

FIRST DIVISION

[G.R. No. 220146, April 18, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GLEN
ABINA Y LATORRE AND JESUS LATORRE Y DERAYA, ****
ACCUSED-APPELLANTS.**

D E C I S I O N

DEL CASTILLO, J.:

On appeal is the December 10, 2014 Decision^[1] of the Court of Appeals (CA) in CA-GR. CR HC No. 01302, which affirmed the December 29, 2010 Joint Judgment^[2] of the Regional Trial Court (RTC) of Calbiga, Samar, Branch 33 finding Glen Abina y Latorre (Glen) and Jesus Latorre y Deraya (Jesus) guilty of murder in Criminal Case No. CC-2008-1695, and homicide in Criminal Case No. CC-2008-1696.^[3]

Factual Antecedents

Glen and Jesus were charged with murder for the killing of Anthony Asadon (Anthony) and Rodolfo Mabag (Rodolfo). The Informations read:

[Criminal Case No. CC-2008-1695]

That on or about the 1st day of February, 2008, at around 5:00 o'clock in the afternoon, more or less, in Barangay Concord, Municipality of Hinabangan, Province of Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping one another, with deliberate intent to kill and with treachery, thereby qualifying the offense to murder, did, then and there, willfully, unlawfully and feloniously attack, assault, shoot, stab and hack several times one ANTHONY ASADON with the use of a long bladed weapon locally known as 'sundang' and unlicensed homemade hand gun with which the accused provided themselves for the purpose, thereby inflicting upon the victim fatal wounds, which resulted to his death.

CONTRARY TO LAW.^[4]

[Criminal Case No. CC-2008-1696]

That on or about the 1st day of February, 2008, at around 5:00 o'clock in the afternoon, more or less, in Barangay Concord, Municipality of Hinabangan, Province of Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping one another, with deliberate

intent to kill and with treachery, thereby qualifying the offense to murder, did, then and there, willfully, unlawfully and feloniously attack, assault, shoot, stab and hack several times one RODOLFO MABAG with the use of a long bladed weapon locally known as 'sundang' with which the accused provided themselves for the purpose, thereby inflicting upon the victim fatal wounds, which resulted to his death.

CONTRARY TO LAW.^[5]

Glen and Jesus pleaded "Not Guilty"^[6] to the charges against them. Trial on the merits thereafter ensued.

Version of the Prosecution

At about 1:00 p.m. on February 1, 2008, Anthony Asadon (Anthony) and his wife, Jonalyn Asadon (Jonalyn), were at Glen's house for his birthday celebration. During that time, Glen, Jesus, Pio Jongaya, and victims Anthony and Rodolfo Mabag (Rodolfo) were having a drinking spree.^[7]

At about 5:00 p.m., Jonalyn and Anthony asked permission to leave the party; however, Glen disapproved of it because they would still buy liquor.^[8] When Jonalyn and Anthony proceeded to leave, Glen suddenly took his gun and shot Anthony, hitting his right eye.^[9]

When Anthony fell on the ground, Jesus stabbed him with a bolo. Seeing his cousin Anthony being assaulted, Rodolfo drew his bolo and hit Glen at his chin. In turn, Glen and Jesus hacked and stabbed Rodolfo on his arms, forehead and face.^[10]

Both Anthony and Rodolfo died.^[11]

Version of the Defense

As summarized by the CA, the version of the defense is as follows:

JESUS LATORRE Y DERAYA averred that on February 1, 2008, particularly at 4:00 o'clock in the afternoon, he was in his house; by 5:00 o'clock in the afternoon he went to his farm located about 300 meters away. After a while, he went home. On his way home, he noticed a birthday party in the house of Glen Abina. When he was already in his house, he saw Roberto Jongaya alias Dondon with a gun directed at Anthony Asadon and Rodolfo Mabag. Hence, he admonished Dondon to stop because the two were drunk. Dondon at that time was four meters away from Anthony and Rodolfo while he was about 10 meters when he first saw Dondon aiming the gun. Unfortunately, Dondon did not heed his advice and eventually shot Anthony on the forehead while Rodolfo was hit at the right side of his head, just below his right ear. When the two fell down, Glen and Dondon immediately stabbed the two. Glen used a 22 inches bolo while Dondon used a 26 inches, left handed bolo. After grabbing the

bolos from the hands of Glen and Dondon, he placed it inside the sack. He also picked up the gun thrown by Dondon in the cogonal area and kept it in the same sack. Thereafter, he delivered the weapons to Eddie, the Brgy. Captain of Concord. He informed Eddie about the incident. Thereafter, he went home. Glen, who was injured in his right ankle just stayed in his house while Dondon went to the barangay proper.

He was arrested that evening by some barangay tanod and members of the Philippine Army. The military men warned him that if he will not surrender his house will be strafed. He did explain to them that he was not the principal of the crime; that he only helped by carrying the weapons to the Brgy. Captain. However, the military men handcuffed him and brought him to the barangay proper. At the barangay plaza, he was interrogated; they wanted him to admit the commission of the crime. Glen was also arrested. On the other hand, Dondon and Roberto Jongaya escaped.^[12]

However, during his cross-examination, Jesus admitted that he and Glen killed Anthony and Rodolfo but only to defend themselves.^[13]

Ruling of the Regional Trial Court

In its December 29, 2010 Joint Judgment, the RTC convicted Glen and Jesus of murder, for the death of Anthony, and homicide, for the death of Rodolfo. The dispositive portion reads:

WHEREFORE, premises considered, the Court finds the two (2) accused GLEN ABINA y LATORRE and JESUS LATORRE y DERAYA GUILTY BEYOND REASONABLE DOUBT as principals of the crime[s] of:

A. MURDER x x x in Criminal Case No. CC-2008-1695 and x x x hereby sentences them to suffer imprisonment of RECLUSION PERPETUA; to indemnify jointly and solidarity the [h]eirs of Anthony Asadon Php75,000.00 as civil indemnity for his death; Php50,000.00 as moral damages and Php30,000.00 as exemplary damages and to pay the costs of this suit.

x x x x

B. HOMICIDE x x x in Criminal Case No. CC-2008-1696 and x x x hereby sentences them to suffer imprisonment of an indeterminate penalty ranging from TEN (10) YEARS of Prision Mayor as minimum to FOURTEEN (14) YEARS FOUR (4) MONTHS AND ONE (1) DAY of Reclusion Temporal as maximum; to indemnify jointly and solidarity the [h]eirs of Rodolfo Mabag Php50,000.00 as civil indemnity for his death and to pay the costs of this suit.

x x x x^[14]

The RTC did not consider the defense's claim of self-defense. It held that their denial of their involvement in the killing was inconsistent with their claim of self-defense; they in turn failed to prove unlawful aggression on the part of the victims which is an essential element of self-defense. Instead, the RTC gave weight to the positive, credible, and logical testimonies of the prosecution witnesses who positively identified Glen and Jesus as the persons who killed Anthony and Rodolfo.

The RTC further ruled that the killing of Anthony was attended by treachery, which qualified the crime to murder. It explained that Anthony was attacked in a sudden and unexpected manner that afforded him no opportunity to defend himself. It also found conspiracy between Glen and Jesus in killing Anthony as their concerted acts showed unity of purpose and design.

On the other hand, the RTC held that the killing of Rodolfo only amounted to homicide. It explained that Rodolfo was hacked and stabbed only after he joined the melee. According to the RTC, in the absence of treachery, appellants were only liable for homicide for the killing Rodolfo.

Ruling of the Court of Appeals

The CA concurred with the finding of the RTC that appellants failed to establish the elements of self-defense, especially the presence of unlawful aggression. Like the RTC, it noted that Jesus' denial was inconsistent with their claim of self-defense. The CA ratiocinated that a person who invokes self-defense necessarily admits authorship of the crime which is completely inconsistent with their defense of denial.

The CA also stressed that aside from failing to support their defense of denial, Jesus even admitted, during cross-examination, that he and Glen killed the victims. Necessarily, such admission would work against them.

The CA similarly ruled that the killing of Anthony was treacherous which qualified the crime to murder. It held that Glen and Jesus deprived Anthony of means to repel the sudden and unexpected attack against him. It pointed out that Glen suddenly shot Anthony when the latter was about to leave, which rendered him (Anthony) defenseless; and subsequently, Jesus joined the fray by stabbing him. Taken together, the means employed by Glen and Jesus assured them of no risk from any defense that Anthony might have adopted against them.

With regard to the killing of Rodolfo, the CA agreed with the RTC that the same only amounted to homicide because of the absence of treachery. It ruled that Rodolfo was attacked only after he came to the aid of Anthony. Given these circumstances, the CA concluded that treachery did not attend the killing of Rodolfo.

Hence, this appeal.

In our Resolution^[15] dated December 5, 2016, the Court already dismissed the case against Jesus in view of his death. Hence, we will only resolve the issue of Glen's culpability.

Issue