

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. VINCENT MARK PARRA Y GEMORA, 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 203 of Muntinlupa City finding the accused-appellant guilty of Homicide in Criminal Case No. 04-912 captioned as “People of the Philippines vs. Vincent Mark Parra y Gemora”.

As culled from the records[1], the antecedent facts of this case are as follows:

It is undisputed that on August 25, 2004, the deceased Benjamin San Pedro (Jay, for brevity) was stabbed to death by the accused-appellant in Muntinlupa City. Based on the autopsy, he suffered eight (8) stab wounds, two of which were fatal[2]. One stab wound was located in the left chest region and the other fatal stab wound was located at the lower portion of the back. These stab wounds lacerated the major vital organs of Jay's body such as the upper lobe of the left lung, the pericardial sac of the heart, of the right lung, the ventricle of the heart, the left diaphragm and the left lobe of the liver[3].

Accused-appellant submitted himself to medical treatment at the Ospital ng Muntinlupa due to the injuries he sustained at the head and left elbow during the incident.

An information for the crime of Homicide was filed against the accused-appellant, viz:

“That on or about the 25[th] day of August 2004, in the City of Muntinlupa, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife, with intent to kill, did then and there willfully, unlawfully and feloniously attack and repeatedly stab one Benjamin San Pedro III y Suarez, on the vital parts of his body, thereby inflicting upon the latter fatal injuries which directly caused his death.

CONTRARY TO LAW.”[4]

Upon his arraignment on November 23, 2005, the accused-appellant pleaded not guilty and interposed the justifying circumstance of self defense during the pre-trial conference. A reversed trial ensued and the defense presented their evidence.

Version of the Defense

In the course of the trial two versions of the stabbing incident were given by the defense and the prosecution. The accused-appellant testified that the deceased and the prosecution witness, Van Sembrano were his friends[5]. The deceased Jay San Pedro (Jay, for brevity) never had a permanent address, however he lived with the prosecution witness, Van Sembrano at Kapitan Tiago, Rizal Village, Alabang, Muntinlupa City until the time of his death.[6]

That fateful night of August 25, 2004, accused-appellant was at home taking care of his niece and nephew. He went to the store to buy cigarette. A drunk Van Sembrano approached and asked the accused-appellant to teach

him to play the guitar.[7] The accused-appellant agreed and the two went to the latter's house. The guitar lessons lasted for only about five (5) minutes because Van was saying that he was angry with Alfredo Jimenez and “balak nya tumbahin”[8]. The accused-appellant told Van not to do it. Van got annoyed and said he is going home[9].

Van and the accused-appellant were already at the gate when the latter saw Jay standing in front of the said gate[10]. The accused-appellant greeted Jay. The latter responded by cursing “putang ina mo” and boxing him, hitting the accused-appellant at his mouth[11].

The accused-appellant moved back, shouted for help and for their neighbors to call the police[12]. He entered the gate and Jay hit his head with a stone[13]. The accused-appellant fell down. While the accused-appellant was lying face down on the ground, Van held the his hands at the back[14]. Jay asked “Pare, nasaan ang panaksak?”, to which Van replied “nasa gutter”[15].

The accused-appellant shouted “huwag mo akong hawakan” and saw Jay's right hand holding the knife[16]. He managed to extricate himself from Van's hold[17] and attacked Jay. He held Jay's right hand, pushing towards the latter's face. The accused-appellant was able to wrestle the knife from Jay and stabbed him[18]. He could not remember the number of times he stabbed Jay. The accused-appellant lost hold of the knife and went home[19]. He could not find his mother, thus he went to his mother's friend and borrowed some money. He then proceeded to his uncle, a policeman, at Camp Vicente Lim.[20]

On the dawn of August 27, the accused-appellant together with his uncle, mother and siblings, went to the Muntinlupa City Hall where he voluntarily surrendered himself to the police[21].

At the witness stand, the accused-appellant testified that he stabbed Jay because he was merely defending himself as the deceased and Van ganged up against him[22]. He further claimed that Jay and Van are “nangungursanada” in their village and would get angry if they do not get invited at drinking sprees[23].

Defense witness Noli Omolida testified that on August 25, 2004, he saw Van and Jay and noticed both were drunk[24]. Noli's place was a passageway going to Rizal Village. The two asked if they can pass. He allowed them to pass through his place because the two informed him they are going to Rizal Village[25].

About two hours after, Noli heard the accused-appellant shouting “huwag mo akong hawakan”. He saw the accused-appellant and Jay embracing[26]. Van, on the other hand, was standing about two(2) meters away from the two[27]. Afterwards, Van called Noli, asked him to call a barangay officer because Jay was hit[28]. Noli saw Jay lying on the street and called for a vehicle to bring him to the hospital[29].

Version of the Prosecution

Van Sembrano testified for the Prosecution. He corroborated that the accused-appellant and Jay were his friends. He testified that between 8:00 to 9:00 o'clock in the evening of August 25, 2004, he was at Kapitan Tiago St, Rizal Village[30]. He went to the accused-appellant's house to practice playing guitar. Van stayed there for about an hour, then left. He was already on his way home when he saw Jay at Vincent's gate[31]. Van heard the accused-appellant shouting, cursing at Jay[32]. He ignored this, thinking that this was just a misunderstanding between the two friends[33]. Van was about five meters away from the two.

Van heard the accused-appellant and Jay shouting and cursing at each other[34]. The accused-appellant entered his house then went out again and followed Jay[35]. Thereafter, Van saw the accused-appellant attack Jay and stabbed him[36].

Van cannot recall how many times Jay was stabbed[37]. When he saw the latter fell on the ground, Van called for help.[38] The accused-appellant, on the other hand, ran away.

On January 22, 2014, the court a quo rendered a Decision[39] finding the accused-appellants guilty of Homicide, viz:

“WHEREFORE, premises considered, the Court finds accused Vincent Mark Parra y Gemora GUILTY beyond reasonable doubt of the crime of Homicide and, there being a mitigating circumstance of voluntary surrender, hereby imposes upon the accused the indeterminate penalty of Eight (8) years prison mayor, as minimum to Twelve (12) years and one (1) day of reclusion temporal, as maximum.

Accused is directed to pay the legal heirs of the victim Benjamin San Pedro III the amount of P50,000.00 as civil indemnity; P78,540.00 as actual damages; and P25,000.00 as attorney's fees.

SO ORDERED.”

Aggrieved, the accused-appellants filed this appeal on the following grounds:

I

THE HONORABLE COURT COMMITTED REVERSIBLE ERROR IN NOT GIVING FULL FAITH AND CREDENCE ON ACCUSED-APPELLANT'S THEORY OF SELF DEFENSE IN THAT IT FOUND NO UNLAWFUL AGGRESSION ON THE PART OF THE VICTIM.

II

THE HONORABLE COURT COMMITTED REVERSIBLE ERROR IN NOT GIVING EXCULPATORY WEIGHT ON THE EXISTENCE OF MENTAL OBFUSCATION OF THE ACCUSED RESULTING IN THE INFLICTION OF SEVERAL STAB WOUNDS ON THE VICTIM, OF WHICH HE IS NOT AWARE OF ANYMORE.

ISSUE

The pivotal issue in the instant case is whether or not the accused-appellant acted in self defense when he stabbed the deceased, Jay San Pedro.

OUR RULING

In assailing the court a quo's Decision finding the him guilty beyond reasonable doubt, the accused-appellant raised several arguments. First, the court a quo erred in not giving full faith and credence to his claim of self defense by finding that there was no unlawful aggression on the part of deceased. On the other hand, the accused-appellant allege that the defense was able to prove that he acted in self defense.

Moreover, the accused-appellant claims that the court a quo erred in giving credence on Van Sembrano's testimony that it was the accused-appellant who followed Jay and stabbed him with no ill motive ascribed to him by the prosecution. On the contrary, the accused-appellant testified that Jay hit his head with a stone, he fell down and then Van held his hands at the back. Thereafter, he heard Jay asking Van “nasan ang panaksak, to which Van answered “nasa gutter”. The accused-appellant shouted “huwag mo akong hawakan” and this shout was heard by defense witness Noli Omolida himself. When accused-appellant freed himself from Van's hold, he wrestled with Jay , took hold of the knife, and stabbed the latter several times.

True, Noli Omolida saw Van standing near Jay and the accused-appellant. However, this took place after the accused-appellant freed himself from Van's hold.

Hence, the accused-appellant contends that there exist reasonable necessity in the means employed in order to repel the unlawful aggression coming from Jay and Van Sembrano when the two ganged up on him. Jay was hitting his head with a stone, while Van was holding his hands at the back. Thus, when the accused-appellant was

able to free himself and stab Jay thereafter, he was merely acting out of self-preservation. This claim was further bolstered by the existence of the head wound, which the accused-appellant sustained from Jay when the latter hit his head with a stone.

Furthermore, the accused-appellant can no longer recall the number of times he stabbed Jay. He admitted in open court that he was shaking and was so afraid, he felt anger and fear at the moment of confrontation with Jay and Van. He was in a state of shock and fear that accused-appellant was deprived of reason and has acted involuntarily when he stabbed Jay. The existence of several wounds on Jay, the accused-appellant argue, would not be demonstrative of intent to kill as this was a mere consequence of his mental obfuscation and instinct of self preservation.

Aside from the accused-appellant's testimony, his witnesses stated before the open court that Jay harbored ill motive against him. Alfredo Jimenez said that Jay told his father that he wanted to kill the accused-appellant. He and his father advised Jay not to do this. In thus testifying, the accused-appellant stated that Jimenez had no improper motive to fabricate his testimony against Jay.

In view of the conflicting claims, we have carefully perused the records of the instant case and weighed the testimonies and evidence presented by both the defense and prosecution, and We hold that the court a quo is correct in finding the accused-appellant guilty of Homicide.

The court a quo is correct that
there is no unlawful aggression

In finding the accused-appellant guilty of homicide, the court a quo held the accused-appellant failed to establish self defense. Specifically, there exists no unlawful aggression at the time the stabbing took place. On this, We agree.

In his plea of self defense, the accused-appellant basically admits to the killing. He has the burden of proof to establish by clear and convincing evidence that he acted out of self defense, otherwise his conviction follows upon this admission.[40]

Moreover, in order to “escape liability, the accused must show by sufficient, satisfactory and convincing evidence that: (a) the victim committed unlawful aggression amounting to an actual or imminent threat to the life and limb of the accused claiming self-defense; (b) there was reasonable necessity in the means employed to prevent or repel the unlawful aggression; and (c) there was lack of sufficient provocation on the part of the accused claiming self-defense or at least any provocation executed by the accused claiming self-defense was not the proximate and immediate cause of the victim’s aggression.”[41]

In a case the Supreme Court has explained that “unlawful aggression is of two kinds: (a) actual or material unlawful aggression; and (b) imminent unlawful aggression. Actual or material unlawful aggression means an attack with physical force or with a weapon, an offensive act that positively determines the intent of the aggressor to cause the injury. Imminent unlawful aggression means an attack that is impending or at the point of happening; it must not consist in a mere threatening attitude, nor must it be merely imaginary, but must be offensive and positively strong (like aiming a revolver at another with intent to shoot or opening a knife and making a motion as if to attack). Imminent unlawful aggression must not be a mere threatening attitude of the victim, such as pressing his right hand to his hip where a revolver was holstered, accompanied by an angry countenance, or like aiming to throw a pot.”[42]

Likewise, “unlawful aggression is a condition sine qua non for the justifying circumstance of self-defense.

Without it, there can be no self-defense, whether complete or incomplete, that can validly be invoked.”[43]

Thus, there exists “an 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 a weapon.”It is present only when the one attacked faces real and immediate threat to one’s life. It must be continuous; otherwise, it does not constitute aggression warranting self-defense”.[44]

Here, the accused-appellant testified that he was lying on the ground face down, his hands held by Van from behind, while Jay hit his head with a stone. When he saw Jay with the knife, accused-appellant managed to free himself from Van's hold and then he wrestled with Jay. Accused-appellant took hold of the knife and went on to stab Jay, even after the latter was already disarmed.

Granted that Van held accused-appellant's hands at the back while the latter was lying face down, Van likewise no longer posed a threat as he was merely standing at the time the stabbing took place. Thus, at the very moment the accused-appellant stabbed Jay, the unlawful aggression coming from him or even from Van eased to exist. Verily, the accused-appellant no longer has the justification to kill Jay, for the unlawful aggression has ceased at the very moment Jay was disarmed[45].

The number and extent of wounds negate self-defense

The court a quo has also aptly observed that the continuous stabbing by the accused-appellant caused the fatal stab wounds which are not necessary and reasonable to prevent the unlawful aggression from Jay as the latter was already disarmed when the accused-appellant took the knife and was embracing him. Thus, We find that contrary to the accused-appellant's allegations, the court a quo correctly held that the number of wounds suffered by Jay shows an intent to kill, rather than as means to repel Jay's attack.

In the case of *People of the Philippines vs. Timoteo Escarlos*[46], it was held:

“the nature, the number and the location of the wounds inflicted upon the victim were important indicia disproving self-defense. The claim of appellant that only two of the four stab wounds were fatal is of no moment, inasmuch as the means he employed was glaringly disproportionate to the perceived unlawful aggression. He admitted in his testimony that he had stabbed the victim for the third time, even when the latter was about to fall.

The means employed by a person invoking self-defense must be reasonably commensurate to the nature and the extent of the attack sought to be averted, as held by the Court in *People v. Obordo*:

"Even assuming arguendo that there was unlawful aggression on the part of the victim, accused-appellant likewise failed to prove that the means he employed to repel Homer's punch was reasonable. The means employed by the person invoking self-defense contemplates a rational equivalence between the means of attack and the defense. Accused-appellant claimed that the victim punched him and was trying to get something from his waist, so he (accused-appellant) stabbed the victim with his hunting knife. His act of immediately stabbing Homer and inflicting a wound on a vital part of the victim's body was unreasonable and unnecessary considering that, as alleged by accused-appellant himself, the victim used his bare fist in throwing a punch at him."

Indeed, the means employed by a person resorting to self-defense must be rationally necessary to prevent or repel an unlawful aggression.

Unlawful aggression is a *conditio sine qua non* for upholding the justifying circumstance of self-defense. Unless the victim has committed unlawful aggression against the other, there can be no self-defense, complete or incomplete, on the part of the latter. If there is nothing to prevent or repel, the other two requisites of self-defense will have no basis.”

In fine, We find no cogent reason to reverse the court a quo's decision finding the accused-appellant Vincent Mark Parra guilty of Homicide.

With respect however to the penalty imposed, the court a quo considered in accused-appellant's favor the mitigating circumstance of voluntary surrender. Thus, he was sentenced to suffer the penalty of prision mayor in its minimum period (8 years) to reclusion temporal in its minimum period as maximum (12 years and 1 day).

It is settled that "voluntary surrender does not simply mean non-flight. As a matter of law, it matters not if the accused never avoided arrest and never hid or fled. What the law considers as mitigating is the voluntary surrender of the accused before his arrest, showing either acknowledgment of his guilt or an intention to save the authorities from the trouble and expense that his arrest and capture would require" [47].

In the instant case, we find that the court a quo correctly appreciated the mitigating circumstance of voluntary surrender in favor of the accused-appellant. After stabbing Jay on the night of August 25, 2004, he proceeded to his uncle, a police officer at Camp Vicente Lim. Thereafter, on August 27, the accused-appellant, together with his uncle, mother and siblings, voluntarily surrendered before the Muntinlupa Police.

Article 249 of the Revised Penal Code provides that the prescribed penalty for Homicide is reclusion temporal. There being one mitigating circumstance, the maximum imposable penalty is Reclusion Temporal in its minimum period⁴⁸ and the minimum is one degree lower or prision mayor in any period⁴⁹. Hence, following the Indeterminate Sentence Law, the court a quo correctly imposed the proper penalty on the accused-appellant.

WHEREFORE, premises considered, the Decision of the Regional Trial Court, Branch 207 of Muntinlupa City dated January 22, 2013 in Criminal Case No. 04-912 is hereby MODIFIED in conformity with current jurisprudence on all monetary awards for damages shall be subject to an interest at the legal rate of six percent (6%) per annum from the date of finality of this Decision until fully paid.

The rest are AFFIRMED in toto.

IT IS SO ORDERED.

Bruselas, JR., A.D., Chairman and [*]Paredes, V.I., A., JJ., concur.

[*] Acting Junior Member for 15 working days only from February 24, 2015 per Office Order No. 55-15-ABR dated February 23, 2015.

[1] Rollo, pp. 1-104.

[2] TSN of Dr. Voltair Nulud, November 21, 2012, p. 7

[3] Ibid.

[4] Rollo, p. 37.

[5] TSN of Vincent Mark Parra, May 31, 2006, pp. 4-6

[6] Ibid.

[7] Ibid, p. 8

[8] Ibid, p. 10

[9] Ibid., p. 11

- [10] TSN of Vincent Mark Parra, May 31, 2006,p. 11
- [11] Cross-examination of Vincent Mark Parra, July 27, 2006, pp. 10-11
- [12] Ibid.
- [13] Ibid, p. 12
- [14] Ibid,
- [15] Ibid.
- [16] Ibid, p. 13
- [17] Ibid,.
- [18] Ibid, pp. 15-16
- [19] Ibid, pp. 17-18
- [20] Ibid, p. 18
- [21] Cross-examination of Vincent Mark Parra, July 27, 2006, p. 5
- [22] Ibid, p. 10
- [23] TSN of Vincent Mark Parra, Ju7ne 29, 2006, p. 13
- [24] TSN of Noli Omolida, September 2, 2009, pp. 8-9
- [25] Ibid, p. 9
- [26] Ibid, p.11
- [27] Ibid, p.12
- [28] Ibid.
- [29] Ibid.
- [30] TSN of Van Sembrano, September 14, 2011, p. 6
- [31] Cross-examination of Van Sembrano, February 15, 2012, p. 8
- [32] Ibid, p.7
- [33] TSN of Van Sembrano, September 14, 2011, p. 7
- [34] Cross-examination of Van Sembrano, February 15, 2012, p. 9
- [35] Ibid, p.8
- [36] Ibid.
- [37] Ibid, p. 9
- [38] Ibid, p. 10
- [39] Rollo, pp. 37-55
- [40] People vs. Nugas, G.R. No. 172606, November 23, 2011

[41] Ibid, citing People v. Tagana, G.R. No. 133027, March 4, 2004

[42] People vs. Nugas, G.R. No. 172606, November 23, 2011, citing Gregorio, Fundamentals of Criminal Law Review, 1997 Ninth Edition, pp. 55-56.

[43] People vs. Gamez, G.R. No. 202847, October 23, 2013 citing People v. Paycana, Jr., 574 Phil. 780, 787.

[44] Ibid citing People v. Comillo, Jr., G.R. No. 186538, November 25, 2009.

[45] People vs. Gamez, G.R. No. 202847, October 23, 2013.

[46] G.R. No. 148912, September 10, 2003 citing People v. Ubaldo, 367 SCRA 432, October 17, 2001; People v. Basadre, 352 SCRA 573, February 22, 2001; People v. Silvano supra., People vs. Obordo G.R. No. 139528, May 9, 2002, People v. Saul, 372 SCRA 636, December 19, 2001, People v. Camacho, 411 Phil. 715, June 20, 2001.

[47] People vs. Nicholas, G.R. No. 142044, November 23, 2001.

[48] Article 64 of the Revised Penal Code.

[49] Act No. 4103, as amended, also known as the Indeterminate Sentence Law.

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