

[SYLLABUS]

[G.R. No. 109614-15, March 29, 1996]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ADRONICO GREGORIO AND RICARDO GREGORIO, DEFENDANTS-
APPELLANTS.**

D E C I S I O N

KAPUNAN, J.:

The instant appeal seeks the reversal of the joint decision of the Regional Trial Court of Bacolod City, Branch 43, rendered on April 20, 1992, in Criminal Cases Nos. 428 and 6307 finding both appellants guilty beyond reasonable doubt of the crime of murder.

The facts of the case as established by the evidence for the prosecution are faithfully summarized in the People's brief, to wit:

Around 8:00 o'clock in the evening of May 7, 1986, Carlos Catorse together with his fifteen year old son Romeo Catorse arrived at the house (the house is composed of two storeys) of appellant Adronico Gregorio at Sitio Bug-as, Barangay Sta. Cruz, Murcia, Negros Occidental, to attend the wake of the latter's grandson (TSN March 24, 1987, pp. 3-4).

When Carlos and his son arrived, there were already people attending the wake. Jovito Nicavera, Marcelo Lo and Adronico were conversing downstairs while upstairs, some were playing 'pusoy' (russian poker), among them were Jerry Nicavera, Renato Calabas, 'Tunggak,' (son of Adronico) and Ricardo Gregorio (brother and co-appellant of Adronico). Kibitzing and at times betting in the game were John Villarosa, Remolito Calabas, Carmelo Alubaga and Crispin Calalas (I.D., pp. 5; TSN, May 30, 1989, pp. 12-13).

Persons attending the wake were requested by appellant Adronico to deposit with him any weapon in their possession for safekeeping so as to avoid trouble. Complying therewith, Carlos Catorse handed over his 'samurai,' John Villarosa and Remolito Calalas, their respective knives, to Adronico (TSN, May 30, 1989, pp. 16-19; TSN, November 14, 1989, pp. 22-23).

Around 1:00 o'clock in the morning of May 8, 1986, while the game of 'pusoy' was still in progress, appellant Ricardo, in a very loud voice, reprimanded 'Tunggak' from (sic) peeping at the cards of other players. In response, 'Tunggak' stood up and also in a very loud voice ordered the game stopped (TSN, May 30, 1989, pp. 25-27; TSN, November 14, 1987, pp. 45-50).

Overhearing the incident, Adronico ordered Tunggak downstairs and right there and then Adronico scolded and boxed him (Tunggak) several times (TSN, May 30, 1989, pp. 27-30; TSN, November 14, 1989, pp. 51-55).

While Adronico was severely beating Tunggak, Carlos Catorse approached and begged Adronico from further hurting his son so as not to put him to shame before the crowd. Carlos was in this act of pacifying the matter between the father and son when suddenly appellant Ricardo stealthily stabbed Carlos from behind with a 'samurai' (the same samurai deposited by Carlos to Adronico) and thereafter hacked and stabbed him several times more in different parts of his body: Right after Carlos fell to the ground, Adronico, for his part, repeatedly hacked the victim with a bolo. (TSN, May 30, 1989, pp. 30-31; November 14, 1989, pp. 57-65).

Terrified, Romeo Catorse, son of Carlos Catorse, ran out of the house. Jovito Nicavera also tried to get out of the house but Adronico hacked him instead with a bolo hitting his left shoulder. Marcelo Lo tried to help his uncle Jovito but Ricardo, with the same 'samurai' used against Carlos hacked him on his forearm. Adronico immediately followed and using a bolo hacked Marcelo on the nape. Although wounded, Marcelo was able to run out of the house but Adronico ran after and overtook him. Adronico then hacked him again. When Ricardo followed the two, the visitors attending the wake scampered out of the house (TSN, May 30, 1989, pp. 44-56; TSN, November 14, 1989, pp. 66-77).

Later, Romeo Catorse together with his sister and younger brother returned to the house of Adronico where they found their father lying prostrate and dead. Nobody was around. Later on, the family of Jovito Nicavera arrived and brought the latter to a hospital in Bacolod (TSN, March 24, 1987, pp. 8-10).

Around 9:00 o'clock of the same morning of May 8, 1987, police authorities arrived at Adronico's place to investigate the killing incident. The bodies of Carlos Catorse and Marcelo Lo were found inside the house and at the yard of Adronico, respectively (TSN, November 14, 1989, pp. 76-78). The investigation revealed that appellants Adronico and Ricardo fled to Sitio Anangge, Barangay Buenavista, Murcia, Negros Occidental, about 4 kilometers away from the situs of the crime. The authorities pursued and succeeded in apprehending the appellants. Appellants were thereafter brought and investigated at Murcia Police Headquarters (TSN, April 5, 1991, pp. 9-10).

The post-mortem examination on the cadaver of the victims reveals that Carlos Catorse sustained twelve hack and four stab wounds while Marcelo Lo sustained six hack wounds. Both victims died of cardio respiratory arrest due to multiple wounds (Exhibits 'A', 'B', 'C' & 'D').^[1]

Accordingly, an information for the murder of Carlos Catorse was filed against Adronico Gregorio and Ricardo Gregorio before the Regional Trial Court of Negros Occidental, Branch LXII, Bago City. The indictment, docketed as Criminal Case No.

428, reads:

That on or about the 8th day of May 1986, in the Municipality of Murcia, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a 'samurai' and a bolo, conspiring, confederating and mutually helping each other, with evident premeditation and treachery, and with intent to kill, did then and there, willfully, unlawfully and feloniously attack, assault, stab and hack one, CARLOS CATORSE y APELYEDO, thereby inflicting multiple stab and hack wounds upon the body of the latter, which caused the death of said victim.

CONTRARY TO LAW.^[2]

Upon arraignment, both accused entered separate pleas of "not guilty."^[3]

Another information for the murder of Marcelo Lo was instituted against Adronico Gregorio, this time, before the Regional Trial Court of Negros Occidental, Branch 43, Bacolod City. Docketed as Criminal Case No. 6307, the accusatory portion of the information reads:

That on or about the 8th day of May, 1986, in the Municipality of Murcia, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bladed weapon, with intent to kill, with evident premeditation and treachery, did then and there, willfully, unlawfully and feloniously attack, assault and hack one MARCELO LO Y NICA VERA, thereby inflicting multiple injuries upon the body of the latter which caused the death of the said victim.

CONTRARY TO LAW.^[4]

On arraignment, Adronico Gregorio entered a plea of "not guilty" to the offense charged.^[5]

Later, the two cases were consolidated and tried jointly by the Regional Trial Court of Negros Occidental, Bacolod City, Branch 43.

On April 20, 1992 as aforesated, the trial court rendered a joint decision, the dispositive portion of which reads:

WHEREFORE, premises considered, the Court finds and so holds the two (2) accused Adronico Gregorio and Ricardo Gregorio 'GUILTY' beyond reasonable doubt as principals of having committed the crime of Murder in Crim. Case No. 428 and hereby sentences each to life imprisonment and to solidarily indemnify the heirs of Carlos Catorse the sum of THIRTY THOUSAND (P30,000.00) PESOS with no subsidiary imprisonment in case of insolvency.

In Crim. Case No. 6307 (2292) (sic) the Court finds the same Adronico

Gregorio 'GUILTY' beyond reasonable doubt of having committed Murder and hereby sentences him to another life imprisonment and to indemnify the heirs of Marcelo Lo the sum of THIRTY THOUSAND (P30,000.00) PESOS with no subsidiary imprisonment in case of insolvency.

Further, the two (2) accused shall be credited with the full term of their preventive confinement.

No cost.

SO ORDERED.^[6]

Hence, this appeal.

In their brief, appellants raised the following errors, to wit:

I

THE TRIAL COURT GRAVELY ERRED IN GIVING WEIGHT AND CREDENCE TO THE THEORY OF THE PROSECUTION AND IN DISREGARDING THAT OF THE DEFENSE.

II

THE TRIAL COURT GRAVELY ERRED IN REJECTING APPELLANTS' DEFENSE OF SELF-DEFENSE.

III

THE TRIAL COURT GRAVELY ERRED IN FINDING THAT THERE EXIST CONSPIRACY AND TREACHERY IN THE CASE AT BAR.

IV

THE TRIAL COURT GRAVELY ERRED IN FINDING BOTH THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF MURDER.^[7]

However, before the Office of the Solicitor General could file its Appellee's Brief, appellant Ricardo Gregorio died on December 12, 1993. Consequently, his criminal liability as well as his civil liability based solely thereon is extinguished.^[8] Evidently, this appeal will proceed only with respect to appellant Adronico Gregorio.

After a careful perusal and evaluation of the case, this court is not inclined to disturb the findings and conclusion of the court below, there being no cogent reason therefor. For, aside from the well-settled rule that the factual findings of the trial

judge who had the opportunity to observe the demeanor of the witnesses and assess their credibility is entitled to the highest degree of respect,^[9] there appears to be no strong reason to depart from the said doctrine since the decision is fully supported by the evidence on record.

Appellant Adronico Gregorio interposed self-defense to exculpate himself from criminal liability. However, the trial court, skeptic of the said plea, rejected the same, reasoning that appellant failed to establish self-defense by clear and convincing evidence. We agree. In numerous cases decided by this Court, the guiding jurisprudential principle has always been that when an accused invokes the justifying circumstance of self-defense, the burden of proof is shifted to him to prove the elements of that claim; otherwise, having admitted the killing, conviction is inescapable.^[10] Concomitantly, he must rely on the strength of his own evidence and not on the weakness of the prosecution.^[11] Having admitted the killing, appellant has to justify his taking of a life by the exacting standards of the law.

It is axiomatic that for self-defense to prosper, the following requisites must concur: (1) there must be unlawful aggression by the victim; (2) that the means employed to prevent or repel such aggression were reasonable; and (3) that there was lack of sufficient provocation on the part of the person defending himself.^[12]

In the case at bench, appellant's claim of self-defense must fail. For one, the physical evidence tells us a different story. Dr. Emmanuel Boado, the medico-legal officer who conducted the autopsy on the cadavers of Carlos Catorse and Marcelo Lo, submitted the following post-mortem reports and attested to the veracity and authenticity of the same, thus:

Cadaver of Carlos Catorse:

EXTERNAL FINDINGS:

1. Hack wound 5 inches long, left temporal going backward with chip fractured (sic) of the skull.
2. Hack wound 8 inches long, from the base of the left Nose, going backward below the left ear.
3. Hack wound 7 inches long, neck left side going backward with complete chip fractured (sic) of the fourth vertebrae cutting blood vessels.
4. Stab wound 2 inches wide, 4 inches deep anterior abdomen, below the 10th rib, left side.
5. Stab wound 1 1/2 inches wide, 4 inches deep at the side of the navel left.
6. Hack wound, base of the palm, 3 inches long posterior side, cutting bones.
7. Hack wound, cutting left small finger.
8. Hack wound, 3 inches long upper 3rd right forearm running anteroposteriorly, chip fracture of bones.
9. Hack wound left shoulder back 4 inches long going downward with chip fracture of the shoulder joint.