

# FIRST DIVISION

[ G.R. No. 242942, October 05, 2020 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DANTE  
MAGHUYOP, ACCUSED-APPELLANT.**

## DECISION

**PERALTA, C.J.:**

Before us is an appeal from the Decision<sup>[1]</sup> of the Court of Appeals (CA) dated August 1, 2018 in CA-G.R. CR HC No. 01667-MIN, affirming the Judgment<sup>[2]</sup> dated November 10, 2016 of the Regional Trial Court, 12<sup>th</sup> Judicial Region, Branch 24, Midsayap, Cotabato, finding appellant Dante Maghuyop guilty beyond reasonable doubt of Murder and sentencing him to suffer the penalty of *reclusion perpetua*.

Appellant was charged in an Information dated March 13, 2008, to wit:

The undersigned accuses DANTE MAGHUYOP of the crime of MURDER, committed as follows:

That on or about July 4, 2007, in the Municipality of Alamada, Province of Cotabato, Philippines and within the jurisdiction of this Honorable Court, the said accused, with intent to kill, armed with knife, did then and there, willfully, unlawfully, feloniously and with treachery and evident premeditation, attack, assault and stab the person of ARCHIE AMAJADO, thereby hitting and inflicting upon the latter multiple stab wounds on the different parts of his body, which caused his death thereafter.

CONTRARY TO LAW.<sup>[3]</sup>

A warrant for his arrest was issued by the trial court on July 22, 2008. However, appellant had previously submitted an affidavit stating that he surrendered himself voluntarily to the protective custody of the Philippine National Police (PNP) of Alamada, Cotabato. On November 18, 2008, he was arraigned and pleaded *not guilty* to the charge.

The prosecution's version of the case is as follows:

Sometime on July 4, 2007 at about 7:30 in the evening, Chyrile Claudil (*Chyrile*) visited Norman Andresio (*Norman*) at the latter's house at *Barangay* Bao, Alamada, Cotabato. When he arrived, Norman, Bobong Maghuyop, Archie Amajado (*Archie*) and appellant were having their dinner. The victim and appellant were seated beside each other at a distance of about 1 to 1½ meters, while Chyrile was in front of them. While they were conversing, all of a sudden, appellant stood up, grabbed a knife at the altar just above his head, walked towards Archie, and stabbed the

victim hitting the latter's right side once, with the use of a double-bladed knife, then fled. Norman corroborated Chyrile's account of the stabbing incident.

Both witnesses testified that appellant, without provocation, stood up, went near the victim who was sitting around 1½ meters away from appellant, and suddenly stabbed the victim at his right side. There was no altercation nor was there an argument that took place between Archie and appellant before the stabbing incident took place. Both the victim and appellant were close friends since they were kids, so they could not find any reason why appellant had to stab Archie, except for the fact that during that day of the incident, they observed that appellant had been acting strangely and was not his usual self. The victim was brought to the hospital in Cotabato City.

On July 5, 2007, Nolly Maghuyop, the brother of appellant, informed the victim's father, Dioscoro Amajado, that the latter's son, Archie, had been stabbed. Dioscoro proceeded to the regional hospital on July 6, 2007 and found his son in a very serious condition. While being treated thereat, Archie died.

The defense's version of the case is as follows:

On July 4, 2007, appellant was at the house of his sister, Daisy Maghuyop Andresio, located at *Brgy. Bao, Alamada, Cotabato*. Norman, his brother-in-law and Chyrile were also there. Later, Archie arrived and since Norman had a longneck Tanduary, the two had a drinking spree. Archie offered him a drink, but he refused, so that after several attempts, Archie poured the contents of the glass over his forehead, then boxed him, causing the two of them to engage in a fistfight, while Norman and Chyrile just remained seated. Appellant and Archie were wrestling when the former saw that the latter had a knife, so he pulled his knife and stabbed the victim, then fled. A week later, he surrendered to the authorities in Carmen, Cotabato after being convinced by the barangay captain of Dungangon, Carmen, Cotabato.

The trial court found appellant guilty beyond reasonable doubt of Murder and sentenced him to suffer the penalty of *reclusion perpetua* and to pay the heirs of Archie the amounts of P75,000.00 as civil indemnity, P50,000.00 as moral damages, P30,000.00 as exemplary damages, and P25,000.00 as temperate damages. On appeal, the Court of Appeals affirmed his conviction, but modified the award of moral, exemplary, and temperate damages to P75,000.00, P75,000.00, and P50,000.00, respectively, pursuant to our ruling in *People v. Jugueta*.<sup>[4]</sup>

Appellant assigned the following errors in his Appellant's Brief:

#### I

THE TRIAL COURT ERRED IN FAILING TO APPRECIATE THE JUSTIFYING CIRCUMSTANCE OF SELF-DEFENSE DESPITE CLEAR AND CONVINCING EVIDENCE SHOWING THE ELEMENTS OF SELF-DEFENSE.

#### II

THE TRIAL COURT GRAVELY ERRED IN FINDING THAT TREACHERY ATTENDED THE KILLING OF THE VICTIM

#### III

EVEN FOR THE SAKE OF ARGUMENT THAT ACCUSED IS GUILTY, THE COURT ERRED IN FINDING ACCUSED GUILTY OF THE CRIME OF MURDER, NOT FOR HOMICIDE ONLY, AND LIKEWISE ERRED IN NOT APPRECIATING THE MITIGATING CIRCUMSTANCES OF VOLUNTARY SURRENDER AND INCOMPLETE SELF-DEFENSE.<sup>[5]</sup>

The question of whether appellant acted in self-defense is essentially one of fact. Having admitted the killing, he must prove by convincing evidence the various elements of his chosen defense. On appeal, this burden becomes even more difficult as he must show that the courts below committed reversible error in appreciating the evidence and the facts, for basic is the rule that factual findings of trial courts, when affirmed by the appellate court, are binding upon the Supreme Court,<sup>[6]</sup> unless the same are not supported by the evidence on record.<sup>[7]</sup>

Both appellant and the prosecution witnesses, Chyrile Claudil and Norman Andresio, told diametrically opposite versions of what transpired during the stabbing incident. Hence, the controversy is reduced to one essentially of credibility, a weighing of the evidence of the prosecution against that of the defense. Other than his own self-serving testimony, appellant did not present any other testimonial or documentary evidence to buttress his claim of self-defense. Moreover, appellant himself testified that there was no animosity between him and the prosecution witnesses, thus negating any ill motive against appellant in their narration of facts. Hence, if the trial court took their testimonies hook, line and sinker, it is only because their respective testimonies deserved more credence and was more in keeping with human experience. As argued by appellant himself, evidence, to be believed, must proceed not only from the mouth of a credible witness but must be credible in itself as to hurdle the test of conformity with the knowledge and common experience of mankind.<sup>[8]</sup>

Appellant utterly failed to prove the presence of any of the elements of self-defense, *i.e.*, (1) unlawful aggression on the part of the victim, (2) reasonable necessity of the means employed to prevent or repel it, and (3) lack of sufficient provocation on the part of the person defending himself, the first being the most crucial element, and without which, he could not even be entitled to the privileged mitigating circumstance of incomplete self-defense. The test for the presence of unlawful aggression is whether the aggression from the victim put in real peril the life or personal safety of the person defending himself; the peril must not be an imagined or imaginary threat. Accordingly, the accused must establish the concurrence of three elements of unlawful aggression, namely: (a) there must be a physical or material attack or assault; (b) the attack or assault must be actual, or, at least, imminent; and (c) the attack or assault must be unlawful.<sup>[9]</sup>

The records reveal that Archie did not perform any actual or imminent attack upon appellant. Even assuming that he had a knife, as appellant claims, mere possession of a weapon is not tantamount to unlawful aggression. Imminent unlawful aggression means an attack that is impending or at the point of happening; it must not consist in a mere threatening or intimidating attitude, nor must it be merely imaginary, but must be offensive, menacing and positively strong, manifestly showing the wrongful intent to cause injury.<sup>[10]</sup> Even the cocking of a rifle without aiming the firearm at any particular target is not sufficient to conclude that one's life was in imminent danger. Hence, a threat, even if made with a weapon, or the belief that a person was about to be attacked, is not sufficient. It is necessary that the

intent be ostensibly revealed by an act of aggression or by some external acts showing the commencement of actual and material unlawful aggression.<sup>[11]</sup> Absent unlawful aggression, there is no longer any need to determine the presence of the other elements.

Neither can the mitigating circumstance of voluntary surrender be appreciated in his favor. For such circumstance to be appreciated, appellant must satisfactorily comply with three (3) requisites: (1) he has not been actually arrested; (2) he surrendered himself to a person in authority or the latter's agent; and (3) the surrender is voluntary. There must be a showing of spontaneity and an intent to surrender unconditionally to the authorities, either because the accused acknowledges his guilt or he wishes to spare them the trouble and expense concomitant to his capture.

It is undisputed that appellant fled to Dungangon, Carmen, Cotabato after the commission of the crime and only surrendered a week later after being convinced to do so by the *Barangay* Captain of Dungangon.<sup>[12]</sup> When asked on direct examination whether he voluntarily submitted himself to the authorities in Carmen, Cotabato, he merely replied that they approached him in the place where he was resting.<sup>[13]</sup> This hardly inspires any belief that his surrender was spontaneous or voluntary.

In *People v. Mutya*,<sup>[14]</sup> we held that there could have been no voluntary surrender in view of the fact that therein accused went into hiding after having committed the crimes and refused to surrender to the proper authorities without having first conferred with a councilor. In *Bondario v. The Court of Appeals*,<sup>[15]</sup> we ruled that there was no voluntary surrender on the part of the accused who fled the scene of the crime and only decided to have the police fetch him *four days* after the incident for fear that the victim's relatives might avenge the latter's death.

In arguing that no treachery attended the commission of the crime, appellant states that the victim only sustained one (1) stab wound and that the stabbing was "*a spur of the moment*." He claims that if he intended to treacherously kill the victim, he would have stabbed him more than once to insure his demise, and that the victim was already forewarned of the attack when appellant stood up, took a knife, and went back to stab him. He also contends that the prosecution witnesses were only looking at appellant when he stabbed the victim and that they neither stopped him from doing so nor prevented his flight. However, Chyrile's clear and coherent testimony, as corroborated by that of Norman, negates appellant's contention that the victim was forewarned or expected the attack, to wit:

COURT:

x x x x

Q You said this Dante Maghuyop suddenly stabbed Archie Amajado?

A Yes, Your Honor.

Q While they were still eating?

A While eating.