

THIRD DIVISION

[G.R. NO. 168827, April 13, 2007]

**BENJAMIN P. MARTINEZ, PETITIONER, VS. COURT OF APPEALS
AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

DECISION

CALLEJO, SR., J.:

This is a Petition for Review on *Certiorari* of the Decision^[1] and the Resolution^[2] of the Court of Appeals (CA) in CA-G.R. CR No. 25436, affirming with modification the trial court's judgment finding Benjamin P. Martinez guilty beyond reasonable doubt of frustrated homicide.

The Antecedents

Dean Dongui-is was a teacher at the Tubao National High School, La Union. Petitioner Benjamin Martinez was the husband of Dean's co-teacher, Lilibeth Martinez. Petitioner eked out a living as a tricycle driver.

On October 28, 1998, Dean and his wife Freda filed a complaint for damages against the spouses Martinez in the Municipal Circuit Trial Court (MCTC) of Tubao, La Union. They alleged that in March 1998, petitioner, a suitor of Elvira Basallo, had been peddling false reports that Dean and Elvira had illicit relations; he even told Freda that Elvira was Dean's mistress. This led to a quarrel between Dean and Freda, and the latter was hospitalized for her heart ailment. Dean requested Lilibeth to stop her husband from spreading lies, and she replied that Elvira had been her husband's mistress. They prayed that they be awarded moral and exemplary damages and litigation fees in the total amount of P100,000.00.^[3] The case was docketed as Civil Case No. 226.

For her part, Elvira also filed a complaint against the spouses Martinez in the MCTC of Tubao for damages anchored on Article 26 of the New Civil Code. She alleged that on several occasions, petitioner went to the Shaltene Pawnshop and Pharmacy where she was employed and accused her of having an illicit affair with Dean; on one occasion, he held her hand and forcibly pulled her outside, which caused her to scratch his face and run after him with a knife; he also told her husband's cousin, Willy Ordanza, that she had an illicit affair with Dean; Willy, in turn, told her mother-in-law about it; petitioner relayed the same rumors to her co-worker, Melba Dacanay, and his wife spread to people in the Municipality, including Ramil Basallo, her brother-in-law. Elvira also prayed for damages in the total amount of P100,000.00. The case was docketed as Civil Case No. 227.^[4]

The spouses Martinez filed a motion to dismiss the complaint in Civil Case No. 226 which was heard in the morning of February 3, 1999. The court denied the motion.

At about 1:40 p.m. that day, Dean went to the Tubao Credit Cooperative (TCC) office to pick up the dividend certificate of his wife who was a member of the cooperative. He left the building and walked to his car which was parked in front. As he did, he read the dividend certificate of his wife. Dean was about a step away from an L-300 van which was parked in front of the building when petitioner, armed with a bolo, suddenly emerged from behind the vehicle and stabbed him on the left breast. Dean instantly moved backward and saw his assailant. Dean fled to the bank office and was able to gain entry into the bank. Petitioner ran after him and upon cornering him, tried to stab him again. Dean was able to parry the blow with his right hand, and the bolo hit him on the right elbow. Dean fell to the floor and tried to stand up, but petitioner stabbed him anew on his left breast.^[5] Dean managed to run to the counter which was partitioned by a glass. Unable to get inside the counter, petitioner shouted at Dean: "*Agparentomeng ka tatta ta talaga nga patayen ka tatta nga aldawen* (You kneel down because I will really kill you now this day)."^[6]

Meantime, SPO1 Henry Sulatre was at the Tubao Police Station, about 100 meters away. He was informed that a fight was going on in the bank. He rushed to the place on board the police car. When he arrived at the scene, he saw *Barangay* Captain Rodolfo Oller and his son Nicky Oller.^[7] Nicky handed to him the bolo which petitioner had used to stab Dean.^[8] He and Rodolfo brought petitioner to the police station. On the way, they passed by the loading area of tricycles, about 40 meters away from the police station. Petitioner shouted: "*Sinaksak kon pare, sangsangaili laeng isuna saan isuna to agari ditoy Tubao* (I stabbed him, he is just a visitor so he should not act like a king here in Tubao)." SPO1 Sulatre placed Benjamin in jail. Benjamin kept on shouting: "*Napatay kon, napatay kon* (I killed him, I killed him)."^[9]

In the meantime, PO3 Valenzuela brought Dean to the Doña Gregoria Memorial Hospital in Agoo, La Union. The victim was transferred to the Ilocos Regional Hospital (IRH) in San Fernando, La Union where Dean was examined and operated on by Dr. Nathaniel Rimando, with the assistance of Dr. Darius Pariñas.^[10] Dean sustained two stab wounds in the anterior chest, left, and a lacerated wound in the right elbow, forearm. Had it not been for the blood clot that formed in the stab wound on the left ventricle that prevented the heart from bleeding excessively, Dean would have died from profuse bleeding.^[11]

On February 7, 1999, Dean gave a sworn statement to SPO1 Sulatre.^[12] However, he deferred swearing to the truth of his statement before the Public Prosecution because SPO1 Sulatre was waiting for the permanent medical certificate to be issued by the hospital. SPO1 Sulatre deferred the execution and submission of an arrest report also pending the issuance of the medical certificate.

Instead of issuing a permanent medical certificate, the IRH issued on February 8, 1999 the following Temporary Certificate:

TO WHOM IT MAY CONCERN:

According to hospital record, DEAN N. DONGUI-IS, 30 years old, male, married, a resident of Francia West, Tubao, La Union, was examined/treated/confined in this hospital on/from February 3-20, 1999.

WITH THE FOLLOWING FINDINGS AND DIAGNOSIS:

— Stab Wound (L) Chest with Hemothorax (L), (L) Ventricular Perforation;

OPERATIONS:

— Exploratory Thoracotomy (L); Evacuation of Retained Blood Clots; Ventriculorrhaphy Decortication 2/11/99

and would need medical attendance for more than thirty (30) days barring complications.^[13]

On March 10, 1999, SPO1 Sulatre filed a criminal complaint for frustrated murder against petitioner in the MCTC.^[14] The MCTC opted not to act on the crime pending the arrest report and SPO1 Sulatre's submission of Dean's sworn statement.

The IRH issued a medical certificate on February 28, 1999, stating that Dean's wounds would need medical attendance of more than 30 days.^[15] *Barangay* Captain Oller and SPO1 Sulatre executed an affidavit on petitioner's arrest.^[16] Dean had his affidavit sworn before the Public Prosecutor on March 30, 1999.

On September 13, 2000 the Provincial Prosecutor of La Union indicted Benjamin for frustrated murder before the Regional Trial Court (RTC), Branch 31, of the same province. The accusatory portion of the Information reads:

That on or about the 3rd day of February 1999, in the Municipality of Tubao, Province of La Union, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, and with treachery and evident premeditation, being then armed with a small pointed bolo, did then and there willfully, unlawfully and feloniously attack, assault and stab one DEAN DONGUI-IS y Manalo, hitting him on his left breast and right elbow, and thereby inflicting on him injuries that would have produced the crime of Murder as a consequence but which nevertheless, did not produce it by reason of causes independent of the will of the accused, mainly the timely rendition of medical assistance of on the said offended party, which prevented his death, to his damage and prejudice.

CONTRARY TO LAW.^[17]

On October 13, 2000, the accused, assisted by counsel, was arraigned and entered a plea of not guilty.

The Case for Petitioner

Petitioner declared that he merely defended himself against Dean's assault. Dean was so jealous of him because his mistress, Elvira, had also been his mistress. Unknown to Dean, he had already terminated his relation with Elvira sometime in March 1997 when his wife Lilibeth discovered the illicit relationship.^[18] Dean also suspected that he (petitioner) had been sending letters to his (Dean's) wife relative to the illicit relationship with Elvira. Dean also suspected that he was responsible for

the raid conducted by the Criminal Investigation Service (CIS) of his house for possession of a gun.^[19] As a result, Dean filed a civil complaint against him for damages, docketed as Civil Case No. 266. Before and after the filing of the civil case, Dean had hurled invectives at him in the presence of Joselito Madriaga and other tricycle drivers.^[20] Dean even attempted to sideswipe him with his car.^[21]

Petitioner declared that the criminal charge against him was Dean's concoction, and intended solely to harass him. He narrated that he went to the TCC office at about 1:30 p.m. on February 3, 1999. His wife had earlier received a note from the cooperative to get the interest on her deposit.^[22] He parked his tricycle in front of the building on the left side of the railing going to the entrance of the cooperative.^[23] Dean's car was parked on the right side of the railing.^[24] On his way, he met his 82-year-old uncle, Godofredo Sarmiento, who was also on his way to the cooperative to update his passbook because he was intending to apply for a loan.^[25] He told Godofredo that they could go to the TCC together. When they were about to pass through the entrance door, Dean was about to exit from the cooperative. Dean thought that he was blocking his way and shouted invectives at him and his uncle; Dean also spat on his breast and face; and threw a punch which he was able to parry with his left elbow.^[26] Dean kept attacking him, forcing him to move backward through the railing and towards his tricycle. Dean punched him again but he managed to parry the blow with his bolo which he took from his tricycle. He stabbed Dean on his right elbow.^[27] He swung his bolo at Dean which forced the latter to run back into the office. He entered the office and stood by the entrance door to see if Dean would get a weapon. Dean continued hurling invectives at him but was later pacified by Patricio Alterado, an employee of the cooperative.^[28] When Barangay Captain Oller arrived, he surrendered, along with his bolo.^[29] He never boasted on the way to the police station that he had killed Dean.^[30]

Godofredo partially corroborated the testimony of petitioner. He declared that Dean spat on the face of petitioner.^[31] By the time Dean and petitioner reached the place where the latter's tricycle was parked, he had left; he was afraid of being involved.^[32] He did not report the incident to the police authorities.

Joselito Madriaga testified that he and petitioner were bosom buddies with a long history of friendship. Dean had an axe to grind against petitioner because the two maintained a common mistress, Elvira.^[33]

The Trial Court's Decision

On April 30, 2001, the trial court rendered judgment^[34] convicting petitioner of frustrated homicide. The *falla* of the decision reads —

WHEREFORE, this Court, after a consideration of the evidence adduced in this case, finds accused BENJAMIN MARTINEZ guilty of the crime of Frustrated Homicide as principal. Neither aggravating circumstance nor mitigating circumstance has been appreciated. Applying the Indeterminate Sentence Law, accused Benjamin Martinez is sentenced to suffer the penalty of imprisonment ranging from FOUR (4) YEARS OF PRISION CORRECTIONAL MEDIUM as minimum to EIGHT (8) YEARS and

ONE (1) DAY OF PRISION MAYOR MEDIUM as maximum. He is also ordered to pay DEAN DONGUI-IS the amount of ONE HUNDRED FIFTY THOUSAND (P150,000.00) PESOS, broken into the following:

- (a) Ninety-Two Thousand (P92,000.00) Pesos for medical expenses;
- (b) Twenty-Six Thousand (P26,000.00) Pesos, representing his salaries for two (2) months when he could not attend to teach due to his injuries;
- (c) Twenty-Two Thousand (P22,000.00) Pesos as moral damages; and
- (d) Ten Thousand (P10,000.00) Pesos as complainant's attorney's fees.

SO ORDERED.^[35]

The trial court gave credence and full probative weight to the testimony of Dean, Dr. Rimando, SPO1 Sulatre, and the documentary evidence of the prosecution. The court rejected petitioner's twin defenses of denial and self-defense. It declared that his version lacked strong corroboration, and that his witnesses (a close relative and a friend) were biased.

Finding that the prosecution failed to prove the qualifying circumstances of treachery, the trial court convicted petitioner of frustrated homicide. The court declared that the crime involved a "love triangle,"^[36] and considered the protagonists' history of personal animosity. There was no evident premeditation because Dean had been "forewarned" of the attack.^[37]

On appeal before the CA, petitioner raised the following issues:

- I. THE TRIAL COURT COMMITTED SERIOUS ERRORS WHEN IT WRONGFULLY GAVE CREDENCE TO THE FABRICATED CLAIMS OF THE SOLE WITNESS FOR THE PROSECUTION.
- II. THE TRIAL COURT COMMITTED SERIOUS ERROR WHEN IT WRONGFULLY GAVE CREDENCE TO THE FALSE AND SPECIOUS TESTIMONY OF THE COMPLAINANT.
- III. THE TRIAL COURT COMMITTED SERIOUS ERROR WHEN IT CONVICTED THE ACCUSED FOR FRUSTRATED HOMICIDE FOR INJURIES NOT ATTESTED BY ANY COMPETENT MEDICAL CERTIFICATE.
- IV. THE TRIAL COURT COMMITTED SERIOUS ERROR WHEN IT CONVICTED THE ACCUSED FOR FRUSTRATED HOMICIDE WITHOUT ANY PROOF BEYOND REASONABLE DOUBT.
- V. THE TRIAL COURT COMMITTED SERIOUS ERROR WHEN IT DISREGARDED THE CONCLUSIVE EVIDENCE FOR THE DEFENSE WHICH COMPLETELY NEGATED ANY PROOF FOR THE PROSECUTION AND WHICH DEFINITELY WARRANTED THE ACQUITTAL OF THE ACCUSED.^[38]