

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE N. MEDIADO, ACCUSED-APPELLANT.

G.R. No. 169871. February 02, 2011

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

An accused who asserts self-defense admits his infliction of the fatal blows and bears the burden of satisfactorily establishing all the elements of self-defense. Otherwise, his conviction for the felony of murder or homicide will be affirmed.

In this appeal, Jose N. Mediado (Jose) appeals the decision of the Court of Appeals (CA) finding him guilty beyond reasonable doubt of the crime of murder for the killing of Jimmy Llorin (Jimmy),[1] thereby affirming the decision of the Regional Trial Court, Branch 35, in Iriga City (RTC) convicting him of that felony and imposing on him the penalty of reclusion perpetua and the payment of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P24,000.00 as actual damages.[2]

Antecedents

At around 9:00 a.m. on March 20, 1997, Jimmy was having a conversation with Rodolfo Mediado (Rodolfo) at the dancing hall located in Pulang Daga, Balatan, Camarines Sur. He was around 35 meters away from Lilia, his wife, who was at a meeting of the Mr. and Mrs. Club in the barangay hall. At that moment, Lilia witnessed Jose emerge from behind Jimmy and hack Jimmy twice on the head with a bolo. She next saw Jose move to Jimmy's left side and continue hacking him although he had already fallen to the ground. Jose fled, but Juan Clorado (Clorado), a former barangay kagawad, ran after him. Upon catching up, Clorado seized and took the bolo from Jose, and brought Jose to the PNP station in Balatan, Camarines Sur. Lilia believed that Jose fatally assaulted Jimmy for fear that he would report to the police authorities that Jose had attacked one Vicente Parañal during the town fiesta two days earlier.[3]

Jose confessed to killing Jimmy but claimed that he did so only to defend himself and his father (Rodolfo). Jose related that he had passed by the barangay hall on his way to work, and had observed Jimmy punch Rodolfo and hit him with a stone; that Jimmy then picked up a stone and threw it at him (Jose); that to fend off the attack, he (Jose) unsheathed his bolo and hacked Jimmy until he fell to the ground; and that he remained in the place for ten minutes and later yielded to Clorado who accompanied him to the police station where he surrendered to Police Officer Ramon Maumay.[4]

As stated, both the RTC and the CA rejected Jose's claim of self-defense and defense of a relative, and found that treachery was employed by Jose when he attacked Jimmy from behind.

Hence, this appeal.

We affirm the CA decision.

We reiterate that findings of the CA upon factual matters are conclusive and ought not to be disturbed unless they are shown to be contrary to the evidence on record.[5] Here, Jose has not demonstrated to our satisfaction that the CA committed any reversible error in making its findings of fact against Jose.

Specifically, the RTC and the CA correctly rejected Jose's claim of self-defense and defense of a relative because he did not substantiate it with clear and convincing proof.

The Revised Penal Code delineates the standards for self-defense and defense of a relative in Article 11, viz:

Article 11. Justifying circumstances. The following do not incur any criminal liability:

1. Anyone who acts in defense of his person or rights, provided that the following circumstances concur:

First. Unlawful aggression;

Second. Reasonable necessity of the means employed to prevent or repel it;

Third. Lack of sufficient provocation on the part of the person defending himself."

2. Anyone who acts in defense of the person or rights of his spouse, ascendants, descendants, or legitimate, natural or adopted brothers or sisters, or his relatives by affinity in the same degrees and those by consanguinity within the fourth civil degree, provided that the first and second requisites prescribed in the next preceding circumstance are present, and the further requisite, in case the provocation was given by the person attacked, that the one making defense had no part therein.

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Indeed, upon invoking the justifying circumstance of self-defense, Jose assumed the burden of proving the justification of his act with clear and convincing evidence. This is because his having admitted the killing required him to rely on the strength of his own evidence, not on the weakness of the Prosecution's evidence, which, even if it were weak, could not be disbelieved in view of his admission.[6]

It is also notable that unlawful aggression is the condition sine qua non for the justifying circumstances of self-defense and defense of a relative. There can be no self-defense unless the victim committed unlawful aggression against the person who resorted to self-defense.[7] As the CA pointed out, however, Jose did not support his claim that Jimmy had committed aggression by punching Rodolfo and by throwing stones at him and his father.[8] In fact, he and his father were not able to identify any weapon used by Jimmy aside from the stone that he supposedly picked up from the ground. Even that testimony was contrary, for Jose testified that he had unsheathed his bolo and hacked Jimmy after dodging the stone thrown at him. Plainly, he did not establish with clear and convincing proof that Jimmy had assaulted him or his father as to pose to either of them an imminent threat of great harm before he mounted his own attack on Jimmy.

Moreover, the post-mortem examination disclosed that Jimmy had sustained a total of seven wounds: two incised wounds and five hack wounds.[9] Three of the hack wounds were inflicted on Jimmy's neck, one of which fatally extended to and cut the trachea, esophagus, and the carotid and jugular vessels that supplied blood to the heart and brain of Jimmy.[10] Dr. Moll Lee, the medico-legal expert, opined at the trial that the injuries were possibly sustained by Jimmy from the assailant who was behind him and while he was already down.[11] This opinion was consistent with Lilia's testimony to the effect that Jose had attacked Jimmy from behind as well as when Jimmy was already lying on the ground.[12] The nature, number, and gravity of Jimmy's wounds spoke not of defense on the part of Jose but of a criminal intent to kill Jimmy.[13] They indicated beyond doubt the treacherous manner of the assault, that is, that Jose thereby ensured that the killing would be without risk and would deny to Jimmy any opportunity to defend himself.[14]

Lastly, the testimonies of Jose and Rodolfo were infected with inconsistencies. For one, Rodolfo did not mention that his son had carried a bolo during the incident; instead, Rodolfo recalled that Jose and Jimmy had engaged in a fistfight. [15] Also, Rodolfo's claim that he chose to return home after being badly hurt from Jimmy's attack was unnatural, for, if that were true, he was thereby unnaturally leaving his son to engage the attacker alone.

We modify the award of damages to make their amounts consistent with the law and jurisprudence relating to an accused adjudged guilty of a crime covered by Republic Act No. 7659,[16] regardless of aggravating or mitigating circumstances.[17] The correct amounts are P75,000.00 as civil indemnity; P75,000.00 as moral damages; and P30,000.00 as exemplary damages, all to be granted without proof or pleading. In addition, the Court notes that actual damages awarded to the heirs was only P24,000.00. In furtherance of justice and consistent with our ruling in *People v. Villanueva*[18] that when actual damages proven by receipts is lower than P25,000.00, the award of P25,000.00 as temperate damages is justified in lieu of actual damages of a lesser amount.[19]

WHEREFORE, the Court affirms the Decision promulgated on May 19, 2005 in C.A.-G.R. CR.-H.C. No. 00589 entitled *People of the Philippines v. Jose Mediado*, subject to the modification that Jose N. Mediado is ordered to indemnify the heirs of Jimmy Llorin in the amounts of P75,000.00 as civil indemnity; P75,000.00 as moral damages; P30,000.00 as exemplary damages; and P25,000.00 as temperate damages.

SO ORDERED.

Carpio Morales, (Chairperson), Brion, Villarama, Jr., and Sereno, JJ., concur.

[1] Rollo, pp. 3-16; penned by Associate Justice Noel J. Tijam, with Associate Justice Jose L. Sabio, Jr. (retired) and Associate Justice Mariflor P. Punzalan Castillo, concurring.

[2] CA Rollo, pp. 55-66; penned by Presiding Judge Alfredo D. Agawa.

[3] TSN dated July 26, 2000, pp. 4-11.

[4] TSN dated August 27, 1998, pp. 3-8.

[5] *People v. Torrefiel*, G.R. No. 115431, April 18, 1996, 256 SCRA 369, 379.

[6] *People v. Tanduyan*, G. R. No. 108784, September 13, 1994, 236 SCRA 433; *People v. Quiño*, G.R. No. 105580, May 17, 1994, 232 SCRA 400; *People v. Molina*, G.R. No. 59436, August 28, 1992, 213 SCRA 52; *People v. Boholst-Caballero*, G.R. No. 23249, November 25, 1974, 61 SCRA 180; *People v. Dorico*, G.R. No. L-31568, November 29, 1973, 54 SCRA 172; *People v. Embalido*, 58 Phil. 152 (1933); *People vs. Gutierrez*, 53 Phil. 609 (1929); *People v. Baguio*, 43 Phil. 683 (1922); *United States v. Capisonda*, 1 Phil. 575 (1902).

[7] *Razon v. People*, G.R. No. 158053, June 21, 2007, 525 SCRA 284, 298.

[8] Rollo, p. 12.

[9] TSN dated July 20, 2000, p. 15.

[10] Records, p. 19; See also testimony of Dr. Wilson C. Moll Lee, TSN dated July 20, 2000, p. 11.

[11] TSN, dated July 20, 2000, pp. 9-13.

[12] *Supra* at note 3.

[13] *People v. Albao*, G.R. No. 117481, March 6, 1998, 287 SCRA 129.

[14] See *People v. Beltran, Jr.*, G.R. No. 168051, September 27, 2006, 503 SCRA 715; *People v. Cabansay*, G.R. No. 138646, March 6, 2001, 353 SCRA 686; and *People v. Basadre*, G.R. No. 131851, February 22, 2001, 352 SCRA 573, 585.

[15] TSN dated December 10, 1998, p. 6-7.

[16] An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Laws, and for other Purposes.

[17] *People v. Arbalate*, G.R. No. 183457, September 17, 2009, 600 SCRA 239, 255.

[18] 456 Phil. 14 (2003).

[19] *Id.* at 29.

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