

THIRD DIVISION

[G.R. No. 242263, November 18, 2020]

**ARON ANISCO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES,
RESPONDENT.**

DECISION

DELOS SANTOS, J.:

This is a Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court, assailing the Decision^[2] dated December 11, 2017 and the Resolution^[3] dated August 16, 2018 of the Court of Appeals (CA) in CA-G.R. CEB-CR No. 02066, which affirmed with modification the Decision^[4] dated January 5, 2012 of the Regional Trial Court (RTC) of Roxas City, Branch 17, convicting Aron Anisco (Aron) of the crime of Homicide.

The Antecedent Facts

Aron and his brother Franklin Anisco (Franklin) were charged with the crime of Homicide for the death of Rolly D. Apinan (Rolly), in an Information dated March 8, 2002, the accusatory portion of which reads:

That on or about the 1st day of January 2002, in the City of Roxas, Philippines, and within the jurisdiction of this Honorable Court, the abovenamed accused, conspiring, confederating and mutually helping each other, without any justifiable motive and with intent to kill, did then and there wilfully, unlawfully and feloniously attack, assault and shot one Rolly D. Apinan, thereby inflicting upon the latter the following wounds, to wit:

Wounds:

1. 2 cm. wound with powder burns surrounding area, right nipple line, midclavicular area about 2 cm away from right nipple;
2. Wounds at the left chest:
 - a. 1 cm in width at the 4th intercostal space, anterior axillary line;
 - b. 1 cm in width 3rd intercostal space, [posterior] axillary line.
 - c. 0.5 cm in width at 2nd intercostal space, midclavicular line.
3. Wounds at left arm:
 - a. 0.5 cm wound at left deltoid, area;

- b. 2 cm hematoma, anterior axillary line about 6 cm below axilla, with palpable hard irregular object underneath the skin.
- c. Palpable hard object underneath the skin at the posterior deltoid area, about 11 cm below the axilla.
- d. Palpable hard object beneath the skin posterior deltoid about 8 cm below the [axilla].

4. Head:

- a. Abrasion, 2 cm x 2 cm, left frontal area, about 1 cm below the hairline.
- b. 1.5 cm below a. or first abrasion, abrasion measuring 2 cm x 1 cm.
- c. 2 cm x 0.5 cm abrasion about 1 cm above the left eyebrow.

which wounds caused the death of Rolly D. Apinan, and as a consequence of the crime committed by the said accused, the heirs of the victim suffered compensatory, moral and other damages that may be awarded by this Honorable Court pursuant to the pertinent provisions of the Civil Code of the Philippines, all of which will be proven during trial.

CONTRARY TO LAW.^[5]

When arraigned, both accused individually entered a plea of NOT GUILTY.^[6]

Thereafter, trial on the merits ensued.

The prosecution presented the following as witnesses: (1) Merla Apinan (Merla), Rolly's wife; (2) Roldan Apinan (Roldan), Rolly's brother; (3) Dr. Ma. Esperanza Gepillano (Dr. Gepillano); (4) Senior Police Officer IV (SPO4) Crispin Azarcon (Azarcon); and (5) SPO1 Cornelio Acielo.^[7]

The prosecution's witnesses testified that on January 1, 2002, Rolly, Merla, and Roldan attended the New Year festivities in Sitio Luyo, Barangay Culasi, Roxas City. At about 2:00 in the morning, Rolly danced on the stage while Merla watched below. Roldan, on the other hand, sat on the right side of the stage. Moments later, Aron came up the stage and greeted Rolly. At about the same time, Franklin also went up the stage and pointed a gun at Rolly.^[8] He stepped back for about one (1) meter then fired his gun, hitting Rolly on the right chest.^[9] Merla and Roldan then came up the stage to help Rolly who fell down after the shooting incident. Aron and Franklin immediately fled the scene, carrying with them the gun that was used by Franklin to shoot Rolly.^[10]

Roldan went to the nearby Philippine Ports Authority and asked for help. The guard on duty reported the incident to the Roxas Police Station. Thereafter, a team of police officers arrived and conducted an investigation. Not long after the investigation was conducted, Aron voluntarily surrendered himself to SPO4 Azarcon, a member of the Maritime Police who was stationed in Culasi, Roxas City. Aron was turned over to the investigating police officers, to whom the former allegedly admitted involvement in the shooting incident.^[11]

Unfortunately, Rolly died and his body was brought to De Jesus Funeral Parlor. Dr. Gepillano, the City Health Officer who performed the autopsy on Rolly's body, declared the gunshot wound to be fatal. In her Post Mortem Examination Report,^[12] Dr. Gepillano stated that Rolly died due to "shock secondary to massive blood loss secondary to gunshot wound to the right chest r/o cardiac tamponade or pneumoperitoneum."^[13]

On the other hand, Aron and Franklin testified and invoked the justifying circumstance of self-defense. The defense presented Rolando dela Cruz and Rechel Villagrancia to corroborate their statements. Aron narrated that on the date and time of the shooting incident, he and his brother Franklin were at Sitio Luyo, Barangay Culasi, Roxas City looking for Aron's children. They passed by the plaza where a New Year celebration was being held. Aron saw his son, Arjohn, at the back stage and he proceeded to approach him. While Aron was on the stage, he saw Rolly and greeted him, "Happy New Year." However, Rolly pulled out a gun and pointed it at Aron. Instinctively, Aron parried the gun and they (Aron and Rolly) grappled for its possession. While they were grappling, the gun accidentally fired and Rolly fell down. Aron was left standing with the gun in his hands.^[14]

In a Decision^[15] dated January 5, 2012, the RTC acquitted Franklin due to lack of evidence against him and found the other accused, Aron, guilty beyond reasonable doubt of the crime of Homicide under Article 249 of the Revised Penal Code (RPC) and sentenced him accordingly, thus:

Wherefore, premises considered, finding accused Aron Anisco guilty beyond reasonable doubt of the crime of Homicide, he is sentenced to suffer the indeterminate penalty of SIX (6) years and ONE (1) day of prison mayor, as minimum, to TWELVE (12) years and ONE (1) day of Reclusion Temporal, as maximum, and he is ordered to pay the heirs of Rolly Apinan [P]8,060.00 as actual damages, [P]50,000.00 as moral damages, [P]50,000.00 as exemplary damages and [P]75,000.00 as death indemnity.

Franklin Anisco is acquitted for lack of evidence against him.

SO ORDERED.^[16]

The RTC gave more weight and credit to the prosecution witnesses pointing to Aron as the person who shot Rolly. Furthermore, it rejected Aron's contention that he had simply acted in self-defense which resulted in Rolly's death. The RTC ruled that Aron failed to adduce sufficient evidence to prove that he acted in self-defense, which is by presenting that all the elements of self-defense are present. Particularly, Aron failed to prove that he adopted reasonable means to repel Rolly's alleged aggression.^[17]

Thereafter, Aron filed a motion for reconsideration which the trial court denied in its Order^[18] dated March 26, 2012.

Unable to accept the judgment of conviction, Aron appealed to the CA. In a Decision^[19] dated December 11, 2017, the CA affirmed with modification the Decision of the RTC in that the appellate court directed Aron to pay the heirs of

Rolly: (a) P8,060.00 as actual damages; (b) P75,000.00 as civil indemnity *ex delicto*; (c) P50,000.00 as moral damages; (d) P50,000.00 as exemplary damages; and (e) interest at the rate of 6% *per annum* on all the damages awarded from the date of finality of the Decision until fully paid. The CA found no merit in Aron's argument as the latter failed to clearly and convincingly prove the presence of the elements of self-defense. Accordingly, the CA found that the prosecution was able to sufficiently establish Aron's guilt beyond reasonable doubt as all the elements specified under Article 249 of the RPC are present.^[20]

The CA further held that the findings of fact of the RTC, its calibration of the testimonies of witnesses and its assessment of their probative weight, as well as its conclusions based on its findings, are accorded by the appellate court with high respect, if not conclusive effect. Absent the showing of a fact or circumstance of weight and influence that was overlooked and, if considered, could affect the outcome of the case, the factual findings and assessment on the credibility of witnesses or other evidence made by the trial court remain binding on the appellate tribunal.^[21] The dispositive portion of the Decision reads:

Accordingly, the appeal is **DENIED**. The 5 January 2012 *Decision* of the Regional Trial Court, 6th Judicial Region, Branch 17, Roxas City, in Criminal Case No. C-055-03-2002, is **AFFIRMED with MODIFICATION** in that all monetary awards for damages shall earn interest at the legal rate of 6% per annum from the finality of this *Decision* until fully paid.

SO ORDERED.^[22]

Unperturbed, Aron filed a Motion for Reconsideration^[23] dated February 2, 2018 but such was denied in a Resolution^[24] dated August 16, 2018. The *fallo* of the Resolution reads as follows:

There being no new or substantial matters raised which would warrant the modification, much less, reversal of *Our* earlier ruling, accused-appellant's *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.^[25]

With his motion for reconsideration having been denied, Aron seeks redress before this Court *via* this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, claiming that:

1. THE CA ERRED IN AFFIRMING ARON'S CONVICTION DESPITE THE TESTIMONIES OF THE PROSECUTION'S EYEWITNESSES THAT IT WAS ALLEGEDLY FRANKLIN WHO SHOT ROLLY; and
2. THE CA ERRED IN AFFIRMING ARON'S CONVICTION BY THRUSTING ASIDE WITHOUT ANY CONSIDERATION ARON'S MAIN DEFENSE OF "ACCIDENTAL FIRING;" CONTRARY TO THE RULING IN THE POMOY CASE.^[26]

We deny.

This Court emphasized in *Trinidad v. People*:^[27]

At the outset, it must be stressed that in criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors. The appeal confers upon the Appellate Court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.^[28]

Proceeding from the foregoing, this Court finds no reason to deviate from the CA's ruling in denying Aron's appeal. Hence, We affirm his conviction for the crime of Homicide.

The crime of Homicide is defined and penalized under Article 249 of the RPC, which reads:

Art. 249. *Homicide*. - Any person who, not falling within the provisions of Article 246, shall kill another without the attendance of any of the circumstances enumerated in the next preceding article, shall be deemed guilty of homicide and be punished by *reclusion temporal*.

The elements of Homicide are the following: (a) a person was killed; (b) the accused killed him/her without any justifying circumstance; (c) the accused had the intention to kill, which is presumed; and (d) the killing was not attended by any of the qualifying circumstances of murder, or by that of parricide or infanticide.^[29]

As correctly pointed out by the CA, the prosecution has established all the elements specified above, to wit:

First, that a person was killed was supported by the fact that Rolly's death was duly established by the Death Certificate and the Post Mortem Examination Report prepared by Dr. Gepillano.

Second, Aron invoked self-defense, however, he has not clearly and convincingly proved all the elements of said justifying circumstance. Hence, this Court agrees that the justifying circumstance of self-defense is not applicable.

Third, intent to kill is evident from the use of a deadly weapon which in this case is a gun. In *Etino v. People*,^[30] this Court considered the following factors to determine the presence of intent to kill, namely: (1) the means used by the malefactors; (2) the nature, location, and number of wounds sustained by the victim; (3) the conduct of the malefactors before, at the time, or immediately after the killing of the victim; and (4) the circumstances under which the crime was committed; and (5) the motives of the accused.^[31]

Fourth, when Aron shot Rolly, it was not attended by any of the qualifying circumstances of murder, parricide or infanticide.

Aron insists on his acquittal by asserting that the CA committed serious and reversible error in affirming Aron's conviction despite the testimonies of the witnesses for the prosecution that it was allegedly Franklin who shot the victim.