

SPECIAL SEVENTH DIVISION

[CA-G.R. CR No. 34853, June 19, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. NELSON
DELA CRUZ ALIAS "RICKY", ACCUSED-APPELLANT.**

D E C I S I O N

REYES-CARPIO, A., J.:

This is an Appeal,^[1] filed under Rule 122 of the 2000 Revised Rules of Criminal Procedure, seeking the reversal of the Decision,^[2] dated February 10, 2012, rendered by the Regional Trial Court of Iba, Zambales, Branch 71 in Criminal Case No. RTC-4701-1, entitled "People of the Philippines vs. Nelson Dela Cruz alias 'Ricky'."

THE CASE

In an Information,^[3] dated June 14, 2006, accused-appellant Nelson dela Cruz, alias "Ricky," was charged with murder as follows:

"That on or about the 10th day of June 2006, at about 7:30 o'clock in the evening, in Brgy. Burgos, Municipality of San Antonio, Province of Zambales, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with intent to kill, and accompanied by the qualifying circumstance of treachery, did then and there, willfully, unlawfully and feloniously, attack, assault and hack with a bolo one Efren Manglicmot, thereby inflicting upon the latter fatal hacking wounds, which directly caused the death of said Efren Manglicmot, to the damage and prejudice of the family and heirs of said deceased Efren Manglicmot.

CONTRARY TO LAW."

Upon arraignment, accused-appellant entered a plea of "not guilty."^[4] Trial ensued.

PROSECUTION'S VERSION

At around 7:30 in the evening of June 10, 2006, Lovely Rose Nerona and her fifteen-year-old sister, Jovelyn, were playing in the rain, when accused-appellant arrived in front of the store by their house in Brgy. Burgos, San Antonio, Zambales. The victim Efren Manglicmot subsequently arrived and proceeded to the house of their Uncle Jomar which was about eighty (80) meters away. The said property was separated by a fence where the accused-appellant, armed with a bolo,^[5] positioned himself. The rain had stopped thus, the sisters rinsed off at a nearby water pump.^[6] While they were doing so, they noticed that accused-appellant was peeping through the fence but ignored him and thereafter, they went inside to change their clothes.

As they were dressing up, Lovely Rose heard someone shouting "*amang ko po*" from her Uncle Jomar's house and recognized the victim's voice. She turned to Jovelyn and said "*kinawawa si* Uncle Efren."^[7] This caused Jovelyn to rush to their Uncle Jomar's house and about seven (7) meters therefrom,^[8] she saw accused-appellant leaving with the bolo in his right hand, running with a bicycle.^[9] She then saw the victim lying near the fence thus, she and Lovely Rose called their Uncle Allan Flores who lived approximately five (5) meters away.^[10] Allan brought the victim to the the hospital who was treated by Dr. Rebecca Lonzanida but later on pronounced as dead. Dr. Lonzanida also conducted the post-mortem examination on the cadaver of the victim, revealing the following results:

"POST-MORTEM EXAMINATION:

EXTERNAL FINDINGS:

- Hacked wound, 8 inches length, 1.5 inches depth, Mandibular, left extending lateral neck, injuring the blood vessels carotid, Jugular
- Hacked wound, 6 inches length, 1.5 inches depth, Nasal, left extending mid Auricular, left
- Hacked wound, 4 inches length, 1 inch depth, Temporal, left
- Hacked wound, 6 inches length, 1.5 inches depth, Parietal, left
- Fracture, Parietal bone, left
- Hacked wound, 4 inches length, 1.5 inches depth, Occiput
- Fracture, Occipital bone
- Laceration of the Brain tissues and blood vessels
- Incised wound, 2 inches, upper quadrant abdomen, right

CAUSE OF DEATH:

- Hemorrhage due to multiple injuries, head and neck
- Laceration Brain tissue"^[11]

On the same night, SPO1 Rowell Esposito was on duty who received a report about a hacking incident in Brgy. Burgos, San Antonio, Zambales, prompting him and his colleagues to proceed to the site to verify the report.^[12] There was then no one in the area but they soon found out that the victim was taken to Dr. Lonzanida. They were also told by Jovelyn and Lovely Rose that accused-appellant Nelson dela Cruz had hacked the victim.^[13] The witnesses were taken to the police station and their statements were taken by SPO1 Esposito and the incident was recorded in the police blotter.^[14] A few days later, on June 13, 2006, chief investigator SPO2 Roberto Llorico told him that accused-appellant voluntarily surrendered himself.

In support of its accusations, the prosecution presented the testimonies of Lovely Rose and Jovelyn Nerona, SPO1 Esposito and Dr. Edcel Lonzanida, son of the deceased Dr. Rebecca Lonzanida who treated the injuries of the victim. Documentary evidence was also presented consisting of the following: (1) Sinumpaang Salaysay of Germana Torres,^[15] sister of the victim; (2) Sinumpaang Salaysay of Lovely Joy Nerona;^[16] (3) Sinumpaang Salaysay of Jovelyn Nerona;^[17]

(3) Death Certificate^[18] of the victim; (4) copy of the police blotter where the incident was recorded;^[19] (5) photographs^[20] of the injuries sustained by the victim; and (6) receipts of funeral expenses.^[21]

VERSION OF THE DEFENSE

Accused-appellant, meanwhile, invoked self-defense.

Accused-appellant testified that he and the victim knew each other and had no grudges against each other. On the evening of June 10, 2006, accused-appellant claimed he was working in the garbage area at Brgy. Burgos, San Antonio Zambales at around 8:00 o'clock and thereafter, he went home. While walking towards his house, he noticed a man wearing a hooded raincoat walking in the direction of the residence of Jomar Gonzales but remained outside the house. As accused-appellant approached the man, the latter started to walk towards him and it seemed to accused-appellant that they were going to collide, thus, accused-appellant evaded the man but in his effort to do so, he fell on the grassy shoulder of the road.

While accused-appellant was down, the man in the hooded raincoat tried to stab accused-appellant who was able to jump away. The hood of the raincoat fell from his attacker's head and it was at this point that accused-appellant recognized the victim Efren Manglicmot.^[22] However, accused-appellant stepped on a piece of bamboo causing him to fall again. Efren tried to stab him a second time but accused-appellant parried the thrust with his leg, injuring the same. Efren continued to attack accused-appellant, forcing the latter to pull out his own bolo and raising his hand to parry the thrust. When Efren saw the weapon, he moved backward and accused-appellant stood up.

As soon as accused-appellant was back on his feet, the victim approached him again. Accused-appellant raised his bolo and thrust the same forward and backward. Out of anger, accused-appellant hacked at Efren several times and only stopped when he saw Efren fall to the ground covered in blood. Accused-appellant then ran away from the scene but claims that Efren was still alive when he left him. According to accused-appellant, he got scared thus, he did not take the victim to the hospital.

The following day, accused-appellant sought medical treatment for his leg at the San Marcelino District Hospital, as reflected in a Medico-Legal Certificate,^[23] dated June 14, 2006, the findings of which read:

"THIS IS TO CERTIFY that according to the records of this Hospital, it appears that one Nelson dela Cruz, 45 year (sic) of age, Male, Married, _____, Filipino, with given address at Maligaya, Burgos, San Antonio, Zambales, has/had been examined, treated/operated and confined in this hospital as fallows (sic):

Date : _____ x _____ Time: _____
Admitted

Date : June 11, Time: 08:05
Examined 2006

Date : _____ x _____ Time: _____
Discharged

DIAGNOSIS/FINDINGS:

Stabbed (sic) wound 8cm (R) foot.

xx xx"[24]

Upon hearing that a manhunt operation was being conducted against him, he surrendered to the mayor of Zambales who advised him to go to the police station and turn himself in to the chief of police.

To corroborate accused-appellant's claims, the defense presented the following evidence: (1) Certification^[25] from the San Antonio Police Station to prove accused-appellant's voluntary surrender; (2) Sinumpaang Kontra-Salaysay^[26] executed by accused-appellant; and (3) the Medical Certificate, dated June 14, 2006.

FINDINGS OF THE TRIAL COURT

After weighing the evidence presented before it, the trial court rendered the appealed Decision,^[27] dated February 10, 2012, convicting accused-appellant of homicide in this wise:

"**WHEREFORE**, judgment is hereby rendered finding accused NELSON DELA CRUZ alias 'Ricky' guilty beyond reasonable doubt of the crime of homicide and he is sentenced to suffer the penalty of 10 years and 1 day of prision mayor as minimum, to 17 years and 4 months of reclusion temporal as maximum, with accessory penalties provided by law; and to pay the heirs of the victim, the amount of P50,000.00 as civil indemnity, another P50,000.00 as moral damages, and P62,933.00 as actual damages.

SO ORDERED."^[28]

Hence, this appeal.

ASSIGNMENT OF ERRORS

Accused-appellant ascribes the following errors on the part of the trial court:

I.

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED;

II.

THE TRIAL COURT GRAVELY ERRED IN NOT APPRECIATING THE JUSTIFYING CIRCUMSTANCE OF SELF-DEFENSE.^[29]

RULING

Accused-appellant maintains that he attacked the victim in self-defense, considering the peril posed by the latter who tried to stab him with a bolo.

The justifying circumstance of self-defense was discussed in *People of the Philippines vs. Placer*,^[30] to wit: