

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MIKE ROLDAN ROQUITEZ Y MORALES, ACCUSED-APPELLANT.

Ponente: LAMPAS PERALTA, J.

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LAMPAS PERALTA, J.:

Subject of this appeal[1] is the Decision dated July 16, 2012[2] in Criminal Case No. Q-10-165676 of Branch 96, Regional Trial Court, Quezon City convicting accused-appellant Mike Roldan Roquitez y Morales of the crime of homicide for the killing of the victim, Simon Salud.

THE FACTS

On August 4, 2010, around 6:00 to 7:00 in the morning, the victim and Jose More (students of Commonwealth High School, Quezon City) went outside their classroom to borrow a marker. As they passed by a classroom where accused-appellant and his classmates were waiting for their teacher, accused-appellant and the victim happened to stare at each other. Accused-appellant went out of the classroom and tried to stab the victim three times using an ice pick, but the latter was able to parry the same. However, accused-appellant chased the victim who slipped and fell down near the restroom. Accused-appellant then stabbed him on his chest which caused his death.[3]

The defense, however, claims that accused-appellant only acted in self-defense because it was the victim who first tried to stab accused-appellant.[4]

Details of the respective factual versions of the parties were summarized by the trial court in its Decision dated July 16, 2012 as follows:

In his open court testimony, witness Jose More stated that on August 4, 2010 at around 6:00 to 7:00 o' clock in the morning, he and the victim Simon Salud, went outside their room to borrow somewhere a pentel pen. While walking on the hall way, they passed the room of the accused where the accused and his classmates were waiting for their teacher for the next subject. Then, the accused and the victim starred (sic) at each other and thereafter, the accused went out of his classroom and suddenly stabbed the victim three (3) times with an ice pick (screw driver). The victim was able to parry all three (3) attacks and ran away from the accused. However, the accused chased him down the hall way and was able to catch the victim near the comfort room where the victim was slipped and fell down (sic). It was then the accused stabbed him which is the cause of the death of the victim.

XXX XXX XXX

On the other hand, accused Mike Roldan Roquitez, in his oral testimony stated that it was the victim who provoked him and he only acted in self-defense. He further stated that when the victim and companion Jose More passed by their room, the victim immediately attacked him and tried to stab him. Because of this, he was forced to defend himself and stabbed the deceased at his back while he was running away from the classroom.[5]

A criminal information[6] was filed with the trial court against accused-appellant, charging him with homicide as follows:

The on or about the 4[th] day of August 2010, in Quezon City, Philippines, the said accused, with intent to kill, did, then and there, willfully and feloniously attack, assault and employ personal violence upon the person of SIMON SALUD Y ARAO ARAO, by then and there, stabbing the latter at his chest, with the use of screw driver, thereby inflicting upon him serious and mortal wounds, which were the direct and immediate cause of his untimely death, to the damage and prejudice of heirs of the said victim, SIMON SALUD Y ARAO ARAO.

CONTRARY TO LAW.

Upon arraignment, accused-appellant pleaded “not guilty” to the charge.[7] Trial ensued, wherein the prosecution presented Jose More[8] and the victim's father, Wilfredo Salud,[9] as witnesses. The defense presented accused-appellant[10] and Sally Barcelona[11] as witnesses.

In a Decision dated July 16, 2012, the trial court convicted accused-appellant of homicide and sentenced him as follows:

WHEREFORE, in view of the foregoing, accused MIKE ROLDAN M. ROQUITEZ is hereby found GUILTY beyond reasonable doubt of the crime of Homicide and he is hereby sentenced to suffer the penalty of imprisonment of 14 years 8 months and 1 day and 17 years and 4 months of reclusion temporal in its medium period. Further, he is directed to pay the heirs of the victim the amount of Php50,000.00 as moral damages, Php25,000.00 as civil damages inter delicto and actual damages of Php33,200.00.

SO ORDERED.[12]

Thereupon, accused-appellant filed the present appeal which is premised on the following assignment of errors:

I

THE TRIAL COURT GRAVELY ERRED IN HOLDING THAT THE ACCUSED-APPELLANT MISERABLY FAILED TO PROVE HIS CLAIM OF SELF-DEFENSE.

II

THE TRIAL COURT GRAVELY ERRED IN IMPOSING THE PENALTY OF IMPRISONMENT OF FOURTEEN (14) YEARS (8) EIGHT MONTHS AND ONE (1) DAY AND SEVENTEEN (17) YEARS AND FOUR (4) MONTHS OF RECLUSION TEMPORAL IN ITS MEDIUM PERIOD.[13]

THE ISSUE

Whether the trial court erred in finding accused-appellant guilty beyond reasonable doubt of homicide.

THE COURT'S RULING

The present appeal is premised on the argument that the trial court erred in not finding that accused-appellant acted in self-defense. Allegedly, accused-appellant stabbed the victim out of self preservation, as the victim forced his way inside the classroom where accused-appellant was and then attempted to stab accused-appellant. Accused-appellant also points out that the victim was reputed to be a violent person.[14]

The appeal is unfounded.

Jurisprudence is settled that an accused who asserts self-defense admits his infliction of the fatal blows and bears the burden of satisfactorily establishing all the elements of self-defense,[15] namely: (i) unlawful aggression on

the part of the victim; (ii) reasonable necessity of the means employed to prevent or repel the aggression; and, (iii) lack of sufficient provocation on the part of the person defending himself. Of these elements, the accused must, initially, prove unlawful aggression, because without it, there can be no self-defense, either complete or incomplete.[16]

Unlawful aggression is an actual physical assault, or at least a threat to inflict real imminent injury, upon a person. In case of threat, it must be offensive and strong, positively showing the wrongful intent to cause injury. It "presupposes actual, sudden, unexpected or imminent danger — not merely threatening and intimidating action." It is present "only when the one attacked faces real and immediate threat to one's life." [17] In self-defense, unlawful aggression is a primordial element, a condition sine qua non. If no unlawful aggression attributable to the victim is established, self-defense is not a defense, because there would then be nothing to repel on the part of the accused. There can be no self-defense, whether complete or incomplete, if no unlawful aggression from the victim is established.[18]

In support of his self-defense version, accused-appellant's testimony on direct examination goes:

Q

Now after you noticed that this Simon went to your classroom, what did you do?

A

“Wala po, tiningnan ko lang po siya, tapos tiningnan niya din ako.” Nothing sir, I just looked at him and then he also looked back at me.

Q

Was he alone at that time?

A

No, sir.

Q

And who is his companion?

A

Jose More, sir.

Q

Now, upon they reaching your classroom, what happened next?

A

“Pinasok niya po ako sa loob ng classroom namin.” He went inside our room.

Q

And what did he do when he went inside your classroom?

A

“Sinunggaban ako ng saksak.”

COURT:

A

He suddenly stabbed me, sir.

ATTY. SIA:

Q

Are there other students inside the room at that time?

WITNESS:

A

There were, sir.

Q

Approximately, how many were inside the room at that time?

A

About 30 plus, including me.

Q

Where is your teacher?

A

“Hinihintay pa po namin yung second subject namin.” We were still waiting for our second subject.

Q

What is the name of your teacher?

COURT:

Q

For the past subject or for the next subject?

ATTY. SIA:

A

For the next subject.

WITNESS:

A

I forgot the name, sir.

Q

How about the teacher in the previous subject?

A

Ma'am Estacio, sir.

Q

Where is Ma'am Estacio at that time, if you know?

A

In the stage, sir.

xxx xxx xxx

Q

When Simon Salud, the deceased together with a certain Jose More, stabbed you inside your classroom, what did you do?

WITNESS:

A

“Tumakbo po ako sa labas.” I ran outside the room.

Q

Towards what direction?

A

Going to the CR.

Q

Why did you run towards that direction?

A

“Kasi dun lang po yung ano, yung ligtas ako, kasi meron din po kasing nakaabang sa akin pupunta dun sa may ano.” Because that is the place where I can be safe because there was still a guy waiting for me there to protect me.

xxx xxx xxx

Q

Now, were you able to reach the comfort room?

A

No sir, I was not able to reach.

Q

Why?

A

Because Simon was able to hold me at my back, sir.

Q

Now, when Simon Salud, the deceased was able to grab your back, what did you do?

A

“Lumaban po ako.”

I fought back

Q

How did you do that?

A

“Yung screw driver na nasa bulsa ko, inano ko po sa kanya.” I hit him with the screw driver from my pocket, sir.

INTERPRETER:

Inano, he did not mention.

ACP MILLORA

Yes, I stabbed him with a screw driver.

xxx xxx xxx

Q

Now, Mr. Witness, according to the charged against you, you attack, assault and employ violence against Simon Salud y Arao Arao who is now dead, what can you say about this?

WITNESS:

A

That is not true sir. I have no intention to kill Simon.

Q

Why?

A

I was only defending myself, sir.

xxx xxx xxx

Q

Now, Mr. Witness, will you please describe the weapon of Mr. Salud when he entered your classroom together with Jose More?

WITNESS:

A

He has a stainless knife that looks like a ramboo knife.

xxx xxx xxx

COURT

Q

How long was the knife?
(Witness is demonstrating the length of the knife)

COURT

A

Around six (6) inches fiscal, including the handle.[19]

The foregoing testimony of accused-appellant was uncorroborated by an independent witness, despite his claim that there were about 30 students, including himself, inside the classroom when the victim suddenly tried to stab him. Moreover, accused-appellant claims that the victim attacked him with a 6-inch stainless knife, yet said knife was not accounted for. There is also no showing that accused-appellant sustained any wound; thus, accused-appellant remained scot-free despite the alleged attempt of the victim to stab him. As held:

As afore-mentioned, accused-appellant invokes self-defense, but he has utterly failed to substantiate the same. The paramount element of self-defense is unlawful aggression on the part of the victim, the absence of which negates self-defense (People vs. Ponayo, 235 SCRA 226 [1994]). As shown above, accused-appellant has grossly failed to establish that there was unlawful aggression on the part of the victim. No injury on accused-appellant was shown, or else any alleged wound must have been inflicted long before he hacked the victim, and must have been the very motive why he killed the victim. No witness has come forth to corroborate any supposed unlawful aggression on the part of the victim.[20]

On the other hand, the prosecution presented Jose More who testified that it was accused-appellant who stood up from inside the classroom when he saw the victim, took out an ice pick, approached the latter and attempted to stab him three times which the victim was able to parry. Accused-appellant then chased the victim who was unarmed. When accused-appellant was able to catch up with the victim when the latter slipped and fell down, he stabbed the victim on his chest. Thus:

Jose More on direct examination:

Q

What happened on August 4, 2010 around 6 to 7 in the morning?

A

Me and Simon went outside to borrow pentel pen, sir.

Q

What happened when you stepped out of the classroom to borrow pentel pen?

A

We passed by in front of the classroom of Mike Roldan Roquitez, sir.

Q

What happened when you passed by the room of Mike Roldan?

A

They stared against each other, Simon and Roquitez, sir.

Q

And after that, what happened?

A

I saw Mike stood up, sir.

Q

When Mike stood up, what did he do next, if any?

COURT

Q

What do you mean by “Mike stood up?”

A

Mike Roldan Roquitez suddenly stood up, Your Honor.

Q

From where?

A

Inside his classroom, Your Honor.

ACP MILLORA

Q

When Mike Roldan stood up, what did he do?

ATTY. SIA

Already answered, Your Honor, he stood up.

COURT

Sustained.

ACP MILLORA

Q

Where did he go, if you know?

A

Naglabas po sya ng ice pick.

ATTY. SIA

Not responsive, Your Honor.

COURT

Sustained, reform your question.

Q

After he stood up, what happened next?

A

He attacked Simon, Your Honor.

ACP MILLORA

Q

Where were you when he attacked Simon?

A

Beside Simon, one meter away from him, sir.

Q

You said that he attacked Simon and you were only a meter away, what, if any, was Mike Roldan carrying?

A

Ice pick, sir.

Q

What did he do with the ice pick?

ATTY. SIA

Your Honor, the answer is misleading and it is alleged in the Affidavit that the alleged weapon is a screw driver and not an ice pick, Your Honor.

ACP MILLORA

That is a matter of evidence, Your Honor.

COURT

Never mind, the affidavit is more inferior than the oral testimony of the witness.

ACP MILLORA

Q

What did he do with the ice pick?

A

He stabbed Simon three (3) times, sir.

Q

What part of the body of Simon?

A

On the left part of his shoulder, but fortunately Simon was able to ward it off, sir.

Q

And the two (2)?

A

Simon was able to ward off the three attempts of the accused and he managed to run away, sir.

Q

You said that Mike Roldan tried to stab Simon three (3) times but Simon was able to ward it off and Simon was able to run away, is that correct?

A

Yes, sir.

Q

What did Mike Roldan do, if any, when Simon Salud was able to run?

A

He ran after him, sir.

Q

Was he able to catch up with Simon?

ATTY. SIA

That is leading, Your Honor.

COURT

Overruled, witness may answer.

WITNESS

Yes, sir.

ACP MILLORA

Q

Where?

A

Near the comfort room in the hallway, sir.

Q

Where were you by that time?

A

Also in the same hallway, Your Honor.

Q

How far were you from the comfort room?

A

About two meters away, Your Honor.

ACP MILLORA

Q

When Mike Roldan was able to catch up with Simon, what happened next?

A

He stabbed him, sir.

Q

Where, what part of the body?

A

In his chest, here, sir.

(Witness pointing to his chest)

Q

Where else, if any?

A

That is all, after he stabbed the victim, he ran towards his classroom, sir.

Q

Mr. Witness, you were two (2) meters away from the incident, kindly describe before this court how Simon was stabbed by Mike Roldan?

A

In front, because Simon slipped down, sir.

Q

When he was stabbed, Simon was already on the ground?

A

No, sir, he was about to fall down.

Q

Can you identify this person who stabbed Simon Salud, if he is inside the courtroom?

A

Yes, sir.

Q

Is he in court?

A

Yes, sir.

Q

Can you kindly point at him?

A

Him, sir.[21](Underlining supplied)

Verily, accused-appellant's killing of the victim was unjustified. However, anent the penalty imposed by the trial court, the same must be modified in view of accused-appellant's voluntary surrender[22] which the trial court failed to consider.

For voluntary surrender to be appreciated, the following requisites must be present: (i) the offender has not been actually arrested; (ii) the offender surrendered himself to a person in authority or the latter's agent; and (iii) the surrender was voluntary. The essence of voluntary surrender is spontaneity and the intent of the accused to give himself up and submit himself to the authorities either because he acknowledges his guilt or he wishes to save the authorities the trouble and expense that may be incurred for his search and capture.[23]

Records bear that immediately after the incident, accused-appellant went to his teacher, Calixto Inovejas, and admitted the stabbing. Then, he was turned over to the authorities who arrived at the crime scene. Calixto Inovejas' Sinumpaang Salaysay[24] reads:

- Tanong: Ano naman ang dahilan kung bakit ka naparito sa aming himpilan? Sagot: Upang magbigay ng pahayag tungkol sa naganap na saksakan at pagkamatay ng biktima ng si Simon Salud sa loob ng aming paaralan.

- Tanong: Kailan at saan naman nangyari ang sinasabim (sic) mong insidente? Sagot: Mga banda ala 6:50 ng umaga ng Agosto 4, 2010, sa loob mismo ng kanilang paaralan sa Commonwealth High School, Brgy. Commonwealth, Quezon City.

- Tanong: Para sa mas ikakalinaw ng kasong ito Maaari (sic) mo bang ilahad ang buod ng pangyayaring ito? Sagot: Habang ako po ay naglalakad patungo sa canteen ng may mapansin ako na may commotion ng mga estudyante sa may bandang Mathay at Simon Building at ng ako mapatingin doon ay nakita ko na inundayan ng isang estudyante ang biktima na si Simon kaya sumigaw ako ng "TAMA NA!", kaya nagsipagkalasan na ang mga estudyante, pagkatapos ay nakasalubong ko ang biktima at sinabi sa akin na "SIR SINAKSAK AKO". At nakita ko rin na pumasok ang may estudyante na may hawak na isang matulis na bagay na pumasok sa room ng numero 38 ng Mathay building.

- Tanong: Pagkatapos ano pa ang nangyari? Sagot: Sinabihan ko ang ilang guro na naroon na dalhin muna ang biktima sa loob ng guidance at pinuntahan ko ang nasabing room kung saan ay nakita kong pumasok ang estudyante na sumaksak sa biktima at ng naroon at ng naroon na ako sa pintuan ng nasabing room ay kusang lumapit ang nakita kong estudyante na sumaksak at may hawak ng matulis na bagay at sinabi nya na "SIR AKO PO IYON" at dinala ko siya sa guidance at habang kami ay naglalakad ay inamin na sinaksak niya ang biktima. Pagkatapos habang nasa loob ng guidance office ay sinabi sa amin ang kanyang pangalan na si Mike Roldan Roquitez na 4rth (sic) year student.

- Tanong: Sinu sino naman ang nasa loob ng guidance office ng dinala mo roon ang nasabing estudyante na sumaksak sa biktima? Sagot: Ang guidance councilor po namin na si Mrs. Maria Villaresis.

- Tanong: Ano naman ang sumunod na nangyari? Sagot: Nalaman ko na lang po dumating ang mga pulis ng Station-6 ng Batasan Hills at itnur-over (sic) ang nasabing estudyante.

The crime of homicide punishable under Article 249 of the Revised Penal Code prescribes the penalty of reclusion temporal with a range of 12 years and 1 day to 20 years. Under Article 64[25] of the Revised Penal Code, the presence of the mitigating circumstance of voluntary surrender lowers the imposable penalty to

reclusion temporal in its minimum period, that is, 12 years and 1 day to 14 years and 8 months. Applying the Indeterminate Sentence Law, the maximum period shall be taken from the minimum of the imposable penalty, while the minimum shall be taken from the penalty next lower in degree which is prision mayor, the range of which is 6 years and 1 day to 12 years. Accused-appellant is hereby sentenced to suffer the indeterminate penalty of 7 years and 6 months of prision mayor minimum, as the minimum period, to 12 years and 6 months of reclusion temporal, as the maximum period.

Moreover, when death occurs due to a crime, the following damages may be awarded: (1) civil indemnity ex delicto for the death of the victim; (2) actual or compensatory damages; (3) moral damages; (4) exemplary damages; and, (5) temperate damages.[26] Thus, the trial court correctly awarded to the victim's heirs moral damages of Php50,000.00 and actual damages of Php33,200.00. Notably, the award of actual damages is supported by a receipt.[27] However, in keeping with prevailing jurisprudence, civil indemnity must be increased from Php25,000.00 to Php50,000.00.[28]

WHEREFORE, the appealed Decision dated July 16, 2012 is affirmed, subject to the modification that accused-appellant is sentenced to suffer the indeterminate penalty of 7 years and 6 months of prision mayor, as the minimum period, to 12 years and 6 months of reclusion temporal, as the maximum period, and the civil indemnity is increased to Php50,000.00. The Decision is affirmed in all other respects.

SO ORDERED.

Sorongon[*] and Manahan[**], JJ., concur.

[1] pp. 54-62, Rollo

[2] pp. 118-121, Records

[3] pp. 4-24, TSN dated February 22, 2011; pp. 3-14, TSN dated April 26, 2011

[4] pp. 3-31, TSN dated November 15, 2011

[5] pp. 118-119, Records

[6] p. 1, *ibid.*

[7] p. 70, *ibid.*

[8] pp. 4-24, TSN dated February 22, 2011; pp. 3-14, TSN dated April 26, 2011

[9] pp. 3-6, TSN dated June 13, 2011

[10] pp. 3-31, TSN dated November 15, 2011

[11] pp. 34-44, TSN dated November 15, 2011

[12] pp. 120-121, Records

[13] pp. 57-58, Rollo

[14] pp. 58-60, *ibid.*

[15] *People vs. Mediado*, 641 SCRA 366 [2011]

[16] *People vs. Lalongisip*, 621 SCRA 169 [2010]

[17] People vs. Vergara, 700 SCRA 412 [2013]

[18] People vs. Placer, G.R. No. 181753, October 9, 2013

[19] pp. 6-18, TSN dated November 15, 2011

[20] People vs. Cahindo, 266 SCRA 554 [1997]

[21] pp. 5-10, TSN dated February 22, 2011

[22] p. 61, Rollo

[23] Belbis, Jr. vs. People, 685 SCRA 518 [2012]

[24] pp. 10-11, Records

[25] ART. 64. Rules for the application of penalties which contain three periods. - xxx 2. When only a mitigating circumstance is present in the commission of the act, they shall impose the penalty in its minimum period.

[26] People vs. Zulieta, G.R. No. 192183, November 11, 2013

[27] p. 88, Records; People vs. Alawig, G.R. No. 187731, September 18, 2013

[28] People vs. Vilbar, 664 SCRA 749 [2012]

[*] Vice Associate Justice Myra V. Garcia-Fernandez per Office Order No. 240-14-ABR dated May 23, 2014

[**] Vice Associate Justice Francisco P. Acosta per Office Order No. 241-14-ABR dated May 23, 2014

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