

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PAUL DURAN, JR. Y MIRABUENO, ACCUSED-APPELLANT.

Ponente: BARRIOS, M. M., J.

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BARRIOS, M. M., J.:

This is an appeal from the Decision dated 22 February 2012 of the Regional Trial Court, Branch 88, Cavite City, convicting accused-appellant for Murder. The decretal part reads:

“x x x

WHEREFORE, this Court finds accused Paul Duran, Jr. y Mirabueno guilty beyond reasonable doubt of the crime of Murder and is hereby sentenced to suffer the penalty of reclusion perpetua.

Accused is further ordered to indemnify the legal heirs of victim Gilbert Grimaldo y Nera in the amount of One Hundred Thousand Pesos (P100,000.00) as moral damages and Fifty Thousand Pesos (P50,000.00) as exemplary damages.

Accused is hereby credited in full for the entire period of his detention at the Cavite City District Jail.

SO ORDERED.

x x x”

THE FACTS

The Information filed before the trial court charged accused-appellant with the crime of Murder committed as follows:

“xxx

That on or about the 9[th] day of January, 2009, in the Municipality of Rosario, Cavite, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, using an unlicensed firearm, employing treachery and nocturnity, did, then and there, willfully, unlawfully and feloniously shoot GILBERT GRIMALDO Y NERA on the back of his head and thereafter as the victim lay helpless and wounded on the ground with abuse of superior strength shot him another three times, inflicting upon the latter multiple gunshot wounds which cause his instantaneous death, to the damage and prejudice of the latter's heirs.”

CONTRARY TO LAW.”

When arraigned, accused-appellant pleaded “NOT GUILTY”.

Only the eyewitness Beverly Cabrera Quilana testified in court. The testimony of the other prosecution witnesses, namely: Berly L. Grimaldo as well as Dr. Jocelyn Dignos, were dispensed with on account of the parties' admissions and stipulations.

Beverly Cabrera Quilana testified that on 09 January 2009 at around 1:48 in the morning, she was sleeping at the ground floor of her house at Ligtong 3, Rosario, Cavite when she was awakened by the call of somebody uttering “Ninang”. It was her godson, Gilbert Grimaldo, the victim. While rushing to the door she asked him “Why”, and Grimaldo responded: “Ninang tulungan ninyo ako may kumukursunada sa akin sa labas.” When she opened the door, Beverly saw accused-appellant Paul Duran approaching from behind and shoot Grimaldo about 2 ½ feet away with a .38 caliber gun. Grimaldo was hit on the nape and fell face down on the ground. She screamed, as accused-appellant momentarily move away, and then again shot the hapless Grimaldo three (3) more times at his back and head. Then, accused-appellant ran away.

In his defense, accused-appellant admitted shooting Grimaldo, but invoked self-defense. He narrated that on the night of the incident, he was on his way to buy fish in Paranaque when two (2) unidentified persons blocked his way. One of them was the victim whom he later came to know as Grimaldo. Grimaldo poked a gun at him and said that he only needed his money. Grimaldo wanted to get the money from his belt bag, but then, accused-appellant grappled for the possession of the gun. In the course of the struggle, the gun fired and hit Grimaldo's nape. Accused-appellant was able to wrest Grimaldo's gun and pointed the gun at the latter. However, Grimaldo stepped back and tried to attack him, so he pulled the trigger and shot Grimaldo three (3) times. As Grimaldo turned around, he shot him once more at the back, and Grimaldo fell to the ground. Thereafter, he left the scene taking with him the gun and the pails that he was carrying.

As heretofore said, the trial court rendered the assailed Decision convicting accused-appellant for the crime of Murder. In this appeal, accused-appellant raise this lone assignment of error:

I

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

OUR RULING

The appeal has no merit.

In his plea for acquittal, accused-appellant interposes lawful self-defense. He submits that there was unlawful aggression on the part of Grimaldo and his companion when they poked a gun at him and tried to rob him of the money intended to buy fish that he will later peddle.

This, however, does not convince Us.

Unlawful aggression, as an element of self-defense, refers to an attack, or a threat thereof in an imminent and immediate manner, which places the defendant's life in actual peril. There is unlawful aggression on the part of the victim when he puts in actual or imminent danger the life, limb, or right of the person invoking self-defense. There must be actual physical force or actual use of weapon. To constitute unlawful aggression, the person attacked must be confronted by a real threat on his life and limb; and the peril sought to be avoided must be imminent and actual, not merely imaginary[1].

The version of the prosecution is more in consonance with the facts, and from the established facts; We cannot discern unlawful aggression. The prosecution's eyewitness Beverly Quilana actually saw the deceased victim standing by the door of her house. He was seeking refuge into her house because he was being pursued by malefactors. Unfortunately, before he could enter the house, accused-appellant shot the victim from behind, so he fell face down. The victim was unarmed and helpless when he was shot. Moreover, in order to ensure the death of the victim, accused-appellant fired three (3) more shots at Grimaldo's back and head. Clearly, under this scenario,

it was accused-appellant who was the unlawful aggressor; and evidently, the aggravating circumstances of treachery and abuse of superior strength are present.

In this regard, while witness Beverly Quilana seems to be the “ninang” of the victim, We find her testimony credible and worthy of belief. It was plain, factual and reliable, without trace of any ill-motive or speculation. The incident occurred near her doorsteps and it is not likely that she would perjure herself and falsely implicate accused-appellant[2]. Absence of improper motives makes a testimony worthy of full faith and credence[3]. In addition, the fact that the witness is the godmother of the victim does not ipso facto make Beverly Quilana biased. It is well-settled that mere relationship of a witness to the victim does not necessarily impair the witness' credibility. In point of fact, a witness' relationship to a victim of a crime would even make his or her testimony more credible, as it would be unnatural for a relative who is interested in vindicating the crime, to accuse somebody other than the real culprit[4]. A witness is said to be biased when his relation to the cause or to the parties is such that he has an incentive to exaggerate or give false color to his statements, or to suppress or to pervert the truth, or to state what is false[5]. To warrant rejection of the testimony of a relative or friend, it must be clearly shown that, independently of the relationship, the testimony was inherently improbable or defective, or that improper or evil motives had moved the witness to incriminate the accused falsely[6].

Now, on the defense evidence, even assuming that accused-appellant was blocked by Grimaldo who had a gun, such aggression already ceased after the former had already wrestled the gun and Grimaldo already ran away; and it is now accused-appellant who was armed with the gun and pursued the victim.

There can be no self-defense nor even incomplete self-defense, if there is no unlawful aggression. Under the scenario, presented by the defense, there is no more actual danger to accused-appellant. Hence, there is no justification to shoot Grimaldo many times, especially after he already fell to the ground.

In self-defense, the burden is shifted to the accused-appellant to prove by clear and convincing evidence his innocence and prove all the elements therefor, especially the basic element of unlawful aggression. He must rely on the strength of his own evidence and not on the weakness of the prosecution. Surely, even if the evidence of the prosecution is weak, it cannot be disbelieved if the accused admitted responsibility for the crime charged[7].

WHEREFORE, premises considered, the appeal is DENIED. The Decision dated 22 February 2012 of the Regional Trial Court, Branch 88, Cavite City, is AFFIRMED.

SO ORDERED.

Reyes, Jr., (Chairperson) and Pizarro, JJ., concur.

[1] People v. Comillo Jr., GR No. 186538, 25 November 2009 citing Mahawan v. People, GR No. 176609, 18 December 2008.

[2] People vs. Sumibcay, G.R. Nos. 132130-31, 29 May 2002 citing People vs. Palabrica, G.R. No. 129285, 7 May 2001, citing People vs. Bayotas, G.R. No. 136818, 19 December 2000.

[3] People vs. Lusabio, Jr., G.R. No. 186119, 27 October 2009 citing People vs. Brecinio, G.R. No. 138534, 17 March 2004.

[4] People v. Lusabio Jr., GR No. 186119, 27 October 2009 citing People v. Romero, GR No. 145165, 8 October 2003.

[5] People v. Lusabio Jr., GR No. 186119, 27 October 2009 citing People v. Ulgasan, GR Nos. 131824-26, 11

July 2000.

[6] People v. Lusabio Jr., GR No. 186119, 27 October 2009 citing People v. Daen, Jr., GR No. 112015, 26 May 1995.

[7] People v. Comillo Jr., GR No. 186538, 25 November 2009 citing People v. De Guzman, G.R. No. 173197, 24 April 2007; People v. Barcenal, G.R. No. 175925, 17 August 2007; Tadeja v. People, G.R. No. 145336, 21 July 2006.

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