VIRGILIO TALAMPAS Y MATIC, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 180219. November 23, 2011

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

By petition for review on certiorari, Virgilio Talampas y Matic (Talampas) seeks the review of the affirmance of his conviction for homicide (for the killing of the late Ernesto Matic y Masinloc) by the Court of Appeals (CA) through its decision promulgated on August 16, 2007.[1]

The Regional Trial Court, Branch 25, in Biñan, Laguna (RTC) had rejected his pleas of self-defense and accident and had declared him guilty of the felony under the judgment rendered on June 22, 2004.[2]

Antecedents

The information filed on November 17, 1995, to which Talampas pleaded not guilty, averred as follows:[3]

> That on or about July 5, 1995, in the Municipality of Biñan, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, accused VIRGILIO TALAMPAS, with intent to kill, while conveniently armed with a short firearm and without any justifiable cause, did then and there willfully, unlawfully and feloniously attack, assault and shoot one Ernesto Matic y Masinloc with the said firearm, thereby inflicting upon him gunshot wound at the back of his body which directly caused his instantaneous death, to the damage and prejudice of his surviving heirs.
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> CONTRARY TO LAW.

The State presented as witnesses Jose Sevillo, Francisco Matic, Jerico Matic, Dr. Valentin Bernales, and Josephine Matic. The CA summarized their testimonies thuswise:[4]

> Prosecution witness Jose Sevillo (Jose) who allegedly witnessed the incident in question, testified that on July 5, 1995 at about 7:00 o'clock in the evening, he together with Eduardo Matic (Eduardo) and Ernesto Matic (Ernesto) were infront of his house, along the road in Zona Siete (7), Wawa, Malaban, Biñan, Laguna, repairing his tricycle when he noticed the appellant who was riding on a bicycle passed by and stopped. The latter alighted at about three (3) meters away from him, walked a few steps and brought out a short gun, a revolver, and poked the same to Eduardo and fired it hitting Eduardo who took refuge behind Ernesto. The appellant again fired his gun three (3) times, one shot hitting Ernesto at the right portion of his back causing him (Ernesto) to fall on the ground with his face down. Another shot hit Eduardo on his nape and fell down on his back (patihaya). Thereafter, the appellant ran away, while he (Jose) and his neighbors brought the victims to the hospital. On June 6, 1995, Jose executed a Sworn Statement at the Biñan Police Station.
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> Another witness, Francisco Matic, testified that prior to the death of his brother Ernesto who was then 44 years old, he (Ernesto) was driving a tricycle on a boundary system and earned P100.00 daily, although not on a regular basis because sometimes Ernesto played in a band for P100.00 per night.

> Jerico Matic, eldest son of Ernesto, alleged that he loves his father and his death was so painful to him that he could not quantify his feelings in terms of money. The death of his father was a great loss to them as they would not be able to pursue their studies and that nobody would support them financially considering that the money being sent by their mother in the amount of P2,000.00 to P2,500.00 every three (3) months, would not be enough.
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> Dr. Valentin Bernales likewise, testified that he was the one who conducted the autopsy on the body of Ernesto and found one gunshot in the body located at the back of the costal area, right side, sixteen (16) centimeters from the spinal column. This shot was fatal as it involved the major organs such as the lungs, liver and the spinal column which caused Ernesto's death.
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> The last witness, Josephine Matic, wife of Ernesto, testified that her husband was laid to rest on July 18, 1995 and that his untimely death was so painful and that she could not provide her children with sustenance. She asked for the amount of P200,000.00 for her to be able to send her children to school.

On his part, Talampas interposed self-defense and accident. He insisted that his enemy had been Eduardo Matic (Eduardo), not victim Ernesto Matic (Ernesto); that Eduardo, who was then with Ernesto at the time of the incident, had had hit him with a monkey wrench, but he had parried the blow; that he and Eduardo had then grappled for the monkey wrench; that while they had grappled, he had notice that Eduardo had held a revolver; that he had thus struggled with Eduardo for control of the revolver, which had accidentally fired and hit Ernesto during their struggling with each other; that the revolver had again fired, hitting Eduardo in the thigh; that he had then seized the revolver and shot Eduardo in the head; and that he had then fled the scene when people had started swarming around.

Ruling of the RTC

On June 22, 2004, the RTC, giving credence to the testimony of eyewitness Jose Sevilla, found Talampas guilty beyond reasonable doubt of homicide,[5] and disposed:

> WHEREFORE, premises considered, the court finds the accused guilty beyond reasonable doubt of the crime of Homicide, with one mitigating circumstance of voluntary surrender, and hereby sentences him to suffer an indeterminate penalty of IMPRISONMENT ranging from TEN (10) years and One (1) day of prision mayor, as minimum, to FOURTEEN (14) years and EIGHT (8) months of reclusion temporal, as maximum. He is likewise ordered to pay the heirs of Ernesto Matic y Masinloc the following sums, to wit:
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> 1. P50,000.00 – as and for death indemnity;
> 2. P50,000.00 – as and for moral damages;
> 3. P25,000.00 – as and for actual damages; and
> 4. P30,000.00 – as and for temperate damages.

Furnish Public Prosecutor Nofuente, Atty. Navarroza, the private complainant and accused with a copy of this decision.

SO ORDERED.[6]

Ruling of the CA

Talampas appealed to the CA, contending that:

> I
>
> THE COURT A QUO GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT FOR THE CRIME CHARGED HAS BEEN PROVEN BEYOND REASONABLE

DOUBT.

II

THE COURT A QUO GRAVELY ERRED IN NOT FINDING THAT THE DEATH OF ERNESTO MATIC WAS MERELY ACCIDENTAL.

III

THE COURT A QUO GRAVELY ERRED IN NOT FINDING THAT THE ACCUSED-APPELLANT ACTED IN DEFENSE OF HIMSELF WHEN HE GRAPPLED WITH EDUARDO MATIC.

Still, the CA affirmed the conviction based on the RTC's factual and legal conclusions, and ruled that Talampas, having invoked self-defense, had in effect admitted killing Ernesto and had thereby assumed the burden of proving the elements of self-defense by credible, clear and convincing evidence, but had miserably failed to discharge his burden.[7]

The CA deleted the award of temperate damages in view of the awarding of actual damages, pointing out that the two kinds of damages were mutually exclusive.[8]

Issue

Hence, Talampas is now before the Court, continuing to insist that his guilt was not proven beyond reasonable doubt, and that the lower courts both erred in rejecting his claim of self-defense and accidental death.

Ruling
The petition for review is denied for lack of merit.

Firstly, the elements of the plea of self-defense are: (a) unlawful aggression on the part of the victim; (b) reasonable necessity of the means employed to prevent or repel the unlawful aggression; and (c) lack of sufficient provocation on the part of the accused in defending himself.[9]

In the nature of self-defense, the protagonists should be the accused and the victim. The established circumstances indicated that such did not happen here, for it was Talampas who had initiated the attack only against Eduardo; and that Ernesto had not been at any time a target of Talampas' attack, he having only happened to be present at the scene of the attack. In reality, neither Eduardo nor Ernesto had committed any unlawful aggression against Talampas. Thus, Talampas was not repelling any unlawful aggression from the victim (Ernesto), thereby rendering his plea of self-defense unwarranted.

Secondly, Talampas could not relieve himself of criminal liability by invoking accident as a defense. Article 12(4) of the Revised Penal Code,[10] the legal provision pertinent to accident, contemplates a situation where a person is in fact in the act of doing something legal, exercising due care, diligence and prudence, but in the process produces harm or injury to someone or to something not in the least in the mind of the actor – an accidental result flowing out of a legal act.[11] Indeed, accident is an event that happens outside the sway of our will, and although it comes about through some act of our will, it lies beyond the bounds of humanly foreseeable consequences.[12] In short, accident presupposes the lack of intention to commit the wrong done.

The records eliminate the intervention of accident. Talampas brandished and poked his revolver at Eduardo and fired it, hitting Eduardo, who quickly rushed to seek refuge behind Ernesto. At that point, Talampas fired his revolver thrice. One shot hit Ernesto at the right portion of his back and caused Ernesto to fall face down to the ground. Another shot hit Eduardo on the nape, causing Eduardo to fall on his back. Certainly, Talampas' acts were by no means lawful, being a criminal assault with his revolver against both Eduardo and Ernesto.

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And, thirdly, the fact that the target of Talampas' assault was Eduardo, not Ernesto, did not excuse his hitting and killing of Ernesto. The fatal hitting of Ernesto was the natural and direct consequence of Talampas' felonious deadly assault against Eduardo. Talampas' poor aim amounted to aberratio ictus, or mistake in the blow, a circumstance that neither exempted him from criminal responsibility nor mitigated his criminal liability. Lo que es causa de la causa, es causa del mal causado (what is the cause of the cause is the cause of the evil caused).[13] Under Article 4 of the Revised Penal Code,[14] criminal liability is incurred by any person committing a felony although the wrongful act done be different from that which he intended.

Nonetheless, the Court finds the indeterminate sentence of 10 years and one day of prision mayor, as minimum, to 14 years and eight months, as maximum, legally erroneous.

The penalty for homicide under Article 246 of the Revised Penal Code is reclusion temporal. Under Section 1 of the Indeterminate Sentence Law,[15] the court, in imposing a prison sentence for an offense punished by the Revised Penal Code, or its amendments, is mandated to prescribe an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the Revised Penal Code, and the minimum term shall be within the range of the penalty next lower to that prescribed by the Revised Penal Code for the offense. With the absence of aggravating or mitigating circumstances, the imposable penalty is reclusion temporal in its medium period, or 14 years, eight months, and one day to 17 years and four months. This is pursuant to Article 64 of the Revised Penal Code.[16] It is such period that the maximum term of the indeterminate sentence should be reckoned from. Hence, limiting the maximum term of the indeterminate sentence at only 14 years and eight months contravened the express provision of the Indeterminate Sentence Law, for such penalty was within the minimum period of reclusion temporal. Accordingly, the Court must add one day to the maximum term fixed by the lower courts.

The Court finds to be unnecessary the increment of one day as part of the minimum term of the indeterminate sentence. It may be true that the increment did not constitute an error, because the minimum term thus fixed was entirely within the parameters of the Indeterminate Sentence Law. Yet, the addition of one day to the 10 years as the minimum term of the indeterminate sentence of Talampas may occasion a degree of inconvenience when it will be time for the penal administrators concerned to consider and determine whether Talampas is already qualified to enjoy the benefits of the Indeterminate Sentence Law. Hence, in order to simplify the computation of the minimum penalty of the indeterminate sentence, the Court deletes the one-day increment from the minimum term of the indeterminate sentence.

WHEREFORE, the Court AFFIRMS the decision promulgated on August 16, 2007 finding VIRGILIO TALAMPAS y MATIC guilty beyond reasonable doubt of the crime of homicide, and IMPOSES the indeterminate sentence of 10 years of prision mayor, as minimum, to 14 years, eight months, and one day of reclusion temporal, as maximum.

The petitioner shall pay the costs of suit.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Del Castillo, and Villarama, Jr., JJ., concur.

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[1] Rollo, pp. 67-75; penned by Associate Justice Aurora Santiago-Lagman (retired), with Associate Justice Bienvenido L. Reyes (now a Member of the Court) and Associate Justice Apolinario D. Bruselas, Jr. concurring.

[2] Id., pp. 25-31.

[3] Id., p. 24.

[4] Id., pp. 68-69.

[5] Supra, note 2.

[6] Rollo, pp. 30-31.

[7] Supra, note 1.

[8] Id.

[9] People v. Concepcion, G.R. No. 169060, February 6, 2007 514 SCRA 660, 668.

[10] Article 12. Circumstances which exempt from criminal liability. — The following are exempt from criminal liability:

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4. Any person who, while performing a lawful act with due care, causes an injury by mere accident without fault or intention of causing it.

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[11] Reyes, The Revised Penal Code(Criminal Law) , Book 1, 15th Edition (2001), p. 223.

[12] Id.

[13] Quotation is taken from Feria and Gregorio, Comments on the Revised Penal Code, Volume I, 1958 First Edition, Central Book Supply, Inc., p. 49.

[14] Article 4. Criminal liability. — Criminal liability shall be incurred:

1. By any person committing a felony (delito) although the wrongful act done be different from that which he intended.

2. By any person performing an act which would be an offense against persons or property, were it not for the inherent impossibility of its accomplishment or an account of the employment of inadequate or ineffectual means.

[15] Section 1. Hereafter, in imposing a prison sentence for an offense punished by the Revised Penal Code, or its amendments, the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code, and the minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense; and if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same. (As amended by Act No. 4225)

[16] Article 64. Rules for the application of penalties which contain three periods. — In cases in which the penalties prescribed by law contain three periods, whether it be a single divisible penalty or composed of three different penalties, each one of which forms a period in accordance with the provisions of Articles 76 and 77, the court shall observe for the application of the penalty the following rules, according to whether there are or are not mitigating or aggravating circumstances:

1. When there are neither aggravating nor mitigating circumstances, they shall impose the penalty prescribed by law in its medium period.

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