

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DENNIS D. MANULIT, ACCUSED-APPELLANT.

G.R. No. 192581. November 17, 2010

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

The Case

This is an appeal from the November 26, 2009 Decision of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03776[1] entitled *People of the Philippines v. Dennis D. Manulit*, which affirmed the January 28, 2009 Decision[2] in Criminal Case No. 03-219494 of the Regional Trial Court (RTC), Branch 27 in Pasay City.

Accused-appellant Dennis D. Manulit stands convicted of the crime of Murder, as defined and penalized under Article 248 of the Revised Penal Code (RPC). He was sentenced to suffer the penalty of reclusion perpetua.

The Facts

The charge against accused-appellant stemmed from the following Information:

That on or about July 6, 2003, in the City of Manila, Philippines, the said accused, armed with a firearm, with intent to kill, with treachery, did then and there willfully, unlawfully and feloniously attack, assault and use personal violence upon one Reynaldo Juguilon y Mansueto, by shooting the latter several times and hitting him on the different parts of the body, thereby inflicting upon the latter multiple gunshot wounds which were the direct and immediate cause of his death thereafter.

Contrary to law.[3]

On November 10, 2008, accused-appellant was arraigned, and he pleaded "not guilty" to the offense charged.[4] After pre-trial, trial on the merits ensued.

During trial, the prosecution presented as its witnesses Lydia Juguilon, Ralph Villadolid y Laguerta, Eduardo Juguilon, and Dr. Romeo T. Salen. On the other hand, the defense presented accused-appellant; his cousin, Marvin Manulit; Maria Fontillar-Liwanag; and Arlene Manulit-Intal as its witnesses.

The facts culled from the records are as follows:

On July 6, 2003, at around 9:00 p.m., Anabel Bautista and her live-in partner, Reynaldo Juguilon, were walking along Dagupan Extension, Tondo, Manila on their way home when they passed by accused-appellant Manulit, who was sitting in front of his house across the barangay hall. Upon seeing them, Manulit stood up and successively shot Reynaldo at the back, resulting in the latter's death. He then tucked the gun in his waist, raised his hands, and shouted, "O, wala akong ginawang kasalanan at wala kayong nakita." (I did not do anything wrong, and you saw nothing.) And he ran towards the direction of the basketball court adjoining the barangay hall.

Lydia Juguilon, Manulit's aunt and the victim's sister-in-law, saw what happened but kept quiet about it until,

bothered by her conscience, she decided to issue a statement before the prosecutor of Manila.[5] She said that, on the date and time of the incident, she went out of her house to buy some snacks in a nearby store. She saw Manulit in front of his house, while Reynaldo was walking two arms length ahead of Anabel towards the direction of their house. The place was well lighted.[6] Suddenly, she heard a gunshot, and when she turned her head to where the sound came from, she saw Manulit firing successive shots at Reynaldo's back until Reynaldo fell to the ground.[7] She was then three to four meters away from Reynaldo.[8] Afterwards, Manulit shouted, "Wala kayong nakita, wala akong ginawa kay Boyet,"[9] and tucked the gun back to his waist.[10] She further stated that Reynaldo is the brother of her husband, while Manulit is her nephew being the son of her elder brother.[11] She explained that during the wake, she kept quiet about the incident; and she went to Tarlac afterwards to keep her silence, but her conscience kept bothering her.[12]

Ralph Villadolid, another witness, corroborated Lydia's testimony.[13] Ralph was walking along Dagupan Extension, Tondo, Manila when he saw the victim, Reynaldo, on his way home. Ralph was near the barangay hall when he saw Manulit seated at the ground floor of his house. Manulit suddenly stood up and followed Reynaldo, after which Manulit pulled out a gun and shot Reynaldo several times, causing him to fall to the ground. Thereafter, Manulit immediately fled while shouting, "O, wala akong ginawang kasalanan, ha. Wala kayong nakita." Frightened, Ralph sought cover behind a parked motorcycle and came out only when Manulit was gone. He immediately prepared an affidavit regarding the incident, but only submitted it to the authorities a week after the incident.

Reynaldo's father, Eduardo Juguilon, testified as to the funeral and other miscellaneous expenses he incurred due to the death of his son.[14]

Dr. Romeo T. Salen, Medico-Legal Officer of the Manila Police District Crime Laboratory, testified that he conducted the autopsy on the cadaver of Reynaldo.[15] Upon inspection, Dr. Salen found that Reynaldo sustained four (4) gunshot wounds--two (2) at the back and two (2) at his right hand.[16] The gunshot wounds on the back exited at the neck and armpit and both were enough to cause the death of the victim.[17] The trial court presented his testimony, thus:

- Gunshot wound, thru and thru, point of entry, left scapular region, measuring 0.5 by 0.4 cm, 12 cm from the posterior midline with an abraded collar, measuring 0.4 cm inferiorly directed anteriorwards, upwards and medialwards, fracturing the 4th left thoracic ribs, lacerating the lower lobe of the left lung, the larynx, trachea, making a point of exit at the neck, measuring 1.2 [by] 0.8 cm.
- Gunshot wound thru and thru, point of entry, right scapular region, measuring 0.5 by 0.4 cm, 13 cm from the posterior midline with an abraded collar, measuring 0.2 cm, superiorly directed anteriorwards, downwards, and medialwards, fracturing the scapula and 4th right thoracic ribs, lacerating the upper and lower lobes of the right lung, making a point of exit at the left postaxillary region, measuring 1 by 0.6 cm, 18 cm from the posterior midline.
- Gunshot wound thru and thru, point of entry, middle third of the right arm, measuring 0.5 by 0.4 cm, along its anterior midline, directed posteriorwards, downwards, and lateralwards, lacerating the soft tissues and muscle, making [a] point of exit at the distal 3rd of the right arm, measuring 1 by 0.6 cm, from its anterior midline.
- Gunshot wound thru and thru, point of entry, distal 3rd of the left forearm, measuring 0.5 by 0.4 cm, 3 cm from its posterior midline, directed anteriorwards, upwards, lacerating the soft tissues and muscle, making a point of exit at the proximal 3rd left of the left arm, measuring 1 by 0.8 cm, from its posterior midline.[18]

In his defense, Manulit offered a story of self-defense. He testified that on July 6, 2006, at about 9:00 p.m., he asked his cousin, Marvin Manulit, to have a drink with him. While they were drinking, Reynaldo barged in holding a gun with both his hands.[19] He appeared not to be his normal self with reddish eyes, as if high on

drugs.[20] Reynaldo poked the gun at Manulit and said, "Ano, Dennis." [21] Manulit stood up and countered, "Anong ano?" [22] They then grappled for the possession of the gun until they reached the alley near the barangay hall where Manulit got hold of the gun. [23] Suddenly, Reynaldo opened a fan-knife. [24] This caused Manulit to shoot Reynaldo several times, causing him to turn around. [25] He dropped the gun and went straight to the house of his parents and told them what happened. [26] His cousin, Marvin Manulit, corroborated his testimony. [27]

The other defense witness, Maria Fontillar-Liwanag, testified that the victim had been involved in several mischiefs but that she had no personal knowledge of the incident. [28] On the other hand, Arlene Manulit-Intal, sister of Manulit, testified that her brother was inside the house drinking liquor with Marvin Manulit. When she heard a gun fired, she hid and saw nothing. She later learned from others that Reynaldo was shot dead. [29]

Ruling of the Trial Court

After trial, the RTC convicted Manulit. The dispositive portion of its January 28, 2009 Decision reads:

WHEREFORE, in view of all the foregoing, judgment is hereby rendered finding accused Dennis Manulit y Diwa, Guilty beyond reasonable doubt of the crime of murder, treachery being attendant to qualify the killing, and hereby sentences him to suffer the penalty of reclusion perpetua, to indemnify the heirs of the victim the sum of P50,000.00, to pay them the additional sum of P50,000.00 as moral damages and P29,000.00 as actual damages and to pay the costs.

SO ORDERED. [30]

Ruling of the Appellate Court

On November 26, 2009, the CA affirmed the judgment of the lower court. It held that accused-appellant failed to prove the presence of unlawful aggression, which is one of the key elements of self-defense. The dispositive portion of the CA Decision reads:

WHEREFORE, premises considered, finding no error committed by the trial court in arriving at the assailed decision, the same is hereby AFFIRMED and the appeal is hereby DISMISSED for lack of merit.

SO ORDERED. [31]

The Issues

Manulit contends in his Brief that:

I

THE TRIAL COURT ERRED IN REJECTING THE ACCUSED-APPELLANT'S SELF-DEFENSE;

II

THE TRIAL COURT ERRED IN APPRECIATING THE QUALIFYING CIRCUMSTANCE OF TREACHERY AGAINST THE ACCUSED-APPELLANT;

III

THE TRIAL COURT ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT. [32]

The Court's Ruling

The appeal has no merit.

Unlawful aggression is absent

In his Brief, accused-appellant argues that the trial court failed to appreciate the facts properly as he only acted in self-defense. He contends that unlawful aggression was present when the victim barged into his house for no apparent reason and started to point a gun at him.

We do not agree.

The essential elements of self-defense are: (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.[33] The person who invokes self-defense has the burden of proof of proving all the elements.[34] More importantly, "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 severe wounds upon the assailant by employing reasonable means to resist the attack." [35]

Although all of the three elements must concur, unlawful aggression must be proved first in order for self-defense to be successfully pleaded, whether complete or incomplete. In other words, "[t]here can be no self-defense, whether complete or incomplete, unless the victim had committed unlawful aggression against the person who resorted to self-defense." [36]

Unlawful aggression is an actual physical assault, or at least a threat to inflict real imminent injury, upon a person.[37] In case of threat, it must be offensive and strong, positively showing the wrongful intent to cause injury.[38] It "presupposes actual, sudden, unexpected or imminent danger--not merely threatening and intimidating action." [39] It is present "only when the one attacked faces real and immediate threat to one's life." [40]

In the instant case, accused-appellant failed to prove the existence of unlawful aggression. He wants this Court to believe that the victim was the aggressor, not him. In his testimony, he stated that while he and his cousin were drinking at the ground floor of his house, the victim suddenly barged in and poked a gun at him. They grappled for the gun and when he was able to obtain possession of it, the victim opened a fan-knife. This resulted in his act of shooting down the victim.

The Court is not convinced. After a careful perusal of the records of this case, this Court finds no plausible reason to question the trial court's assessment of the credibility of the witnesses. It is well-entrenched in our jurisprudence "that the assessment of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court because of its unique opportunity to observe the witnesses first hand and note their demeanor, conduct and attitude under grilling examination." [41] This rule is even more binding and conclusive when the trial court's assessment is affirmed by the appellate court.[42]

In finding accused-appellant guilty, the trial court found the testimonies of the prosecution witnesses credible, while it found the testimony of accused-appellant very self-serving, viz:

The testimonies of the above-mentioned prosecution witnesses were given at the earliest possible opportunity. They testified unflinchingly thereon. There was no material discrepancy between their written statement/affidavit and the testimonies they gave in open court. It was not shown that they had ill motive that drove them to make false accusations against the accused. In the case of Lydia Juguilon, she is closely related to both the accused and the victim. Accused is her nephew being the son of her elder brother while the victim was her brother in law being the younger brother of her husband. There is no showing of any reason for her to testify for one against the other. Thus, the Court gives testimonies of the said witnesses full faith and credit. In contrast, accused did not bother to give his version of what happened to the investigating authorities. Right after the shooting incident, he fled and went into hiding. He was arrested some five (5) years later by virtue of

the warrant of arrest issued by this Court. Moreover, accused's claim for self-defense was belied by the number and location of the gunshot wounds sustained by the victim.[43] x x x

Clearly, the trial court is correct in finding no ill motive on the part of any of the prosecution witnesses. The presumption is that their testimonies were not moved by any ill will and was untainted by bias, and, thus, entitled to full faith and credit.[44]

Moreover, the fact that accused-appellant fled and was only arrested five years later belies his claim of innocence. In *People v. Deduyo*, this Court said that flight by the accused clearly evinces "consciousness of guilt and a silent admission of culpability. Indeed, the wicked flee when no man pursueth, but the innocent are as bold as lion." [45]

Therefore, since no unlawful aggression was present, accused-appellant cannot successfully invoke self-defense.

Treachery is evident

In addition, accused-appellant argues that treachery should not have been appreciated by the trial court considering that the victim was armed with a gun at the time of the incident. And even after accused-appellant obtained possession of the gun, the victim had a fan-knife.

We disagree.

Paragraph 16 of Art. 14 of the RPC defines treachery as the direct employment of means, methods, or forms in the execution of the crime against persons which tend directly and specially to insure its execution, without risk to the offender arising from the defense which the offended party might make. In order for treachery to be properly appreciated, two elements must be present: (1) at the time of the attack, the victim was not in a position to defend himself; and (2) the accused consciously and deliberately adopted the particular means, methods, or forms of attack employed by him.[46] The "essence of treachery is the sudden and unexpected attack by an aggressor on the unsuspecting victim, depriving the latter of any chance to defend himself and thereby ensuring its commission without risk of himself." [47]

In the case at bar, the victim was only walking along the street when accused-appellant suddenly shot him at the back several times. He had no opportunity to defend himself, because he had no inkling that an attack was forthcoming. It likewise appears that the means was deliberately planned. What is decisive is that the attack was executed in a manner that the victim was rendered defenseless and unable to retaliate.[48] Evidently, treachery attended the killing.

Noteworthy also is the fact that accused-appellant harbored a deep-seated grudge against the victim, since the victim filed a case against accused-appellant before the Office of the City Prosecutor.

In conclusion, all the elements of the crime of murder, as defined in par. 1, Art. 248 of the RPC, were successfully proved: (1) that a person was killed; (2) that the accused killed that person; (3) that the killing was attended by treachery; and (4) that the killing is not infanticide or parricide.[49]

Verily, in criminal cases such as this one, the prosecution is not required to show the guilt of the accused with absolute certainty. Only moral certainty is demanded, or that degree of proof which, to an unprejudiced mind, produces conviction.[50] We find that the prosecution has discharged its burden of proving the guilt of accused-appellant for the crime of murder with moral certainty.

With respect to the award of damages, in line with our ruling in *People v. Satonero*, [51] when the imposable penalty is death but cannot be imposed because of Republic Act No. 9346 or An Act Prohibiting the Imposition of Death Penalty in the Philippines, and, instead, the penalty imposed is reclusion perpetua, the following amounts are to be imposed: PhP 75,000 as civil indemnity, PhP 75,000 as moral damages, and PhP 30,000 as exemplary

damages. And interest at the rate of six percent (6%) should likewise be added.[52]

WHEREFORE, the appeal is DENIED. The CA Decision in CA-G.R. CR-H.C. No. 03776 finding accused-appellant Dennis Manulit guilty of the crime charged is AFFIRMED with MODIFICATION. In addition to the sum of PhP 29,000 as actual damages awarded to the heirs of the victim, we increase the awards of civil indemnity to PhP 75,000 and moral damages to PhP 75,000. Accused-appellant is likewise sentenced to pay the victim's heirs the amount of PhP 30,000 as exemplary damages, with interest at the rate of six percent (6%) from the finality of this Decision until fully paid.

SO ORDERED.

Corona, (Chairperson), Leonardo-De Castro, Peralta,[*] and Perez, JJ., concur.

[*] Additional member per Special Order No. 913 dated November 2, 2010.

[1] Rollo, pp. 2-15. Penned by Associate Justice Andres B. Reyes, Jr. and concurred in by Associate Justices Marlene Gonzales-Sison and Vicente S.E. Veloso.

[2] CA rollo, pp. 51-55. Penned by Judge Teresa P. Soriaso.

[3] Records, p. 1.

[4] Id. at 56.

[5] Id. at 16-17.

[6] TSN, November 17, 2008, p. 20.

[7] Id. at 14-16.

[8] Id. at 32.

[9] "You did not see anything. I did not do anything to Boyet."

[10] TSN, November 17, 2008, p. 17.

[11] Id. at 31.

[12] Id. at 19-20.

[13] TSN, November 24, 2008, pp. 1-27.

[14] TSN, November 18, 2009, pp. 2-19.

[15] TSN, November 25, 2008, pp. 3-4.

[16] Id. at 7-8.

[17] Id. at 9-10.

[18] CA rollo, p. 52.

[19] TSN, December 2, 2008, pp. 6-8.

[20] Id. at 10.

[21] Id. at 9. Rough translation of "Ano, Dennis.": "What's with you, Dennis?" (as if challenging someone to a

fight).

[22] Id. at 11. Rough translation of "Anong ano?": "What is what?" It is similar to "What do you want?"

[23] Id. at 11-12.

[24] Id. at 13.

[25] Id. at 14.

[26] Id. at 15-16.

[27] TSN, December 3, 2008, pp. 3-34.

[28] TSN, December 9, 2008, pp. 5-18.

[29] Id. at 20-29.

[30] CA rollo, p. 55.

[31] Rollo, p. 15.

[32] CA rollo, p. 67.

[33] People v. Silvano, G.R. No. 125923, January 31, 2001, 350 SCRA 650, 657; People v. Plazo, G.R. No. 120547, January 29, 2001, 350 SCRA 433, 442-443.

[34] People v. Almazan, G.R. Nos. 138943-44, September 17, 2001, 365 SCRA 373, 382.

[35] People v. Escarlos, G.R. No. 148912, September 10, 2003, 410 SCRA 463, 477.

[36] People v. Catbagan, G.R. Nos. 149430-32, February 23, 2004, 423 SCRA 535, 540.

[37] People v. Basadre, G.R. No. 131851, February 22, 2001, 352 SCRA 573, 583.

[38] People v. Catbagan, supra note 36, at 557.

[39] People v. Escarlos, supra note 35, at 478.

[40] Id.

[41] People v. Bantiling, G.R. No. 136017, November 15, 2001, 369 SCRA 47, 60. See also People v. Godoy, G.R. Nos. 115908-09, December 6, 1995, 250 SCRA 676.

[42] Vidar v. People, G.R. No. 177361, February 1, 2010, 611 SCRA 216, 230.

[43] CA rollo, p. 54.

[44] People v. Quilang, G.R. Nos. 123265-66, August 12, 1999, 312 SCRA 314, 328.

[45] G.R. No. 138456, October 23, 2003, 414 SCRA 146, 162.

[46] People v. Reyes, G.R. No. 118649, March 9, 1998, 287 SCRA 229, 238.

[47] People v. Escote, Jr., G.R. No. 140756, April 4, 2003, 400 SCRA 603, 632-633.

[48] People v. Honor, G.R. No. 175945, April 7, 2009, 584 SCRA 546, 558.

[49] People v. Sameniano, G.R. No. 183703, January 20, 2009, 576 SCRA 840, 850.

[50] Rules of Court, Rule 133, Sec. 2.

[51] G.R. No. 186233, October 2, 2009, 602 SCRA 769.

[52] See *People v. Tubongbanua*, G.R. No. 171271, August 31, 2006, 500 SCRA 727, 742-743.

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