

SEVERINO DAVID, JR. Y ECHANE AND TIMOTEO GIANAN, PETITIONERS, VS. THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 136037. August 13, 2008

Ponente: LEONARDO-DE CASTRO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-136037/>

LEONARDO-DE CASTRO, J.:

Through this petition for review on certiorari under Rule 45 of the Rules of Court, petitioner Severino David, Jr. and Timoteo Gianan seek to annul and set aside the Decision[1] of the Court of Appeals (CA) in CA-G.R. CR No. 17022 dated July 30, 1997, affirming the November 16, 1993 Decision[2] of the Regional Trial Court (RTC), Branch 171, of Valenzuela, Metro Manila, in Criminal Case No. 1076-V-92, convicting petitioners them of the crime of frustrated homicide pursuant to Article 50 in relation to Article 249 of the Revised Penal Code. Timoteo Gianan did not join Severino David, Jr. in filing this petition for review on certiorari, although the Motion for Extension of Time to File Petition for Certiorari was filed by the counsel de parte for both accused Severino David, Jr. and Timoteo Gianan.

In an Information[3] dated March 02, 1992, Severino David, Jr. and Timoteo Gianan were accused of frustrated homicide allegedly committed as follows:

That on or about the 1st day of March, 1992 in Valenzuela, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually helping one another, without any justifiable cause and with deliberate intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and stab with a fan knife one DOMINGO DATALIO Y VALDEZ, thus performing all the acts of execution which would constitute the crime of Homicide as a consequence but which nevertheless, did not produce it by reason or causes independent of the will of the herein accused, that is due to the timely, able and efficient medical attendance rendered to the victim at the Chinese General Hospital, Manila.

Contrary to Law.

At their arraignment, petitioner David and Gianan pleaded not guilty.

The prosecution presented as witnesses private complainant Domingo Datalio, SPO3 Francisco Montallana and Benigno David. Accused Severino David, Jr. and Erlin Ecalnir testified for the defense.

After trial on the merits, the RTC found petitioner David and Gianan guilty of the crime charged. The dispositive portion of the RTC decision reads:

WHEREFORE, finding accused Severino David, Jr. y Echane and Timoteo Gianan, Jr. y Bataller GUILTY beyond reasonable doubt of the offense charged, pursuant to Article 50 in relation to Article 249 of the Revised Penal Code, they are hereby sentenced each to suffer an indeterminate imprisonment from FOUR (4) YEARS, TWO (2) MONTHS and ONE (1) DAY of Prision Correccional, as minimum, to EIGHT (8) YEARS and ONE (1) DAY of Prision Mayor, as maximum, with the accessory penalties prescribed by law and to pay the costs.

Accused are ordered to indemnify the complainant the sum of P9,946.05 for actual damages and the further amount of P12,000.00 for the unearned income.

SO ORDERED.

Petitioner David and Gianan appealed their conviction to the CA which affirmed in toto the decision of the trial court.

Petitioner David and Gianan, through their new counsel of record,[4] moved for a reconsideration of the CA decision but the appellate court denied said motion for lack of merit[5] stating that no persuasive arguments were raised to alter its previous pronouncement.

The gist of the conflicting versions of the prosecution and the defense, as are quoted hereunder from the Decision of the Court of Appeals, follows:

PROSECUTION'S VERSION:

Between 10:30 and 11:00 p.m. on 01 March 1992 while Domingo Datalio was walking alone in an alley from the Valdez compound where he lived at Valenzuela, Metro Manila, he met Severino David and Timoteo Gianan both of whom were not his acquaintances. Severino stabbed him while Timoteo tried to hit him with an adobe stone, but Domingo kicked him. Wounded, Domingo ran out of the alley and called for his sister to bring him to the hospital.

Brought to the MCU hospital, Domingo was transferred to Chinese General Hospital where he was treated. Per the Medico-Legal Certificate signed by the resident on duty, he suffered a stab wound at the lower abdomen (Exhibit D).

SPO3 Francisco Montallana received the report of the stabbing incident. Together with two policemen, he proceeded to the venue of the crime at Valdez Compound, Malinta, Valenzuela. Upon reaching the place, Montallana was told the suspect was in a house inside the compound. On their way to that house, suspect Timoteo Gianan was surrendered by a Bantay Bayan in a street corner near the place of the stabbing. At the house where suspect Severino was, the policemen were allowed to enter by the owner. Then, Severino came out and surrendered a fan knife. The police team brought both suspects to the SID of the Valenzuela Police Station.

The stabbing was witnessed by Benigno David, a barangay tanod of Paso de Blas. He was in the house of Fernando Datalio conversing with the latter when at a distance of about two (2) meters, he saw Severino stab Domingo. He directed some of his co-barangay tanods to call for the police while he went down from Fernando's terrace. Timoteo came out carrying a piece of stone and a bottle of beer. He stopped Timoteo and asked him where he came from. Timoteo replied he was looking for the enemy of his companion. Three policemen arrived and asked Benigno to watch Timoteo. After the other suspect was arrested, the policemen brought with them the two.

DEFENSE'S VERSION:

At 10:30 p.m. on 01 March 1992, Severino David, Jr. was outside his house located inside the Valdez Compound, resting and taking some fresh air. While he was in front of the house, he saw Domingo Datalio drunk and walking in a zigzagging manner to the door of Severino David's house at 433 Paso de Blas, Valenzuela, Metro Manila. Domingo knocked at Severino's door three times, cursing and challenging him to go downstairs. Severino woke up and went downstairs. As he approached Domingo, the latter suddenly stabbed him with a fan knife. Severino evaded the thrust. When Domingo made another thrust, Severino caught Domingo's hand with the knife and twisted it towards his stomach. Domingo's body was stabbed. Thereafter, Severino ran to his sister's house located nearby and reported to her what happened. His sister asked him to stay in the house.

Timoteo Gianan is residing in Meycauayan, Bulacan. On 01 March 1992, he went to Severino's house at 6:00 p.m., staying there up to 9:30 p.m.

On December 10, 1998, petitioner lodged the instant Petition for Review on Certiorari before this Court citing two (2) alleged errors:

I.

WITH ALL DUE RESPECT, THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED WHEN IT ADOPTED CONCLUSIONS MADE BY THE COURT A QUO, CITED AS SOLE BASIS FOR CONVICTING ACCUSED-PETITIONER, AS THE SAME IS PATENTLY AGAINST THE ESTABLISHED FACTS OF THIS CASE AND CONTRARY TO LAW, JURISPRUDENCE AND HUMAN NATURE/EXPERIENCE.

II.

WITH ALL DUE RESPECT, THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED WHEN IT TOTALLY DISREGARDED THE THEORY OF SELF-DEFENSE BY ACCUSED-PETITIONER WHICH REMAINED CREDIBLE AND UNCONTROVERTED. HEREIN ACCUSED-PETITIONER DESERVES TO BE ACQUITTED BASED ON SELF-DEFENSE.

This petition is anchored on the alleged gross misappreciation and disregard by the appellate court of essential facts of essential value and importance which might dramatically change the outcome of the case. It alleges that the "conclusions and observations" made by the lower courts were not supported by the evidence on record and not in accord with the legal tenets and jurisprudence involving their theory of self-defense.

First, petitioner David claimed that his act of going to his sister's house after the stabbing incident was "meant not to hide from the alleged 'crime' but to seek succor as he was shocked by the accidental hurting [stabbing]" of Domingo Datalio.[6]

Second, he argued that the credence accorded to the testimony of SPO3 Francisco Montallana of the Valenzuela Police Station, who responded to the incident, that he [David refused to come out of his sister's house and that the police authorities had to apprehend him inside the house was misplaced as he, together with Gianan, never resisted arrest nor attempted to escape.

Third, petitioner David contended that their [David's and Gianan's] failure or omission to give their respective statements to the police authorities to explain their side right after the stabbing incident should not be taken against them as it would contravene their constitutional right to be presumed innocent until proven guilty as charged.

Finally, petitioner asserted that his theory of self-defense remained credible and uncontroverted and therefore his acquittal is warranted.

The Court is not persuaded.

In essence, petitioners and Gianan want this Court to weigh the credibility of the prosecution witnesses against that of the defense witnesses and to review the observations and conclusions made by the CA to bolster their contention that their acquittal is justified.

Time and again, we have held in a number of cases[7] that the issue of credibility is a question best addressed to the province of the trial court because of its unique position of having observed that elusive and incommunicable evidence of the witnesses' deportment on the stand while testifying. Absent any substantial reason which would justify the reversal of the trial court's assessments and conclusions, the reviewing court is generally bound by the

former's findings, particularly when no significant facts and circumstances were shown to have been overlooked or disregarded which when considered would have changed the outcome of the case.

Moreover, petitioner's arguments raise issues the grounds adduced in the petition on factual matters which entailing a review of the credibility of witnesses and their testimonies raise factual issues. However, these matters which are improper in a petition for review under Rule 45 of the Rules of Court. As a rule, only questions of law should be raised in a petition for review under Rule 45.[8] However, this Court, in the interest of substantial justice and when circumstances so warrant, can embark nevertheless examine on the assessment and examination of the evidence adduced adduced during the proceedings at the lower courts.

A review of the records of this case shows that the trial court did not err in giving credence to the testimonies of the witnesses presented by the prosecution as it did not find any fact or circumstance to show that the said witnesses had falsely testified or that they were actuated actuated by improper motive. These testimonies, found positive and credible by the trial court, are sufficient to support a conviction.

Benigno David who witnessed the stabbing incident at a distance of about two (2) meters, was very categorical and frank in his testimony. He unmistakably identified petitioner Severino David, Jr. as the man who stabbed Datalio. He likewise identified Gianan as the man whom he saw with a stone and running after the victim Datalio. Witness SPO3 Francisco Montallana testified that after the stabbing incident, Timoteo Gianan was surrendered to him by a Bantay Bayan and that he apprehended petitioner David who surrendered to him the fan knife used in stabbing Domingo Datalio. The defense failed to impute any ill-motive onto said witnesses which would discredit their positive identification of David and Gianan. Our consistent ruling has been that the witnesses' testimony deserves full faith and credit where there exists no evidence to show any dubious reason or improper motive why he should testify falsely against the accused, or why he should implicate the accused in a serious offense.[9]

Domingo Datalio, the victim, also identified petitioner David as the person who stabbed him and Gianan, as the one who tried to hit him with an adobe stone. While the defense tried to discredit his testimony by raising self-defense, they were not able to sufficiently establish their allegation by credible, clear and convincing evidence. Thus, there was no error on the part of the trial court to arrive at its conclusion as it was clearly incumbent upon the defense to prove self-defense and raise it at the first possible opportunity. Here, the defense unfortunately did otherwise.

In impleading self-defense, petitioner David asserted that it was the victim Datalio who knocked on the door of his house and challenged him to a fight. Allegedly, the former had no choice but to defend himself when Datalio attempted to stab him with a bladed weapon.

We stress that when petitioner David invoked self-defense, the burden of evidence is shifted from the prosecution to the defense. Thus, the latter assumed the responsibility of establishing this plea by clear and convincing evidence. Upon him was the duty of proving, to the satisfaction of the trial court, the justifying circumstance of self-defense.[10]

In *Macalino vs. People*[11], the Court explained the implications of pleading self-defense insofar as the burden of evidence is concerned, to wit:

In pleading self-defense, petitioner in effect admitted that he stabbed the victim. It was then incumbent upon him to prove that justifying circumstance to the satisfaction of the court, relying on the strength of his evidence and not on the weakness of the prosecution. The reason is that even if the prosecution evidence were weak, such could not be disbelieved after petitioner admitted the fact of stabbing the victim.

The accused who maintains that the killing arose from an impulse of self-defense has the onus probandi of

proving the elements thereof.[12] The essential requisites being: (1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel such aggression; and (3) lack of sufficient provocation on the part of the person resorting to self-defense.[13] Verily, to invoke self-defense successfully, there must have been an unlawful and unprovoked attack that endangered the life of the accused, who was then forced to inflict the injury or wound upon the assailant by employing reasonable means to resist the attack.[14]

In the present case, petitioner David asserted that there was unlawful aggression on the part of the victim when the latter knocked on his door and challenged him to a fight. He added that when he opened the door of his house, the victim called him out, cursed him and tried to stab him with a fan knife. He allegedly evaded the first thrust and when the victim tried to stab him again, he grabbed the hand of Datalio which held the knife and the latter was stabbed by the same weapon which was still in the hand of Datalio which David had grabbed and twisted. Petitioner David insisted that under the circumstances, he was legally justified to ward off the alleged unlawful aggression from Datalio.

The contentions assertions of petitioner David invite incredulity are untenable. The facts and evidence of this case, as presented by the defense itself, do not support such allegations.

First, as narrated by petitioner David, the victim was drunk and walking in a zigzag manner before reaching the door of his house. Clearly, if this was true, Datalio would not have been physically strong enough to pose a danger to petitioner David who was then sober and already sleeping inside his house. Second, after allegedly being challenged to a fight by a drunk outside his house, we find it absurd unbelievable that petitioner David would come out and confront this intoxicated person if this person was in a position to harm him. It certainly goes against human nature to go out, court danger and meet head-on the alleged unlawful aggression when one is already in the safety and in the confines of his own house. Third, both testimonies of petitioner David and defense witness Ecalnir that it was the victim Datalio who was holding the fan knife when he fell down after the scuffle are contrary to the testimony of SPO3 Montallana, that after being accosted in his sister's house, petitioner David came out and surrendered the fan knife allegedly used in the stabbing incident. Fourth, petitioner David himself testified that the victim Datalio had no motive nor reason to challenge him to a fight as they did not have any misunderstanding or disagreement. These circumstances undeniably clearly negate the existence of the unlawful aggression. Lastly, petitioner David did not offer any explanation why after the incident, he had to rush and hide in his sister's house which was more or less twenty (20) meters away from his house. He likewise offered no explanation why he did not readily immediately go to the police to report the alleged unlawful aggression of the victim towards him and his [David's] purported unintentional stabbing incident which resulted as he was defending himself of the victim in self-defense.

It is well-settled that unlawful aggression presupposes actual, sudden, unexpected or imminent danger – not merely threatening and intimidating action.[15] It is a condition sine qua non for upholding the justifying circumstance of self-defense.[16] Thus, unless the victim has committed unlawful aggression against the other, there can be no self-defense 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.[17]

Self-defense, as espoused by petitioner David can be so readily claimed even if false. It is normally asserted with promptness if true so that the failure to do so upon surrendering to the police is inconsistent with the claim of self-defense. The records clearly clearly show that petitioner David gave no indication that he acted in self-defense when he fled from the scene of the crime and hid at his sister's house. It was only when the police authorities came to accost him that he came out and readily admitted to being the author of the crime. No mention was ever made that he acted in self-defense. He even surrendered to the police the fan knife that he used in stabbing the victim, contrary to his earlier statement that it was the victim Datalio who was holding the fan knife

when he fell down after the stabbing incident. It is striking to note that again, that he did not plead self-defense at that instance.

Clearly Verily, his act of fleeing from the scene of the crime instead of reporting the incident to the police authorities is contrary to his proclaimed innocence. Self-defense is not credible in the face of flight of petitioner David's flight from the crime scene and his failure to inform the authorities about the incident.

With regard to Gianan, since he did not join David in the present petition, we hold that find no reason to disturb the trial court's correctly ruled finding that there was conspiracy. Petitioners' David, and Gianan's behavior, in stabbing the victim Datalio and trying to hit him with an adobe stone showed their community of design. In *People vs. Reyes*,^[18] we held, thus:

xxx In conspiracy, proof of an actual planning of the perpetration of the crime is not a condition precedent. It may be deduced from the mode and manner in which the offense was committed or inferred from the acts of the accused evincing a joint or common purpose and design, concerted action and community of interest.

In the instant case, conspiracy was clearly manifested in the concerted efforts of the petitioners and Gianan. They acted together as petitioner David stabbed the victim while Gianan tried to hit him with an adobe stone. Their simultaneous acts indicate a joint purpose, concerted action and concurrence of sentiments. Where the acts of the accused collectively and individually demonstrate the existence of a common design towards the accomplishment of the same unlawful purpose, conspiracy is evident, and all the perpetrators will be liable as principals.^[19]

WHEREFORE, the petition is DENIED for lack of merit. The Decision and the Resolution of the Court of Appeals in CA-G.R. CR No. 17022, dated July 30, 1997 and October 9, 1998, respectively, are hereby affirmed.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio, Corona, and Azcuna, JJ., concur.

[1] Penned by Associate Justice Buenaventura J. Guerrero with Associate Justices Jaime M. Lantin and Oswaldo D. Agcaoili, concurring; rollo, pp. 83-89.

[2] Penned by Judge Adriano R. Osorio; id., at pp. 98-104.

[3] Information, Criminal Case No. 1076-V-92, RTC Record, p. 1.

[4] Notice of Appearance for Accused-Appellants (herein Petitioners) Severino David Jr. and Timoteo Gianan, Jr., dated August 25, 1997, id., at pp. 126-127.

[5] CA Resolution dated 09 October 9, 1998, id., at pp. 20-21.

[6] Petition for Review on Certiorari dated December 10, 1998, id., at p. 39.

[7] *People vs. Cañete*, G.R. No. 138366, 410 SCRA 544, September 11, 2003; *People vs. Bates*, G.R. No. 139907, 400 SCRA 95, March 28, 2003; *People vs. Peralta*, G.R. No. 133267, 387 SCRA 45, August 8, 2002; *People vs. Bolivar*, 352 SCRA 438 (2001); *People vs. Baltazar*, 352 SCRA 678 (2001); *People vs. Glabo*, G.R. No. 129248, 371 SCRA 567, December 7, 2001.

[8] Rule 45, Section 1, Rules of Court

[9] *People vs. Cañete*, supra, citing *People vs. Lomerio*, 326 SCRA 530 (2000) and *People vs. Merino*, 321 SCRA 199 (1999).

[10] People vs. Rabanal, 349 SCRA 655, January 19, 2001.

[11] 340 SCRA 11, September 7, 2000.

[12] People vs. Almazan, 365 SCRA 373, September 17, 2001.

[13] Article 11 of the Revised Penal Code; People vs. Silvano, 350 SCRA 650, January 31, 2001; People vs. Plazo, 350 SCRA 433, January 29, 2001; and Roca vs. Court of Appeals, 350 SCRA 414, January 29, 2001.

[14] People vs. Sarmiento, 357 SCRA 447, April 30, 2001.

[15] Toledo vs. People, G.R. No. 158057, 439 SCRA 94, September 24, 2004; People vs. Tagana, G.R. No. 133027, 424 SCRA 620, March 4, 2004; and People vs. Rabanal, supra.

[16] People vs. Camacho, 359 SCRA 200, June 20, 2001

[17] People vs. Flores, 356 SCRA 332, April 4, 2001; People vs. Court of Appeals, 352 SCRA 599, February 23, 2001; Calim vs. Court of Appeals, 351 SCRA 559, February 13, 2001.

[18] G.R. No. 135682, 399 SCRA 528, March 26, 2003, citing People vs. Cabilto, G.R. Nos. 128816 & 139979-80, 362 SCRA 325, August 8, 2001.

[19] People vs. Reyes, supra, citing People vs. Suela, G.R. Nos. 133570-71, 373 SCRA 163, January 15, 2002.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.