

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DANIEL MATIBAG Y DE VILLA @ “DANI” OR “DANILO,” ACCUSED-APPELLANT.

G.R. No. 206381. March 25, 2015

Ponente: PERLAS-BERNABE, J.

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PERLAS-BERNABE, J.:

Before the Court is an ordinary appeal[1] filed by accused-appellant Daniel Matibag y De Villa @ “Dani” or “Danilo” (Matibag) assailing the Decision[2] dated September 13, 2012 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 03759 which affirmed in toto the Decision[3] dated August 1, 2008 of the Regional Trial Court of Pallocan West, Batangas City, Branch 3 (RTC) in Criminal Case No. 13941, finding Matibag guilty beyond reasonable doubt of the crime of Murder.

The Facts

In an Amended Information[4] dated May 5, 2005, Matibag was charged with the crime of Murder defined and penalized under Article 248 of the Revised Penal Code (RPC), as amended,[5] the accusatory portion of which reads:

That on or about March 27, 2005 at around 8:40 o’clock [sic] in the evening at Iron Street, Twin Villa Subdivision, Brgy. Kumintang Ibaba, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, while armed with a Beretta Caliber .9MM Pistol with Serial No. 3191M9, a deadly weapon, with intent to kill and with the qualifying circumstance of treachery, did then and there willfully, unlawfully and feloniously attack, assault and shoot with said pistol one Enrico Clar de Jesus Duhan, while the latter was completely defenseless, thereby hitting him and causing gunshot wounds at his head and chest, which directly resulted to the victim’s death.

That the special aggravating circumstance of the use of unlicensed firearm is attendant in the commission of the offense.

CONTRARY TO LAW.[6]

Matibag entered a plea of not guilty during his arraignment. After the termination of the pre-trial, trial on the merits ensued.[7]

The prosecution asserted that at around 8:40 in the evening of March 27, 2005, Enrico Clar de Jesus Duhan (Duhan), who just came from a meeting with the other officers of the homeowners’ association of Twin Villa Subdivision, was walking along Iron Street in Brgy. Kumintang Ibaba, Batangas City when Matibag confronted Duhan, and asked, “ano bang pinagsasasabi mo?” Duhan replied “wala,” and without warning, Matibag delivered a fist blow hitting Duhan on the left cheek and causing him to teeter backwards. Matibag then pulled out his gun and shot Duhan, who fell face-first on the pavement. While Duhan remained in that position, Matibag shot him several more times. PO2 Tom Falejo, a member of the Philippine National Police, positively identified Matibag

and stated on record that he arrested the latter on the night of March 27, 2005. Dr. Antonio S. Vertido who conducted an autopsy on Duhan confirmed that the latter suffered gunshot wounds in the head and chest which led to his death. [8]

In his defense, Matibag alleged that on said date, he was at the despedida party of his neighbor when Duhan arrived together with the other officers of the homeowners' association. Wanting to settle a previous misunderstanding, Matibag approached Duhan and extended his hand as a gesture of reconciliation. However, Duhan pushed it away and said, "putang ina mo, ang yabang mo," thereby provoking Matibag to punch him in the face. Matibag saw Duhan pull something from his waist and fearing that it was a gun and Duhan was about to retaliate, Matibag immediately drew his own gun, shot Duhan, and hurriedly left the place. Matibag went to see his police friend, Sgt. Narciso Amante, to turn himself in, but the latter was unavailable at the time. As Matibag headed back home, he was stopped by police officers who asked if he was involved in the shooting incident. He then readily admitted his involvement.[9]

The RTC Ruling

In a Decision[10] dated August 1, 2008, the RTC convicted Matibag as charged, sentencing him to suffer the penalty of reclusion perpetua, and ordering him to pay the heirs of Duhan the amounts of P50,000.00 as civil indemnity, P50,000.00 as moral damages, ₱59,000.00 as actual damages, and P25,000.00 as exemplary damages.[11]

The RTC refused to give credence to Matibag's claim of self-defense as he failed to prove the presence of unlawful aggression on Duhan's part, finding that: (a) Duhan's words and actions prior to Matibag's attack could not be considered as a real threat against him; (b) no firearm was recovered from the victim; (c) Matibag's account that Duhan was about to pull something from his waist, which thus led him to believe that he was about to be shot, remained uncorroborated; and (d) the number of gunshot wounds Duhan sustained contradicts the plea of self-defense.[12]

Separately, the RTC appreciated the existence of the qualifying circumstance of treachery since the attack was sudden, unprovoked, and without any warning on the victim who was unarmed and in a defenseless position.[13] Likewise, the special aggravating circumstance of use of unlicensed firearm was appreciated since a firearm was used in the commission of a crime and, hence, considered unlicensed.[14]

Dissatisfied, Matibag appealed[15] to the CA.

The CA Ruling

In a Decision[16] dated September 13, 2012, the CA affirmed Matibag's conviction in toto.[17]

The CA agreed with the RTC's findings that: (a) treachery attended the killing of Duhan as the attack on him was sudden;[18] and (b) an unlicensed firearm was used in committing the crime, which is considered as a special aggravating circumstance.[19]

Hence, the instant appeal.

The Issue Before the Court

The sole issue for the Court's resolution is whether or not the CA correctly upheld the conviction of Matibag for Murder.

The Court's Ruling

The appeal is bereft of merit.

In the review of a case, the Court is guided by the long-standing principle that factual findings of the trial court, especially when affirmed by the CA, deserve great weight and respect. These factual findings should not be disturbed on appeal, unless there are facts of weight and substance that were overlooked or misinterpreted and that would materially affect the disposition of the case. The Court has carefully scrutinized the records and finds no reason to deviate from the RTC and CA's factual findings. There is no indication that the trial court, whose findings the CA affirmed, overlooked, misunderstood or misapplied the surrounding facts and circumstances of the case. Hence, the Court defers to the trial court on this score, considering too that it was in the best position to assess and determine the credibility of the witnesses presented by both parties.[20]

On this score, the Court now proceeds to resolve this case on points of law.

Matibag is charged with the crime of Murder, which is defined and penalized under Article 248 of the RPC, as amended. In order to warrant a conviction, the prosecution must establish by proof beyond reasonable doubt that: (a) a person was killed; (b) the accused killed him or her; (c) the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the RPC; and (d) the killing is not Parricide or Infanticide.[21]

Under Article 14 of the RPC, there is treachery when the offender commits any of the crimes against the person, employing means, methods, or forms in the execution thereof which tend directly and specially to ensure its execution, without risk to himself arising from the defense which the offended party might make. In *People v. Tan*,[22] the Court explained that the essence of treachery is the sudden and unexpected attack, without the slightest provocation on the part of the person attacked.[23] In *People v. Perez*,[24] it was explained that a frontal attack does not necessarily rule out treachery. The qualifying circumstance may still be appreciated if the attack was so sudden and so unexpected that the deceased had no time to prepare for his or her defense.[25]

In this case, the prosecution was able to prove that Matibag, who was armed with a gun, confronted Duhan, and without any provocation, punched and shot him on the chest.[26] Although the attack was frontal, the sudden and unexpected manner by which it was made rendered it impossible for Duhan to defend himself, adding too that he was unarmed.[27] Matibag also failed to prove that a heated exchange of words preceded the incident so as to forewarn Duhan against any impending attack from his assailant.[28] The deliberateness of Matibag's act is further evinced from his disposition preceding the moment of execution. As the RTC aptly pointed out, Matibag was ready and destined to effect such dastardly act, considering that he had an axe to grind when he confronted Duhan, coupled with the fact that he did so, armed with a loaded handgun.[29] Based on these findings, the Court concludes that treachery was correctly appreciated.

This finding of treachery further correlates to Matibag's plea of self-defense. Note that by invoking self-defense, Matibag, in effect, admitted to the commission of the act for which he was charged, albeit under circumstances that, if proven, would have exculpated him. With this admission, the burden of proof shifted to Matibag to show that the killing of Duhan was attended by the following circumstances: (a) unlawful aggression on the part of the victim; (b) reasonable necessity of the means employed to prevent or repel such aggression; and (c) lack of sufficient provocation on the part of the person resorting to self-defense.[30]

Among the foregoing elements, the most important is unlawful aggression. It is well-settled that there can be no self-defense, whether complete or incomplete, unless the victim had committed unlawful aggression against the person who resorted to self-defense.[31] Jurisprudence states that not every form or degree of aggression justifies a claim of self-defense.[32] For unlawful aggression to be appreciated, there must be an actual, sudden, and unexpected attack or imminent danger thereof, not merely a threatening or intimidating attitude,[33] as against the one claiming self-defense.

Evidently, the treacherous manner by which Matibag assaulted Duhan negates unlawful aggression in the sense above-discussed. As mentioned, the prosecution was able to prove that the attack was so sudden and unexpected, and the victim was completely defenseless. On the other hand, Matibag's version that he saw Duhan pull something from his waist (which thereby impelled his reaction), remained uncorroborated. In fact, no firearm was recovered from the victim.[34] Hence, by these accounts, Matibag's allegation of unlawful aggression and, consequently, his plea of self-defense cannot be sustained. The foregoing considered, the Court upholds Matibag's conviction for the crime of Murder, qualified by treachery, as charged.

Moreover, as the RTC and CA held, the special aggravating circumstance of use of unlicensed firearm, which was duly alleged in the Information, should be appreciated in the imposition of penalty. Presidential Decree No. (PD) 1866,[35] as amended by Republic Act No. (RA) 8294,[36] treats the unauthorized use of a licensed firearm in the commission of the crimes of homicide or murder as a special aggravating circumstance:

Section 1. Presidential Decree No. 1866, as amended, is hereby further amended to read as follows:

"Section 1. Unlawful Manufacture, Sale, Acquisition, Disposition or Possession of Firearms or Ammunition or Instruments Used or Intended to be Used in the Manufacture of Firearms or Ammunition. – x x x.

x x x x x x x x

"If homicide or murder is committed with the use of an unlicensed firearm, such use of an unlicensed firearm shall be considered as an aggravating circumstance.

x x x x x x x x

(Emphasis supplied)

Further, under Section 5 of RA 8294, the scope of the term "unlicensed firearm" has already been expanded as follows:[37]

Sec. 5. Coverage of the Term Unlicensed Firearm. – The term unlicensed firearm shall include:

1. firearms with expired license; or
2. unauthorized use of licensed firearm in the commission of the crime. (Emphasis supplied)

Therefore, when Matibag killed Duhan with his firearm, the use thereof was unauthorized under the purview of RA 8294 and is equally appreciated as a special aggravating circumstance. As a result, the imposition of the maximum penalty of death, which is reduced to reclusion perpetua in light of RA 9346,[38] stands proper. To this, the Court adds that Matibag is not eligible for parole.[39]

Finally, case law provides that for death resulting from the crime of Murder, the heirs of the victim are entitled to the following awards: (a) civil indemnity ex delicto for the death of the victim without need of evidence other than the commission of the crime;[40] (b) actual or compensatory damages to the extent proved,[41] or temperate damages when some pecuniary loss has been suffered but its amount cannot be provided with certainty;[42] (c) moral damages;[43] and (d) exemplary damages when the crime was committed with one or more aggravating circumstances.[44]

In line with recent jurisprudence, civil indemnity in the amount of P100,000.00 and moral damages in the amount of P100,000.00 are awarded to Duhan's heirs without need of evidence other than the commission of the crime and Duhan's death. Considering further that the crime was committed with treachery, exemplary damages in the sum of P100,000.00 is also granted.[45]

The award of P59,000.00 as actual damages should, however, be deleted as the records do not show that the prosecution was able to prove the amount actually expended. In lieu thereof, P25,000.00 as temperate damages is

awarded to conform with prevailing jurisprudence.[46] In addition, interest at the legal rate of six percent (6%) per annum from date of finality of this Decision until fully paid is imposed on all monetary awards.[47]

WHEREFORE, the appeal is DENIED. The Decision dated September 13, 2012 of the Court of Appeals in CA-G.R. CR-HC No. 03759 finding accused-appellant Daniel Matibag y De Villa @ “Dani” or “Danilo” GUILTY beyond reasonable doubt of the crime of Murder, defined and penalized under Article 248 of the Revised Penal Code, as amended, is hereby AFFIRMED with MODIFICATION sentencing him to suffer the penalty of reclusion perpetua, without eligibility for parole, and ordering him to pay the Heirs of Enrico Clar de Jesus Duhan the amounts of P100,000.00 as civil indemnity, P100,000.00 as moral damages, P100,000.00 as exemplary damages, and P25,000.00 as temperate damages, in lieu of actual damages, all with legal interest at the rate of six percent (6%) per annum from the finality of judgment until full payment.

SO ORDERED.

Sereno, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Perez, JJ., concur.

[1] Rollo, pp. 10-11.

[2] Id. at 37-52. Penned by Associate Justice Danton Q. Bueser with Associate Justices Amelita G. Tolentino and Ramon R. Garcia concurring.

[3] CA rollo, pp. 7-15. Penned by Judge Ruben A. Galvez.

[4] Not attached to the rollo.

[5] See rollo, pp. 38-39. See also Brief for Plaintiff-Appellee; CA rollo, pp. 91-92.

[6] See rollo, p. 39. See also CA rollo, pp. 7 and 91-92.

[7] Rollo, p. 39.

[8] See rollo, pp. 39-40. See also CA rollo, pp. 7-9.

[9] See rollo, pp. 40-41. See also CA rollo, pp. 10-11.

[10] CA rollo, pp. 7-15.

[11] Id. at 14-15.

[12] See id. at 12-13.

[13] See id. at 13.

[14] Id. at 14.

[15] See Notice of Appeal dated September 1, 2008; id. at 17.

[16] Rollo, pp. 37-52.

[17] Id. at 51.

[18] See id. at 46-48.

[19] See id. at 50-51.

[20] See *Almojuela v. People*, G.R. No. 183202, June 2, 2014.

[21] *People v. Zapuiz*, G.R. No. 199713, February 20, 2013, 691 SCRA 510, 518-519.

[22] 373 Phil. 990 (1999).

[23] *Id.* at 1010.

[24] 404 Phil. 380 (2001).

[25] *Id.* at 382.

[26] *Rollo*, p. 46.

[27] *CA rollo* p. 13.

[28] *Rollo*, p. 46.

[29] *CA rollo*, p. 13.

[30] See Article 11 (1) of the RPC. See also *Guevarra v. People*, G.R. No. 170462, February 5, 2014.

[31] See *Guevarra v. People*, *id.*

[32] See *People v. Warriner*, G.R. No. 208678, June 16, 2014.

[33] *People v. Aleta*, 603 Phil. 571, 581 (2009), citing *People v. Caabay*, 456 Phil. 792, 820 (2003).

[34] *CA rollo*, p. 13.

[35] Entitled “CODIFYING THE LAWS ON ILLEGAL/UNLAWFUL POSSESSION, MANUFACTURE, DEALING IN, ACQUISITION OR DISPOSITION OF FIREARMS, AMMUNITION OR EXPLOSIVES; AND IMPOSING STIFFER PENALTIES FOR CERTAIN VIOLATIONS THEREOF AND FOR RELEVANT PURPOSES” (June 29, 1983).

[36] Entitled “AN ACT AMENDING THE PROVISIONS OF PRESIDENTIAL DECREE NO. 1866, AS AMENDED, ENTITLED: CODIFYING THE LAWS ON ILLEGAL/UNLAWFUL POSSESSION, MANUFACTURE, DEALING IN, ACQUISITION OR DISPOSITION OF FIREARMS, AMMUNITION OR EXPLOSIVES; AND IMPOSING STIFFER PENALTIES FOR CERTAIN VIOLATIONS THEREOF AND FOR RELEVANT PURPOSES” (June 6, 1997).

[37] See *People v. Molina*, 354 Phil 746, 790 (1998).

[38] Entitled “AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES.”

[39] Pursuant to Section 3 of RA 9346, which states that “[p]ersons convicted of offenses punished with reclusion perpetua, or whose sentences will be reduced to reclusion perpetua, by reason of this Act, shall not be eligible for parole under Act No. 4180, otherwise known as the Indeterminate Sentence Law, as amended.” (See *People v. Tadah*, G.R. No. 186226, February 1, 2012, 664 SCRA 744, 747. See also *People v. Lalog*, G.R. No. 196753, April 21, 2014.)

[40] See *People v. Escleto*, G.R. No. 183706, April 25, 2012, 671 SCRA 149, 160.

[41] Civil Code, Article 2199.

[42] Civil Code, Article 2224.

[43] Civil Code, Article 2217.

[44] Civil Code, Article 2230. See also *People v. Escleto*, supra note 40.

[45] Following *People v. Gambao* (G.R. No. 172707, October 1, 2013, 706 SCRA 508, 533) wherein it was held:

We take this opportunity to increase the amounts of indemnity and damages, where, as in this case, the penalty for the crime committed is death which, however, cannot be imposed because of the provisions of [RA] 9346:

- P100,000.00 as civil indemnity;
- P100,000.00 as moral damages which the victim is assumed to have suffered and thus needs no proof; and
- P100,000.00 as exemplary damages to set an example for the public good.

These amounts shall be the minimum indemnity and damages where death is the penalty warranted by the facts but is not imposable under present law.

[46] See *People v. Escleto*, supra note 40, at 161.

[47] *Id.*

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