

SECOND DIVISION

[G.R. No. 98197, January 24, 1996]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DANILO MAGSOMBOL, ACCUSED-APPELLANT.**

D E C I S I O N

PUNO, J.:

Accused **DANILO MAGSOMBOL** appeals the judgment of the trial court convicting him of Murder for the death of **GERALDO MAGSOMBOL**.

Initially, accused was charged with Murder and Grave Threats. The Information for Murder reads:

"That on or about the 25th day of December 1980, at about 9:00 o'clock in the evening, at barangay Calumpang East, Municipality of San Luis, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused armed with a double-bladed hunting knife, with intent to kill, without justifiable cause and with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and stab with the said hunting knife one Geraldo Magsombol, thereby inflicting upon the latter physical injuries directly causing the death of said Geraldo Magsombol.

"Contrary to law."^[1]

Upon the other hand, the Information for Grave Threat reads:

"That on or about the 25th day of December, 1980, at about 9:00 o'clock in the evening, at Brgy. Calumpang East, Municipality of San Luis, Province of Batangas, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, moved by personal resentment which he entertain(ed) against Jojo Magsombol, did then and there wilfully, unlawfully and feloniously threaten the said Jojo Magsombol with the infliction upon the latter of a wrong amounting to a crime, that is, by then and there threatening to stab and chasing said offended party with a double-bladed hunting knife.

"Contrary to law."

At the arraignment, accused pleaded not guilty to the charges. Joint trial of the cases ensued.

The prosecution presented three (3) eyewitnesses, namely: Jojo Magsombol, Leopoldo Magsombol and Reynaldo Maullion. Through their testimonies, the prosecution established that on the **afternoon of December 25, 1980**, at about

4:00 p.m., accused and **GERALDO MAGSOMBOL** figured in a fistfight. Prosecution witness **REYNALDO MAULLION** was then by the window of his house when he saw accused and Geraldo initially engaged in conversation. Accused's brother-in-law was engaged in recruiting residents in the barangay for overseas employment. Reynaldo overheard Geraldo ask accused: "Why is your brother-in-law making a fool of our people, x x x getting their money on the (pretext) of getting them employed in Saudi (Arabia), but in reality, he was only pocketing the(ir) money?" Immediately, there was an exchange of fistblows. Reynaldo went out of his house and pacified the two.^[2] Accused and Geraldo then went their separate ways.

That night, at about 9:00 p.m., while **JOJO MAGSOMBOL** was tending his store in Calumpang East, San Luis, Batangas, **GERALDO MAGSOMBOL, LEOPOLDO MAGSOMBOL and REYNALDO MAULLION**, all residents of the area, met in front of his store, each intending to buy cigarettes. Geraldo, Leopoldo and Reynaldo engaged in small talk for a short while. Afterwards, Geraldo left and proceeded towards the direction of his house.^[3]

About five (5) meters from the store, Geraldo met accused **DANILO MAGSOMBOL** who, without warning or provocation, immediately stabbed him on the stomach. Geraldo then half ran and half staggered for a distance of about 15 meters while accused fled in the opposite direction.^[4]

Jojo, Reynaldo and Leopoldo witnessed the stabbing in front of the store. Reynaldo and Leopoldo immediately rushed to Geraldo's succor. Jojo closed his store before following Reynaldo and Leopoldo. However, on the way, Jojo met accused who vented his wrath on him. Accused pursued Jojo and, with knife in hand, threatened: "*Isa ka pa. Papatayin ko kayong lahat.*" Jojo ran for about a hundred meters. While in pursuit, accused stumbled and failed to catch up with Jojo. Jojo then sought refuge in the house of one Pabling Casilao who accompanied him back to his house.^[5]

NOLASCO CILINDRO who was then talking to a neighbor, heard Geraldo's cry for help. He sought the place where the voice was coming from and saw Geraldo staggering and bloodied. As Geraldo was about to fall on the ground, Nolasco caught him. When Reynaldo and Leopoldo reached the place where the victim lay slumped on the ground, Nolasco was already cuddling Geraldo on his lap. Before expelling his last breath, Geraldo identified accused as his assailant and expressed surprise to Nolasco that accused stabbed him.^[6]

Reynaldo and Leopoldo informed the victim's parents about the stabbing incident. They accompanied the victim's parents to the scene of the crime. They then rushed the victim to the provincial hospital where he was pronounced dead on arrival.

DR. EUFROCINO VILLALOBOS, the municipal health officer of San Luis, Batangas, conducted a post-mortem examination on the body of the victim. His examination revealed the presence of two (2) injuries on the victim's abdomen: one was a superficial linear abrasion which could have been caused by a sharp-edged or pointed instrument; and, the more serious injury was the fatal stab wound on the umbilical region of the abdomen on the left side of the linear alba, seven (7) inches in depth. The direction of this wound was upward, affecting the liver, intestines, respiratory diaphragm, apex of the heart, small blood vessels and the nerves. These

internal injuries brought about massive hemorrhage which caused the victim's death.^[7]

After bringing the victim to the hospital, Reynaldo reported the incident to the police authorities. When the police arrived, Reynaldo accompanied them to accused's house but the latter was nowhere to be found.^[8]

Accused invoked **self-defense**. He testified that a couple of **days before December 25, 1980**, he had an altercation with the victim Geraldo. Geraldo's brother, Orlando, had applied for overseas employment with accused's brother-in-law Rodolfo Pagaduan. Geraldo complained to accused about the delay in the deployment of his brother for work abroad. Irritated, accused punched Geraldo. Geraldo left but not without a warning. He threatened accused, thus: "*May araw ka rin.*"^[9]

On December 25, 1980, at about 7:30 p.m., accused was fetched in his house by his friends **CECILIO ATIENZA, REXELL BANTA and CHARLES ASERON** to attend a reunion at Cecilio's house.^[10]

About a half hour after they arrived at Cecilio's house, accused and his three (3) friends went to the store of Jojo Magsombol to buy cigarettes. They then hang out in front of the store and talked. Accused was smoking while seated on a cemented bench in front of the store.^[11]

After a while, accused saw Geraldo approaching them. When Geraldo reached the store, he approached accused and threw a punch at accused, hitting him on the right eye. Accused fell on the ground. Totally taken by surprise, accused asked Geraldo why he hit him. Geraldo gave no response.^[12]

One of accused's friends, Cecilio, assisted accused in getting up. Cecilio seated accused on the cemented bench. Accused sensed someone was behind him. He looked to his left and saw Cecilio holding on to Geraldo and trying to prevent the latter from stabbing him. Geraldo had a bladed weapon with which to stab him.^[13]

Geraldo uttered something which scared Cecilio. When Cecilio's hold loosened, Geraldo lunged at accused with the bladed weapon. Accused evaded the thrust. Accused and Geraldo then wrestled with each other for possession of the knife. They fell on the ground, with Geraldo on top of accused. When the knife was about to touch the left side of his chest, accused pushed the knife back towards Geraldo and was able to stab him.^[14]

After frustrating the knife attack on Geraldo, accused left and returned to his house. Fifteen (15) minutes later, accused's brother-in-law, Antonio Malapitan, brought him to the latter's house in Barrio Manggahan where he spent the night. The next morning, accused's father arrived together with the police authorities. Accused surrendered. He submitted himself for medical examination.^[15] His examination revealed that he suffered two (2) slight injuries: one was ecchymosis or reddening, with slight swelling, of the right eyelid, and; the other was abrasion ("gasgas") on the small and middle fingers of the left hand and on the toe of the left foot. Dr. Villalobos testified that these two (2) injuries may have been caused by contact with

a hard object.^[16]

Accused denied that after stabbing Geraldo, he also pursued Jojo Magsombol and threatened to stab him. He averred that prosecution witnesses Reynaldo Maullion and Nolasco Cilindro were not around at the time of the incident. However, he confirmed that Jojo Magsombol witnessed the incident.^[17]

CRESENCIANO MALAPITAN corroborated accused's testimony. He testified that on December 25, 1980, at about 5:00 p.m., he went to the house of Francisco Magsombol in Calumpang, San Luis, Batangas. Francisco asked him to assist in the preparation of food for the celebration of the **baptism** of Francisco's daughter, Myleen.^[18]

Cresenciano stayed in Francisco's house until 7:00 p.m. that day. Thereafter, he and Francisco went to the house of Benjamin Magsombol where they ate and drank wine. At one time during their drinking spree, Cresenciano went outside Benjamin's house to relieve himself. About four (4) meters away, he heard accused's voice, inquiring: "Bakit mo ako sinuntok?" When he glanced towards the direction of the voice, he saw Geraldo in front of a store, attacking accused with a knife. Accused, however, was able to parry the stabbing blow. Accused and Geraldo then fell on the ground. After a while, he saw accused stand up and walk towards the direction of his house.^[19]

The prosecution presented two (2) rebuttal witnesses in the persons of **JUBY CELINDRO and CARMEN HERNANDEZ**.

JUBY CELINDRO, the local civil registrar of San Luis, Batangas, presented the Certificate of Live Birth^[20] of Mylene Magsombol where it appears that **Mylene was born** in Calumpang, San Luis, Batangas on **May 1, 1973**.^[21] On the other hand, **CARMEN HERNANDEZ** the secretary of the parish priest of San Luis, Batangas, presented in court the **Baptismal Certificate**^[22] of Mylene Magsombol which showed that, contrary to the testimony of defense witness Cresenciano Malapitan, **Mylene was baptized on December 28, 1975**.^[23] Thus, these last two (2) witnesses refuted the claim of defense witness CRESENCIANO MALAPITAN that he was in the house of Francisco Magsombol on **December 25, 1980 for the baptism of Francisco's daughter, Mylene**.

After trial, accused was acquitted of Grave Threats but was found guilty of Murder for the death of Geraldo Magsombol.^[24] The trial court appreciated the qualifying circumstances of treachery and evident premeditation against accused. The trial court found that the crime was committed with treachery by reason of the suddenness of accused-appellant's attack on the victim. It also found the attendance of the qualifying circumstance of evident premeditation. The trial court surmised that the stabbing was the result of a fistfight between accused-appellant and the victim earlier that afternoon. The dispositive portion of the Decision reads:

"WHEREFORE, the Court hereby finds accused guilty beyond reasonable doubt of having committed the Crime of Murder in Criminal Case No. 767-L and hereby impose on said accused the penalty of reclusion perpetua with all the accessory penalties provided by law; and to pay the

heirs of deceased Geraldo Magsombol the civil indemnity in the sum of P30,000.00.

"Accused is acquitted of Grave Threats in Criminal Case No. 768-L." [25]

Hence this appeal. Accused-appellant contends that:

I

THE TRIAL COURT ERRED IN TOTALLY DISREGARDING THE POSITIVE, CLEAR AND CONVINCING EVIDENCE OF APPELLANT.

II

THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE VAGUE, CONTRADICTIONARY AND FABRICATED TESTIMONIES OF THE PROSECUTION WITNESSES.

III

THE TRIAL COURT COMMITTED GROSS MISAPPREHENSION OF FACTS AND/OR ITS FACTUAL CONCLUSIONS DO NOT FIND SUPPORT IN THE EVIDENCE.

IV

THE TRIAL COURT ERRED IN FINDING THAT TREACHERY AND EVIDENT PREMEDITATION ATTENDED THE COMMISSION OF THE OFFENSE.

V

THE TRIAL COURT ERRED IN FINDING APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF MURDER DESPITE THE FACT THAT HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

The assigned errors, being interrelated, shall be discussed jointly.

For the justifying circumstance of self-defense to prosper, the following elements have to be established: (a) there was unlawful aggression on the part of the victim; (b) the reasonable necessity of the means employed by accused to repel the aggression, and; (c) lack of sufficient provocation on the part of accused. [26] In the case at bar, accused-appellant's claim of self-defense, if true, has all the above elements. However, the records would bear that accused-appellant's version of the incident was a complete fabrication.

Accused-appellant insists that the trial court erred in disregarding his claim of self-defense and in giving credence to the testimonies of the prosecution witnesses which were not supported by evidence. He cites that while Jojo Magsombol and Reynaldo Maullion testified that accused stabbed the victim only once, the post-mortem examination revealed that the victim suffered two (2) wounds: one was a superficial linear abrasion ("gasgas"), and the other was the fatal stab wound. Accused-appellant contends that these two (2) wounds conclusively support his