blue striped shirt he (appellant) was wearing that night. When appellant met Ramon, the former suddenly stabbed the latter with a knife.^[9]

Danilo was able to identify appellant in this wise:

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ATTY. SOCRATES:

(to witness)

Q: You said, Mr. Witness, that the first time you saw the accused Johnny Lacosta was on January 2, 1990?

A: Yes, sir.

Q: Who told you that was known as Tangke?

A: I was informed by the residents whom I know and who knew him.

Q: By residents of that place, the place of Iraan?

A: Yes, sir.

Q: Can you give us the name of some of the residents of Iraan who told you that person is Tangke?

A: Eunice Base and Mirla Base.

Q: These ladies were the one sponsoring the dance?

ATTY. SOCRATES:

(to witness)

Q: And they introduced to you the accused?

A: No, sir.

COURT:

(to witness)

Q: When did they inform you about the name of Tangke, was it before the incident or after the incident?

A: Before the incident I was informed that his name is Tangke.

ATTY. SOCRATES:

(to witness)

Q: Was there any special reason to point out this accused to you?

A: No special reason. I just inquired from them these persons who are ahead of us and they said one of them is Tangke and beside my other companion know him, I was the one who asked them.

Q: Could it be possible that you only learned that his name is Tangke with your companions?

A: Yes, sir, my companions also knew him.

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For his part, Allan Fortin testified that he was the first to leave the dance hall. Ramon followed him afterwards. Suddenly, while they were walking, he heard a "thud" and when he looked back, he saw the bloodied Ramon lying face down on the ground. At the same time, Allan saw appellant running outside the fence surrounding the dance hall carrying a "stainless" knife about six (6) inches (one dangkal) long.^[11]

The prosecution also presented the victim's father, Ramon Amarado, Sr. who was the barangay captain of Barake, Aborlan. According to Ramon, Sr., appellant killed his son out of anger at him because whenever appellant went to Barake, he would cause trouble and it was Ramon, Sr. who would always restrain and discipline him. Ramon, Sr. further testified that they spent P6,000.00 for his son's wake and funeral.^[12]

Interposing denial, the defense presented only appellant as witness. Appellant did not deny being at the dance when the stabbing incident occurred but strongly contends that he was not the one who stabbed and killed Ramon Amarado, Jr. Appellant claimed that the incident was precipitated by a misunderstanding regarding requests for music pieces. As soon as he arrived at the dance hall, appellant requested the person in charge to play a certain number. After that piece, the request made by Ramon, Allan, and their companions was played. As the latter

group danced, appellant stood at one side of the hall. When they finished dancing, Ramon's group, consisting of around seven persons, approached appellant. Ramon wanted to know why appellant's request was granted when he had just arrived. Appellant replied that Ramon should ask the person in charge of the music. This angered Ramon who pulled out his bolo from his jacket. Allan did the same. Upon seeing the weapons, appellant moved back, but when he leaned on the fence, the latter gave way. When he found himself outside the fence, he ran away.^[13]

On 12 July 1993, the Regional Trial Court of Palawan and Puerto Princesa City, Branch 47,^[14] rendered the decision disposing of Criminal Case No. 8784 as follows:

WHEREFORE, premises considered, based on the evidence adduced, the Court hereby finds the herein accused, JOHNNY LACOSTA guilty beyond reasonable doubt of the crime of Murder as charged and proven in this case pursuant to Article 248 of the Revised Penal Code and sentences him to suffer the penalty of RECLUSION PERPETUA; to indemnify the heirs of the deceased actual, moral and exemplary damages in the sum of P50,000.00; and to pay the costs.

With this conviction of the heinous crime of Murder, the accused has become a maximum security prisoner. As such, he is hereby ordered immediately shipped to the National Penitentiary, Muntinlupa, Metro Manila, to serve his sentence there.

IT IS SO ORDERED.^[15]

Appellant is now before this Court alleging that the prosecution failed to prove beyond reasonable doubt that he committed the crime, and that the trial court erred (a) in finding him guilty of murder despite the absence of the qualifying circumstance of treachery and (b) in failing to appreciate the privileged mitigating circumstance of incomplete self-defense in his favor.^[16]

Appellant contends that, if at all he should be found guilty of killing Ramon Amarado, Jr., he should be liable only for the crime of homicide^[17] because there is nothing to support the finding that the assault upon said victim was sudden, unexpected, or done with impunity. He alleges that prosecution eyewitness Danilo Domingo could not have seen how he allegedly attacked the victim because Danilo's eyes were focused on Ramon.^[18] Neither could Allan be expected to witness the killing because the alleged attack was done behind his back.^[19]

Appellants's contentions lack merit.

There is treachery when the offender commits any of the crimes against persons, employing means, method or forms in the execution thereof which tend directly and especially to insure its execution, without risk to himself arising from the defense which the offended party might make.^[20] The essence of treachery is the sudden and unexpected attack without the slightest provocation on the part of the person being attacked.^[21]

In the case at bar, appellant's claim is belied by the straightforward testimony of the eyewitness Danilo Domingo, thus:

Q: At about 11:00 o'clock in the evening of January 2, 1990, do you remember if there was any unusual thing that occurred?

A: Yes, sir.

Q: What was that unusual incident?

A: Ramon Amorado, Jr. was stabbed.

Q: And who did you see stabbed Ramon Amarado, Jr.

A: Tangke.

Q: And what was Ramon Amorado, Jr. doing when he was stabbed by Johnny Lacosta alias Tangke?

A: He was going out from the dance hall.

Q: Who was his companion in going out when he was stabbed by Tangke?

A: Alen Porten (sic).

Q: Who else?

A: They were the only one (sic).

Q: What were you doing when you saw alias Tangke stabbed Ramon Amarado, Jr.?

A: I was still dancing.

Q: And how did Tangke stab Ramon Amarado, Jr.?

A: I just saw Tangke walked towards Ramon Amarado, Jr. and saw him Stabbed Ramon Amarado, Jr.

Q: And how were you able to see that?

A: While Ramon Amarado, Jr. was going out my eyes was (sic) focused at them.

Q: And where was Tangke came?(sic)

A: Tangke came from outside meeting them.

Q: You said that Alan Porten and Ramon Amarado, Jr. was (sic) going out the dance hall, who was ahead going out?

A: Alan Porten was ahead followed by Ramon Amarado, Jr.

Q: How far were you from Ramon Amarado, Jr. when he was stabbed by alias Tangke?

A: More or less 8 meters away, sir.

Q: And what light did you use in the dance hall?

A: Petromax, sir.

Q: Where was that Petromax placed?

A: At the middle of the dance hall.