PO1 CRISPIN OCAMPO Y SANTOS, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 194129. June 15, 2015

Ponente: SERENO, C.J.

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SERENO, C.J.:

Before this Court is an appeal from the Court of Appeals (CA) Decision[1] in CA-G.R. CR No. 30957 dated 23 April 2010 and Resolution[2] dated 13 October 2010. The CA affirmed the Decision of the Regional Trial Court (RTC) dated 10 May 2006 in Criminal Case No. 00-183183, finding accused-appellant Police Officer 1 (PO1) Crispin Ocampo guilty beyond reasonable doubt of the crime of homicide.

On 01 June 2001, accused-appellant was charged with the crime of homicide under Article 249 of the Revised Penal Code (RPC). The Information reads:

> That on or about May 27, 2000, in the City of Manila, Philippines, the accused, with intent to kill, did [then] and there wilfully, unlawfully, and feloniously attack, assault and use personal violence upon one MARIO DE LUNA y HALLARE, by then and there firing his service firearm, .9 mm Barreta Pistol with Serial No. M19498Z, hitting the said Mario De Luna y Hallare on the chest and other parts of the body thereby inflicting upon him gunshot wounds which were necessarily fatal and mortal and which were the direct and immediate cause of his death thereafter.
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> Contrary to law.[3]

Upon arraignment, accused-appellant pleaded not guilty to the crime charged.[4]

The prosecution's version of the events as narrated by the CA is as follows:

> On May 27, 2000, at about seven o'clock in the evening, Mario De Luna, Emil Hipolito and Florentino Magante were having a drinking session at Mario's house located at Panday Pira Street, Tondo, Manila.
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> At about 8:30 in the evening, the three, together with Edwin Hipolito and Jaime Mabugat continued their drinking session at the house of Edwin, also at Panday Pira Street, Tondo, Manila. While drinking thereat, they noticed that another group, with appellant (accused-appellant), was also having a drinking session along Panday Pira Street which was about three to four arms length from Edwin's place.
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> Emil, Mario, Jaime and Florante joined the group in their drinking session. While drinking, appellant (accused-appellant) poked a gun at Jaime and told him "wag kang magulo, babarilin kita." Jaime retorted, "san, bakit," and was then approached by her sister who asked him to go home to which he acceded. Thereafter, appellant (accused-appellant) called on Mario De Luna and fired several shots at him. Mario de Luna fell down to the ground. He was then immediately brought to the hospital by his mother and sister where he was pronounced dead on arrival.
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> Dr. Emmanuel Arenas, Medico-Legal Officer of the PNP Crime Laboratory, Camp Crame, Quezon City, conducted a post-mortem examination of the body of Mario De Luna and found that the victim died as a result

> of the gunshot wounds on the chest and different parts of his body.[5]

For his part, accused-appellant admitted to having shot the victim to death, but claimed to have done so in self-defense.[6] In support of this claim, defense witness Marita averred that the shooting incident was precipitated by the victim's unprovoked knife attack upon accused-appellant. The latter was allegedly left with no other recourse but to use his service firearm to neutralize the aggressor.[7] As testified to by witness Marita:

> On May 27, 2000, at about 10:00 p.m., she was in front of their house at 1663 Interior 24, F. Varona, Tondo, Manila, when she saw Ferdie Tapang, her nephew, and four others having a drinking spree beside a lighted electric post. Shortly thereafter, she noticed appellant (accused-appellant) pass by. Then Jaime together with Mario arrived at the scene and approached the group of Ferdie Tapang, uttering the words: "Gusto nyo itaob ko tong lamesang ito." Sensing trouble upon seeing two of Ferdie Tapang's drinking buddies rise from the bench where they were seated, Marita rushed to the house of appellant (accused-appellant) to ask for his help in preventing a confrontation between the two groups.
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> Appellant (accused-appellant) had just arrived from his duty as police officer at the Criminal Investigation and Detection Unit of the Western Police District and was changing into civilian clothes when Marita came and apprised him of the situation. Together with Marita, he proceeded to the site of the drinking spree. Noticing the group was becoming rowdy, appellant (accused-appellant) approached Mario and asked if the latter knew him. When Mario replied yes, appellant (accused-appellant) went on to tell the group to put an end to their drinking session. Mario and Jaime immediately left the scene while the others voluntarily dispersed.
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> Minutes later, Mario and Jaime went back to the locus. While standing beside appellant (accused-appellant), Marita heard Mario shout towards their direction the words: "Walang pulis-pulis sa akin!" Appellant (accused-appellant) likewise heard Mario's utterances: "Walang pulis-pulis sa amin! Anong akala mo sa amin, basta-basta mo na lang pauuwiin." Mario then pulled out a knife and lunged at appellant (accused-appellant) who evaded the first thrust. Mario tried to stab appellant (accused-appellant) a second time but the latter dodged the knife, drew his pistol and fired two successive shots at Mario. Appellant (accused-appellant) was leaning backwards when he fired at Mario. Fatally hit, the latter slumped to the ground.
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> Having immediately left the crime scene after hearing the first gunshot, Marita failed to witness what transpired thereafter.[8]

On 28 May 2008, accused-appellant, accompanied by Police Senior Inspector (PS/Insp.) Rosauro Dalisay, arrived at the Western Police District and surrendered his service firearm.[9]

On 10 May 2006, the RTC convicted accused-appellant of homicide. The dispositive portion of the RTC Decision reads:

> WHEREFORE, premises considered, this Court finds the accused GUILTY of the crime of Homicide and hereby imposes upon him the penalty of six (6) years and one (1) day of prision mayor as minimum to twelve (12) years and one (1) day of reclusion temporal as maximum and to pay the heirs of Mario De Luna the amount of Php1,600,000.00 as loss of earning capacity; Php50,000.00 as civil indemnity; Php2,577.00 as hospital expenses; and Php300.00 as funeral expenses; and Php250,000 as attorney's fees.
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> SO ORDERED.[10]

On appeal, the CA affirmed the conviction of accused-appellant, but modified some of the monetary damages awarded. It affirmed the P50,000 civil indemnity in favor of the victim's heirs.[11] But instead of the actual damages in the total amount of P2,877 (P2,577 for hospital expense plus P300 for funeral expenses), temperate damages of P25,000 were awarded in their favor.[12] The appellate court deleted the award of P1,600,000 for loss of earning capacity on the ground of lack of competent proof to substantiate the claim and reduced the attorney's fees from P250,000 to P100,000.[13] It affirmed the factual findings of the RTC and the latter's assessment of the

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credibility of the witnesses.[14] The CA likewise found that the trial court did not err in overruling accused-appellant's plea of self-defense.[15]

Hence, this appeal.

The sole issue for resolution is whether the prosecution was able to prove accused-appellant's guilt beyond reasonable doubt.

The Court has carefully reviewed the case records and finds accused-appellant's conviction proper.

It is a well-settled doctrine that findings of trial courts on the credibility of witnesses deserve a high degree of respect.[16] Having observed their deportment in court, the trial judge is in a better position to determine the issue of credibility.[17] For this reason, the findings of trial judges will not be disturbed on appeal in the absence of any clear showing that they have overlooked, misunderstood or misapplied some facts or circumstances of weight and substance that could have altered the conviction of appellants.[18] In the case at bar, the circumstances pointed out by accused-appellant are too trivial to affect the assessment and the eventual findings of the trial court that he indeed committed the crime.

The Court therefore finds that the courts a quo have correctly appreciated the facts. Their Decisions are fully supported by evidence on record including the transcript of stenographic notes, which are extant and complete.

We are convinced that accused-appellant is guilty of homicide. We note that he admitted to having killed the victim albeit in self-defense. The rule consistently adhered to in this jurisdiction is that when the accused admit that they are the authors of the death of the victim, and their defense is anchored on self-defense, it becomes incumbent upon them to prove the justifying circumstance to the satisfaction of the court.[19]

Self-defense is a time-worn excuse resorted to by assailants in criminal cases.[20] We have held in a host of instances that for self-defense to prosper, the following requisites must be met: (1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel the attack; and (3) lack of sufficient provocation on the part of the person engaged in self-defense.[21]

In this case, accused-appellant has failed to prove by clear and convincing evidence the first element of self-defense: unlawful aggression on the part of the victim.[22] Appellant showed no attack or assault that had placed his life in imminent or actual danger.[23] As aptly ruled by the CA:

> [A]ppellant's tale of self-defense is negated by the physical evidence, specifically the trajectory of the bullets that penetrated the victim's body. Medico-Legal Report No. W-359-2000, the autopsy report, showed that the victim sustained two gunshot wounds, one at the base of his neck and another in the chest area. In both injuries, after penetrating the victim's body, the bullets traveled from left side downward to the right portion of his body. Xxx
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> The graphic representation of the travel path of the bullets from the entry to the exit points is shown in prosecution's Exhibit "B-5." On the basis of the bullet's trajectory, Dr. Aranas concluded that the shooter must have been positioned higher than the victim when the shots were fired. Thus, the trial court concluded that the results of the autopsy disproves appellant's claim that he fired the shots while leaning backward after the victim tried to stab him a second time.[24] (Emphasis supplied)

Indeed, physical evidence is a mute but eloquent manifestation of truth, and it ranks higher in our hierarchy of trustworthy evidence.[25] In criminal cases such as murder/homicide or rape, in which the accused stand to lose their liberty if found guilty, this Court has, on many occasions, relied principally upon physical evidence in

ascertaining the truth.[26] Where the physical evidence on record runs counter to the testimonies of witnesses, the primacy of the physical evidence must be upheld.[27]

Ineluctably, the victim in this case cannot be considered as the aggressor. For one, an eyewitness attested that accused-appellant shot the victim without any provocation.[28] Also, as correctly noted by the trial court, there was failure to impute ill motive on the part of the eyewitness who had implicated accused-appellant in the fatal shooting of the victim.[29] Jurisprudence holds that when there is no evidence to show any improper motive on the part of the witness to testify falsely against the accused or to pervert the truth, the logical conclusion is that no such motive exists, and that the former's testimony is worthy of full faith and credit.[30]

With regard to the second element of self-defense, the Court finds that the means employed by accused-appellant was grossly disproportionate to the victim's alleged unlawful aggression. The victim suffered multiple gunshot wounds in his chest and different parts of his body.[31] Besides, the Advance Information prepared by Senior Police Officer 1 (SPO1) Virgo Villareal, the investigator of the case, reveals that there was no mention of either a stabbing incident that happened or a knife that was recovered from the crime scene.[32] Suffice it to say that a plea of self-defense is belied by the "nature, number, and location of the wounds" inflicted on the victim, "since the gravity of said wounds is indicative of a determined effort to kill and not just to defend."[33] Here, the wounds sustained by the victim clearly show the intent of accused-appellant to kill and not merely to prevent or repel an attack. Verily, since the means employed by the latter were unreasonable and excessive, his plea of self-defense is unacceptable.

We, therefore, find no reversible error in the Decisions of the CA and the RTC as to the guilt of accused-appellant.

Anent the appropriate penalty, we affirm the penalty imposed by the RTC and the CA: an indeterminate penalty of imprisonment from six (6) years and one (1) day of prision mayor as minimum[34] to twelve (12) years and one (1) day of reclusion temporal as maximum for the crime of homicide.

The penalty for homicide under Article 249 of the Revised Penal Code is reclusion temporal.[35] Considering that there is one mitigating circumstance of voluntary surrender and no aggravating circumstance that attended the commission of the crime, the imposable penalty, pursuant to Article 64 (2) of the Revised Penal Code, is reclusion temporal in its minimum period.[36] This being a divisible penalty, the Indeterminate Sentence Law[37] is applicable. Accordingly, accused-appellant can be sentenced to an indeterminate penalty, the minimum[38] of which shall be within the range of prision mayor and the maximum[39] of which shall be within the range of reclusion temporal in its minimum period, there being one ordinary mitigating circumstance of voluntary surrender and no aggravating circumstance.

With regard to the appropriate indemnity and damages, the CA retained the award of P50,000 as civil indemnity and modified other monetary damages as follows: (a) P25,000 as temperate damages; (b) P50,000 as moral damages; and (c) P100,000 as attorney's fees.[40]

As correctly ruled by the CA, an award for civil indemnity in favor of the heirs of the victim must be automatically imposed against the accused without need of proof other than the fact of the commission of murder or homicide.[41] Based on recent jurisprudence,[42] however, the award of civil indemnity ex delicto of P75,000 for the heirs of Mario de Luna is in order.

With respect to other compensatory damages, the Court in People v. Agudez[43] declared that competent evidence must likewise be presented to support the claim for those damages. In this case, the heirs of Mario de Luna claimed that they spent P2,577 for hospital expense and P300 for funeral expenses. However, when actual

damages substantiated by receipts presented during trial amount to less than P25,000, the award of P25,000 as temperate damages, in lieu of actual damages for a lesser amount, is justified.[44]

The award for moral damages by the CA shall be adjusted from P50,000 to P75,000 to conform to the prevailing jurisprudence.[45]

We also depart from the CA and the RTC rulings awarding the heirs of the victim attorney's fees, as none of the grounds therefor under Article 2208[46] of the Civil Code is present in this case.

Finally, the Court also imposes interest on all the monetary awards for damages at the legal rate of six percent (6%) per annum from the date of finality of this Decision until fully paid.[47]

WHEREFORE, the appeal is DISMISSED. The Decision of the Court of Appeals Manila in CA-G.R. CR No. 30957 dated 23 April 2010 is hereby AFFIRMED with MODIFICATION in that accused-appellant PO1 CRISPIN OCAMPO y SANTOS is found GUILTY beyond reasonable doubt of HOMICIDE and is sentenced to suffer an indeterminate penalty of six (6) years and one (1) day of prision mayor as minimum to twelve (12) years and one (1) day of reclusion temporal as maximum. He is further ordered to pay the heirs of Mario de Luna the amounts of P75,000 as civil indemnity, P75,000 as moral damages, and P25,000 as temperate damages. All monetary awards for damages shall earn interest at the legal rate of 6% per annum from the date of the finality of this Decision until fully paid.

No pronouncement as to costs.

SO ORDERED.

Leonardo-De Castro, Bersamin, Perez, and Perlas-Bernabe, JJ., concur.

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[1] Rollo, pp. 117-133; Penned by Associate Justice Rebecca De Guia-Salvador, with Associate Justices Sesinando E. Villon and Amy C. Lazaro-Javier concurring.

[2] Id. at 115-116.

[3] Id. at 117-118.

[4] Id. at 118.

[5] Id. at 118-119.

[6] Id. at 119.

[7] Id.

[8] Id. at 120-121.

[9] Id. at 121.

[10] Id. at 121-122.

[11] Id. at 129.

[12] Id. at 129.

[13] Id. at 132.

[14] Id. at 123.

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[15] Id. at 128.

[16] People v. Pateoy Garcia, G.R. No. 156786, 03 June 2004, 430 SCRA 609.

[17] Españo v. Court of Appeals, 351 Phil. 798 (1998).

[18] Id.

[19] People v. Ramos, G.R. No. 190340, 24 July 2013, 702 SCRA 204.

[20] People vs. Maalat, 341 Phil. 200 (1997).

[21] People vs. Angeles, G.R. No. 109660, 01 July 1997, 275 SCRA 19; People vs. Maalat, 341 Phil. 200 (1997); People vs. Unarce, 339 Phil. 826 (1997); 337 Phil. 430 (1997); People vs. Nalangan, 336 Phil. 970 (1997); People vs. Tobias, 334 Phil. 851 (1997); People vs. Cahindo, 334 Phil. 507 (1997); and People v. Supremo, G.R. No. 100915, 31 May 1995, 244 SCRA 548.

[22] Supra note 1, at 124.

[23] Id. at 125.

[24] Id. at 125-127.

[25] People v. Marquina, 426 Phil 46-61 (2002).

[26] Id.

[27] People v. Marquina, 426 Phil 46-61 (2002); Tan, Jr., vs. CA, 396 Phil. 808 (2000); People vs. Roche, et al., 386 Phil. 287 (2000); and Jose vs. Court of Appeals, 379 Phil. 30 (2000).

[28] Supra note 1, at 123-124.

[29] Id. at 124.

[30] Id. at 124. Citing People v. Barriga, 588 Phil. 376 (2008).

[31] Id. at 119.

[32] Id. at 127-128.

[33] People v. Paleo, G.R. No. 156786, 03 June 2004, 430 SCRA 609.

[34] In determining the minimum term of indeterminate penalty, it is left entirely within the discretion of the court to fix it anywhere within the range of the penalty next lower without reference to the period into which it may be subdivided. (Reyes, Luis B., The Revised Penal Code: Criminal Law, p. 776. Citing People v. Ducosin, 59 Phil. 109, 117 (1933)).

[35] Revised Penal Code, Article 249.

[36] Supra note 1, at 129.

[37] Act No. 4103 as amended by Act No. 4225.

[38] The penalty next lower must be based on the penalty prescribed by the Code for the offense, without considering in the meantime the modifying circumstances, such as, the mitigating or aggravating circumstances. (Reyes, Luis B., The Revised Penal Code: Criminal Law, pp. 775-776. Citing People v. Gonzales, 73 Phil. 549, 552 (1942)).

[39] The maximum term shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the Revised Penal Code. (Reyes, Luis B., The Revised Penal Code: Criminal Law, p. 775. Citing Sec. 1, Act No. 4103 as amended by Act No. 4225).

[40] Id. at 132.

[41] Id. at 129.

[42] Mallillin v. People, G.R. No. 215366, 18 March 2015; People v. Villalba, G.R. No. 207629, 22 October 2014.

[43] People v. Agudez, G.R. No. 138386-87, 20 May 2014, 428 SCRA 692.

[44] Supra note 1, at 129. Citing People v. Gerasla, 595 Phil. 1087 (2008).

[45] Mallillin v. People, G.R. No. 215366, 18 March 2015; People v. Villalba, G.R. No. 207629, 22 October 2014.

[46] Art. 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

(1) When exemplary damages are awarded;

(2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;

(3) In criminal cases of malicious prosecution against the plaintiff;

(4) In case of a clearly unfounded civil action or proceeding against the plaintiff;

(5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiffs plainly valid, just and demandable claim;

(6) In actions for legal support;

(7) In actions for the recovery of wages of household helpers, laborers and skilled workers;

(8) In actions for indemnity under workmen's compensation and employer's liability laws;

(9) In a separate civil action to recover civil liability arising from a crime;

(10) When at least double judicial costs are awarded;

(11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

In all cases, the attorney's fees and expenses of litigation must be reasonable.

[47] People v. Palmay Varcas, G.R. No. 212151, 18 February 2015.

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