

CONRADO CASITAS, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 152358. February 05, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is a petition for review on certiorari under Rule 45 of the Rules of Court, as amended, of the Decision[1] of the Court of Appeals affirming on appeal the Decision[2] of the Regional Trial Court of Albay, Branch 18, convicting petitioner Conrado Casitas of frustrated homicide.

The Case for the Respondent

As culled by the Office of the Solicitor General from its Brief and reiterated by the CA in its decision, the case for the respondent stemmed from the following facts:

Sometime in the evening of August 24, 1994, private complainant Romeo C. Boringot, along with his wife, Aida, and the other members of the family, were asleep at their house at Bonot, Tabaco, Albay (TSN, March 12, 1996, pp. 25-26).

Early in the morning the following day (August 25, 1994), about 1:00 o'clock A.M., Romeo was awakened by his wife, Aida, the latter having heard somebody shouting invectives at her husband, viz: "You ought to be killed, you devil." So Romeo stood up and peeped to see who was outside. He, however, did not see anyone (TSN, March 12, 1996, p. 26; TSN, April 29, 1996, pp. 14, 16-17).

Thus, Romeo took the flashlight, held it with his left hand, and flashed it in the direction of the copra pit to check any intruder. When he did not see anybody, he proceeded towards the road (TSN, March 12, 1996, pp. 27, 29).

Upon reaching the pathway leading to the road and upon passing by a coconut tree, he was suddenly hacked at the back with a bolo which was more than one (1) foot long. He looked back at his assailant and he recognized him to be appellant Conrado Casitas whom he knew since the 1970's and whose face he clearly saw as light from the moon illuminated the place. Appellant hacked him on the back a second time. Romeo tried to scamper but he was blocked by appellant. In fact, appellant hacked him again, this time hitting him on his left forearm. The blow caused him to drop the flashlight he was holding. While in the prone position, appellant went on hacking him, hitting him on different parts of the body, including the ears and head. While hitting him, appellant was shouting invectives at him. Appellant also hit him with a guitar causing Romeo to sustain an injury on his forehead. All in all, he sustained eleven (11) wounds (TSN, March 12, 1996, pp. 25, 28-34; TSN, April 29, 1996, pp. 9, 12, 19-20; TSN, July 2, 1996, pp. 6-7).

Romeo's wife, Aida, rushed to where he was. Upon seeing his bloodied condition, Aida shouted for help. Some people came to their rescue. When somebody with a flashlight arrived, appellant fled (TSN, March 12, 1996, p. 32).

One of those who heard Aida's shout for help was Benhur Bonaobra, a laborer, who just came from his copra

work at San Isidro, Tabaco, Albay. While going towards where the cry for help was coming from, he saw appellant by the road, fleeing away and carrying a bolo with him. Appellant was about fifteen (15) meters away from him. He also saw appellant trying to pick up his slippers but failing (sic) to take them with him in his haste to flee away. Benhur recognized appellant, having known the latter since childhood (TSN, March 12, 1996, pp. 5-7).

When Benhur arrived at the place of the incident, he saw Romeo lying down on one side, with blood running down his face, and being cradled by his wife, Aida, who was crying. He tried to lift the victim. When some people arrived, he asked that somebody procure a hammock in order to bring the victim to the hospital. When the hammock arrived, they brought him to the Cope Hospital at Buhian. Thereat, they were informed that the victim cannot be attended to, thus, he was brought to the Ziga Memorial District Hospital at Tabaco, Albay, where he was given preliminary medical attention. Thereafter, he was brought to the Albay Provincial Hospital at Legaspi City where he was given further medical assistance and he was treated by Dr. Dante Perez (TSN, March 12, 1996, pp. 7-9, 12; TSN, July 2, 1996, p. 4; pp. 3, 5, Record).

Dr. Perez enumerated and described the injuries sustained by private complainant in the following manner:

a. These are the injuries sustained by this patient, sir. (Witness indicating in open Court, the scars on the victim. The scars are found on the left chest above the left nipple and also the injuries on the left face including the earlobe). The earlobe was transected sir. I made a repair of it. And just below the earlobe is an injury. And on the posterior arm of the patient is also a scar. Also, in the proximal left posterior lateral left and also on the left scapular area, at the back. And also at the right posterior thorax, and also at the right shoulder area. (Witness indicating) And in the proximal distal, third, right arm. (Witness pointing to the injuries to the radial nerve). The patient's radial nerve was transected. It was cut. The patient now have a permanent nerve injury, a wrist drop. There is already a paralysis of the wrist. And he also sustained a lacerated wound on his forehead.

PROSECUTOR VILLAMIN:

Q : So, there are eleven (11) injuries on the patient?

A : Yes, sir.

(TSN, July 2, 1996, pp. 6-7)[3]

The Case for the Petitioner

The petitioner invoked self-defense. The CA summarized the evidence of the petitioner in the RTC, thus:

... In the early morning of August 25, 1995 at around 12:30 o'clock, while Conrado Casitas was walking strumming his guitar and singing, Benhur Bonaobra pelted him with stones, hitting his chest twice. Romeo Boringot suddenly appeared and hacked him with a bolo. Conrado was able to parry the first bolo attack with his guitar. When Romeo continued to attack him, accused pulled his bolo from his waist and they engaged in a duel. When Romeo fell down, Conrado run (sic) away and went on foot to the Ziga Memorial Hospital where he was treated by Dr. Magayanes. While being treated in the hospital, the police arrived and he surrendered himself including his bolo.

Felixberto Bo, a resident of Bonot, Tabaco, Albay, heard a shout for help at about 12:00 o'clock midnight on August 25, 1994 and being a Barangay Tanod he got down from his house and started to run towards the direction of the person shouting for help; that he met Conrado Casitas at the bridge and he asked Conrado what happened; that accused told him that Romeo Boringot waylaid him and that he left him (victim) on the ground; that Felixberto proceeded walking and saw Romeo Boringot by the roadside near a coconut tree and full of blood; that when he arrived, his compadre Reynaldo was already there; that Apolonio Bueza was also there; that Santos Bueza, a Kagawad member of the barrio and Benigno Boqueo also a member of the Barangay Council were also there including the wife of Romeo Boringot; that he was the one who took charge in having

Romeo brought to the hospital (TSN, January 17, 1997, pp. 6-7; 11-13).[4]

The trial court rejected petitioner's plea of self-defense and convicted him of frustrated homicide. On appeal to the CA, the petitioner asserted the following:

I.

THE TRIAL COURT GRAVELY ERRED IN NOT ACQUITTING THE ACCUSED-APPELLANT DESPITE THE EXISTENCE OF THE JUSTIFYING CIRCUMSTANCE OF SELF-DEFENSE.

II.

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF HOMICIDE ON THE BASIS OF THE WEAKNESS OF THE DEFENSE'S EVIDENCE.

III.

THE COURT A QUO ERRED IN NOT APPRECIATING THE MITIGATING CIRCUMSTANCE OF VOLUNTARY SURRENDER ON THE PART OF THE ACCUSED-APPELLANT.[5]

The CA affirmed the decision of the RTC and dismissed the petitioner's appeal. He now asserts in this case that the RTC and the CA erred in not giving merit to his plea of self-defense. In the alternative, in case his conviction is affirmed, the mitigating circumstance of voluntary surrender should be appreciated in his favor.

Ruling of the Court

On the Petitioner's Plea of Self-Defense

The petitioner insists that he was merely singing and playing his guitar when Bonaobra threw stones at him and the victim suddenly attacked him with a bolo. He used his guitar to avoid being boloed by the victim, and in the process, the bolo hit his guitar. He had to use his own bolo to parry the victim's repeated thrusts. He sustained injuries when he defended himself and was treated by Dr. Ray Magayanes at the Ziga Memorial District Hospital. He gave no provocation to the sudden assault by Bonaobra and the victim.

The CA rejected petitioner's assertion, thus:

The appeal has no merit.

As correctly pointed out by the Solicitor General, the numerous blows inflicted by appellant resulting to the eleven (11) wounds suffered by the victim on vital areas of the body were clear manifestations of a deliberate, determined assault, with intent to kill the victim, ruling out the claim of self-defense.

If Conrado Casitas stabbed Romeo Boringot merely to defend himself, it certainly defies reason why he had to inflict eleven (11) wounds on the latter.

It may be that, after the first few blows, one who acts in self-defense might deal a few blows without changing the character of his defense, if this was done out of confusion or fear, but, after delivering several blows, to inflict a stab wound on the victim's throat as a coup de grace would negate any semblance of good faith and manifest a deliberate and wanton intention to kill.

The presence of several gunshot wounds on the body of the deceased is physical evidence which eloquently refutes a defense of self-defense.

Just as the presence and severity of a large number of wounds on the part of the victim disprove self-defense,

so do they belie the claim of incomplete defense of a relative and indicate not the desire to defend one's relative but a determined effort to kill.

On cross-examination by Prosecutor Nieto N. Villamin on June 11, 1997, Conrado Casitas answered:

“Q. You were arrested on October 5, 1995, more than a year after the incident?

A. Yes, sir.”

The said admission shows that appellant did not surrender voluntarily as he claims in his third assignment of error allegedly committed by the court a quo.

As observed by the trial court —

“The accused would want to picture and make believe this Court (sic) that there was the actual, sudden and unexpected attack on his person by the victim when he narrated to us that while walking and at the same time strumming his guitar he was pelted with stones by Benhur Bonaobra and suddenly hacked by Romeo Boringot; it was during the second hacking blow by the victim on him that he remembered that he has (sic) a bolo and engaged the victim to a duel; would this claim by the accused sounds (sic) not strange, contrary to human perception if not next to impossibility? Why on the first blow was he not hit when according to him it was so sudden? Why during the duel was he not hit with a single blow by the bolo of the victim? His injuries as per testimony of Dr. Ray Magayanes and as reflected in the medical certificate were all linear abrasion and hematoma and which according to the doctor were not caused by the bolo; whereas, the victim suffered 11 injuries and most of which were hacking (sic) wounds.”[6]

The settled rule is that whether or not the accused acted in self-defense, complete or incomplete, is a factual issue. And the legal aphorism is that factual findings of the trial court and its calibration of the testimonies of the witnesses and its conclusions anchored on its findings are accorded by the appellate court high respect, if not conclusive effect, more so when affirmed by the CA. The exception is when it is established that the trial court ignored, overlooked, misconstrued or misinterpreted cogent facts and circumstances which, if considered, will change the outcome of the case.[7] We have reviewed the records of the RTC and the CA and we find no justification to deviate from the trial court's findings and its conclusion.

The petitioner was burdened to prove, with clear and convincing evidence, the confluence of the three essential requisites for complete self-defense: (a) unlawful aggression on the part of the victim; (b) reasonable means used by the person defending himself to repel or prevent the unlawful aggression; (c) lack of sufficient provocation on the part of the person defending himself. By invoking self-defense, the petitioner thereby admitted having deliberately caused the victim's injuries. The burden of proof is shifted to him to prove with clear and convincing evidence all the requisites of his affirmative defense. He must rely on the strength of his own evidence and not on the weakness of that of the prosecution because even if the prosecution's evidence is weak, the same can no longer be disbelieved after the petitioner admitted inflicting the mortal injuries on the victim.[8] In this case, the petitioner failed to prove his affirmative defense.

First. The victim sustained 11 hacked wounds and lacerated wounds.[9] The number, nature and location of the victim's wounds belie the petitioner's claim that the said wounds on the victim were inflicted as they dueled with each other. The protagonists were face to face as they boloed each other. The petitioner failed to explain to the trial court how the victim sustained injuries on the proximal left posterior lateral left, at the back.[10] The use of a bolo to injure the victim as well as the number and location of the wounds inflicted on the victim are proof of the petitioner's intent to kill and not merely to defend himself.[11] In contrast, the petitioner merely sustained continuous hematoma and six linear abrasions.[12] At the time of the incident, the petitioner was intoxicated and disoriented. If, as he claimed, the victim hacked him with a bolo, it is incredible that he merely sustained

abrasions and contusions, while the victim sustained nine hacked wounds and lacerated wounds on different parts of the body.

Second. Dr. Ray Magayanes, the witness for the petitioner, testified on re-direct examination that the wounds sustained by him could not have been caused by a bolo:

q

When you answered the question of the prosecutor that all these injuries could not have been caused by a bolo, you are referring to injuries other than the incised wound?

a

All these injuries could not have been caused by a bolo.[13]

Third. The petitioner never surrendered voluntarily to the police authorities and admitted that he had injured the victim. This would have bolstered his claim that he boloed the victim to defend himself.[14] The petitioner did not do so.

Upon his discharge from the Ziga Memorial District Hospital a few hours after the treatment of his wounds, the petitioner left Tabaco, Albay, and hid in Manila. His address was unknown. It was only on October 5, 1995 that the policemen were able to arrest him on the basis of a warrant for his arrest used by the trial court.[15] By fleeing from his house and concealing his whereabouts for more than one year from the stabbing, the petitioner thereof implicably admitted his guilt.[16] The petitioner's claim that he was told by a policeman to flee to avoid aggravating the situation is flimsy. When asked about the identity of the policeman, the petitioner failed to identify the latter.[17] The Court cannot believe that a policeman would allow the petitioner, a suspect in a crime, to escape and thereby open himself to criminal and administrative charges.

Fourth. The petitioner even failed to give a statement to the police authorities and lodge a complaint against the victim and Bonaobra for physical injuries or attempted homicide. If, as the petitioner, he was the hapless victim of unlawful aggression, he should have lodged the appropriate charges against Bonaobra and the victim. It was only when he testified before the trial court that he claimed for the first time that he acted in self-defense when he boloed the victim.

On the petitioner's contention that he surrendered voluntarily to the police authorities, the Office of the Solicitor General disagreed, with the following ratiocinations:

Appellant imputes error on the court a quo for not appreciating voluntary surrender as a mitigating circumstance in his favor (pp. 10-11, Appellant's Brief).

The same does not persuade.

It was incumbent upon appellant to prove his allegation that he indeed voluntarily surrendered to the authorities. This cannot prosper solely on the basis of his self-serving statements, uncorroborated by any other unbiased and credible evidence.

More importantly, this is debunked by the fact that he was arrested on October 5, 1995, which was a year after the incident (TSN, June 11, 1997, p. 18). The fact that he had to be arrested is clearly inconsistent with the claim that he voluntarily surrendered.[18]

We agree with the Office of the Solicitor General. The petitioner even failed to identify the policeman to whom he surrendered voluntarily. The fact of the matter is that the petitioner fled from Tabaco and sought sanctuary in Manila.

Civil Liabilities of the Petitioner

The trial court awarded P30,000 to the victim for the loss of his earning capacity on the basis solely of the victim's testimony, thus:

Q Prior to this incident, what was your occupation or work?

A I am a copra maker.

Q What other occupation?

A I attend to a farmlot.

Q For how many days or months were you not able to work because of these injuries you sustained?

A From the time of the incident up to the present.

Q Because of those injuries you sustained and you cannot work up to this time, more or less, how much did you not earn for not working?

A Plenty already.

Q Tell us what is that plenty.

ATTY. BROTAMONTE:

That would be speculative.

COURT:

Witness will answer.

WITNESS:

A

More than P30,000.00.[19]

The petitioner failed to adduce any evidence to prove the quantity of copra he failed to make and the price of each. The settled rule is that actual damages, inclusive of expected earnings lost caused by the crime, must be proved with a reasonable degree of certainty and on the best evidence obtainable by the injured party.[20] The Court cannot rely on the victim's uncorroborated testimony which lacks specific details or particulars on the claimed actual damages and the amount hereof.

However, the victim is entitled to moral damages for his injuries, including that on his wrist that caused the

paralysis thereof.[21] We find that the amount of P30,000 as moral damages is reasonable.

IN LIGHT OF ALL THE FOREGOING, the assailed Decision is AFFIRMED WITH MODIFICATION. The petitioner is ordered to pay to the victim Romeo Boringot P30,000 as moral damages. The award for actual damages in the amount of P30,000 is DELETED. No costs.

SO ORDERED.

Puno, (Chairman), Quisumbing, Austria-Martinez, and Tinga, JJ., concur.

[1] Penned by Associate Justice Eubulo G. Verzola with Associate Justices Marina L. Buzon and Bienvenido L. Reyes concurring.

[2] Penned by Judge Mamerto M. Buban, Jr.

[3] Rollo pp. 38-41.

[4] Id. at 41.

[5] Id. at 42-43.

[6] Id. at 43-45.

[7] *People v. Garcia*, G.R. No. 145505, March 14, 2003.

[8] *People v. Jabian*, 356 SCRA 348 (2001); *People v. Tomolin*, 311 SCRA 498 (1999).

[9] (a) left chest above the left nipple; (b) left face; (c) including the earlobe which necessitated its repair and transection; (d) below the earlobe; (e) posterior arm; (f) proximal left posterior lateral left; (g) left scapular area at the back; (h) right posterior thorax; (i) right shoulder area; (j) proximal distal third right arm; (k) lacerated wound on the head. (Exhibit "C," TSN, 2 July 1996, pp. 6-7.)

[10] *People v. Rabanal*, 349 SCRA 655 (2001).

[11] *People v. Delim*, G.R. No. 142773, January 28, 2003.

[12] Exhibit "2."

[13] TSN, 8 August 1997, p. 21.

[14] *People v. Caras*, 234 SCRA 199 (1994).

[15] Records, p. 20.

[16] *People v. Pansensoy*, 388 SCRA 669 (2002).

[17] TSN, 11 June 1997, pp. 45-46.

[18] Rollo, p. 100.

[19] TSN, 12 March 1996, pp. 38-39.

[20] *People v. Rosario*, 246 SCRA 658 (1995).

[21] Article 2219, paragraph 1, New Civil Code.

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