

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. WILSON DANCALAN, ACCUSED-APPELLANT.

Ponente: BUESER, J.

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BUESER, J.:

Before the Court is an appeal from the decision rendered by the Regional Trial Court, Branch 60 of Iriga City finding the accused-appellant guilty of Murder in Criminal Case No. IR-8192 entitled “People of the Philippines vs. Wilson Dancalan y Doe et.al.”

Culled from the records[1] are the following pertinent, material antecedent facts:

Accused-appellant Wilson Dancalan, together with his brothers Eliseo Jr., Bilmore and Edgar was charged with the crime of Murder based on this information:

“That on February 27, 2008, at around 10 o'clock in the evening at Sta. Teresita, Baao, Camarines Sur and within the jurisdiction of the Honorable Court, the above-named accused, conspiring, confederating, and mutually helping together, with intent to kill, while armed with bolos, bladed instrument and shotgun, taking advantage and abuse of superior strength and with treachery by employing means, methods or forms in the execution thereof which tend directly and especially to insure the execution without risk to themselves arising from the defense which the victim may take, DID, then and there willfully, unlawfully attack, assault and hack one Brgy. Kgd. Efren Lompero, hitting the latter on the different parts of the body which was the immediate cause of his instantaneous death, to the great damage and prejudice of his heirs.

CONTRARY TO LAW.”

Accused-appellant plead not guilty to the crime charged, however, he claimed that he killed the deceased on self-defense. Despite this, the trial proceeded and the prosecution presented its evidence first.

During the trial, two different versions of the February 27, 2008 incident emerged. The prosecution's version is as follows:

At around 10 o'clock in the evening of 27 February 2008, Brgy. Tanod Bienvenido Silva (Silva, for brevity) was already sleeping when he was summoned to respond to a commotion taking place in the neighborhood, in front of the house of a certain Joel.

As the road was illuminated by a street light about fifteen (15) meters away, Silva saw his nephew, the accused-appellant Dancalan, throwing a bottle of gin while creating trouble. Silva tried to pacify the accused-appellant in the presence of Chief Tanod Bisenio and fellow Brgy. Tanod named Bobet. Silva tapped the accused-appellant's shoulder and said “Boy, ayaw ngani kan ta sala an” Accused-appellant pushed Silva's shoulder. Since accused-appellant was recalcitrant, Bisenio decided to request assistance from the deceased Kagawad Efren Lompero.[2]

As the accused-appellant was resisting, Silva struck him with his night stick. The accused-appellant fell on both arms and when Silva was about to bring him to the Tanod outpost, he fled. At the time the deceased arrived on the

scene, the accused-appellant had already left.

A little later, accused-appellant returned to the place of incidence together with his brothers,[3] the other accused Edgar, Eliseo Jr. and Bilmore. Armed with bolos and knives, the brothers approached Silva. Accused-appellant carried two arms, a bolo and a knife.[4] Edgar Dancalan held Silva by the nape.[5] Silva was able to escape and hid behind the head of a truck.

The brothers turned to Lompero, who was there at the time and assaulted him. Eliseo Jr., Bilmore and Edgar surrounded the deceased. Eliseo Jr. held Lompero's hands at his back, while the other two brothers helped in holding Lompero. While Lompero was restrained, accused-appellant stabbed the deceased with a knife on the upper left waist and also on the left torso of the body.[6] Likewise, accused-appellant hacked the neck of the deceased.

After hacking Kagawad Lompero, the brothers went home[7] and left the deceased lying on the ground. Bisenio immediately asked assistance from the police, while Silva remained at his hiding place watching. When the policemen arrived, P/Insp Toraldo tried to know if the victim was still alive and when it was found that he was already dead, his body was brought to Funeraria Del Carmen.

The police conducted a hot pursuit operation. After an hour, the accused-appellant voluntarily surrendered. Accused-appellant having admitted killing the deceased, the Chief of Police informed him of his constitutional rights and was brought to the police station.

In his defense, the accused-appellant admitted having killed the deceased. However, it was Silva he intended to hit and not Lompero. Accused-appellant testified that he and a certain Bobet Bisenio were drinking quatro kantos at a shop in Sta. Teresita, Baao, Camarines Sur when Silva and the deceased Lompero arrived. Silva hit the accused-appellant at the back several times,[8] saying that the latter was creating trouble. Accused-appellant fell down and Silva still kept on striking him.[9] Accused-appellant retaliated by hitting Silva, he was able to get hold of someone and hit that person. That person turned out to be the deceased Lompero.[10] The accused-appellant did not know that Lompero will die.

On 20 November 2012, the court a quo rendered its decision,[11] the dispositive portion of which reads:

WHEREFORE, finding the accused guilty beyond reasonable doubt of the crime of murder, pursuant to Article 248 of the Revised Penal Code and considering the ordinary mitigating circumstance of voluntary surrender, accused WILSON DANCALAN is hereby sentenced to suffer the penalty of imprisonment of Reclusion Perpetua and to pay the heir of Kagawad Efren Lompero the amounts of:

- P75,000.00 as civil indemnity;
P50,000.00 as moral damages;
P30,000.00 as exemplary damages;
P25,000.00 as temperate damages; and
interest at the legal rate of six percent (6%0 per annum on all the amounts of damages awarded, commencing from the date of finality of this Decision until full paid. Costs against the accused.

SO ORDERED.

Aggrieved, accused-appellant interposed this appeal assigning the lone error:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED ALTHOUGH HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

The accused-appellant contends that he killed Lompero at the time he was defending himself from Silva's attack.

While he was striking back at Silva, he accidentally hit Lompero which caused the latter's death. Thus, accused-appellant claimed that he must be acquitted as he was merely acting in self-defense and that his act of striking Lompero was an accident and without intention of doing the same.

We disagree.

Accident, which exempts from criminal liability is provided under Paragraph 4, Article 12 of the Revised Penal Code, vis:

- Any person who, while performing a lawful act with due care, causes an injury by mere accident without fault or intention of causing it.

The elements of this circumstance are as follows:

- A person is performing a lawful act;

With due care;

He causes an injury to another by mere accident; and

Without fault or intention of causing it.

It is fundamental that for a claim of exemption from criminal liability under paragraph 4 of Article 12 of the Revised Penal Code that there is lack of negligence and intent.[12] The accused commits a crime but he does not incur criminal liability due to the absence of conditions which constitute free will or voluntariness.[13] An accident on the other hand, is a “fortuitous circumstance, event or happening; an event happening wholly or partly through human agency, an event which under the circumstances is unusual or unexpected by the person to whom it happens”.[14] Accident as an affirmative defense must be proven by the accused-appellant with clear and convincing accident.

In the instant case, the deceased Lompero sustained 3 different injuries in his body e.g. two (2) stab wounds and a gaping hack wound in his neck which was about 14 to 15 centimeters long.[15] Taken in its totality, the number and nature of the injuries of the victim negate the existence of an accident or mistake in the blow.

Moreover, the testimonies of the witnesses likewise belie the existence of accident. Both Bisenio and Silva identified the accused-appellant as the one who attacked the victim. They were also consistent that the accused-appellant returned to the place of incidence together with his three brothers, armed with bolos and knives. The three brother held the deceased while the accused-appellant stabbed and hacked him. The court a quo also found that both Bisenio and Silva lacked ill-motive which could have driven them to fabricate the charge of murder against the accused-appellant and his brothers.

It is well settled that “the trial court's evaluation of the credibility of witnesses is viewed as correct and entitled to the highest respect because it is more competent to so conclude, having had the opportunity to observe the witnesses' demeanor and deportment of the stand, and the manner in which they gave their testimonies. The trial judge can therefore can better determine if such witnesses are telling the truth, being in the ideal position to weigh conflicting testimonies[16]”.

Finally, factual findings of the trial court as regards its assessment of the witnesses' credibility are entitled to great weight and respect by this Court.[17] These will not be disturbed absent any showing that the trial court overlooked certain facts and circumstances which would substantially affect the outcome of the case.[18] Thus having found no such circumstance in the instant case, we find no cogent reason to reverse the court a quo's decision. Thus, the accused-appellant's conviction stands.

WHEREFORE, premised considered, the decision rendered by the Regional Trial Court, Branch 60 of Iriga City

dated 20 November 2012 is hereby AFFIRMED in TOTO.

SO ORDERED.

Zalameda[*] (Acting Chairman) and Sempio Diy,[**] JJ., concur.

[*] Vice Justice De Guia-Salvador per Office Order No. 184-14-ABR dated May 5, 2014.

[**] Acting Junior Member per Office Order No. 187-14-ABR dated May 6, 2014.

[1] Rollo, pp. 1-91

[2] TSN of Christopher Bisenio dated March 30, 2009, pp. 10-11.

[3] TSN of Christopher Bisenio dated March 30, 2009, p. 12

[4] TSN of Bienvenido Silva dated June 30, 2008, p.8

[5] TSN of Bienvenido Silva dated June 30, 2008, p.7

[6] TSN of Bienvenido Silva dated June 30, 2008, p.9

[7] TSN of Christopher Bisenio dated March 30, 2009, p. 14

[8] TSN of Wilson Dancalan dated March 15, 2012, p. 4

[9] TSN of Wilson Dancalan dated March 15, 2012, p. 5

[10] TSN of Wilson Dancalan dated March 15, 2012, p. 6

[11] Rollo, pp. 62-72

[12] People vs. Toledo, GR. No. 158057, September 24, 2004

[13] Ibid.

[14] People vs. Toledo, GR. No. 158057, September 24, 2004, citing Jarco Marketing vs. Court of Appeals 321 SCRA 375 (1999)

[15] TSN of Dr. Mariam Margate, November 10, 2009, pp. 7-8

[16] People vs. Abdurahman et.al, Gr. No. 186523, June 22, 2011

[17] Ibid.

[18] Ibid.

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