

SECOND DIVISION

[G.R. No. 213273, June 27, 2018]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V.
LEONARDO B. SIEGA, ACCUSED-APPELLANT.**

R E S O L U T I O N

CAGUIOA, J:

On appeal is the Amended Decision^[1] dated November 20, 2013 of the Court of Appeals (CA), Special Former Nineteenth Division, Cebu City, in CA-G.R. CR HC No. 01003, modifying the Decision^[2] dated July 27, 2012 of the CA Nineteenth Division in the same case. The July 27, 2012 Decision of the CA affirmed with modification the Decision^[3] of the Regional Trial Court (RTC), Branch 39, Sogod, Southern Leyte, in Criminal Case No. R-478; finding accused-appellant Leonardo B. Siega (Siega) guilty beyond reasonable doubt of the crime of Murder.

The Facts

Siega was charged with the crime of Murder, defined and penalized under Article 248 of the Revised Penal Code (RPC), as amended, under an Information dated January 25, 2006, the accusatory portion of which reads:

That on the 16th day of October, 2005 at around 4:30 o'clock in the afternoon, more or less, at Sitio Lubong Sapa, Barangay Kahupian, Municipality of Sogod, Province of Southern Leyte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill, evident premeditation and treachery, did then and there willfully, unlawfully and feloniously attack, assault, stab and hack one Pacenciano Bitoy with the use of a sharp pointed bolo locally known as sundang which the accused had provided himself for the purpose, thereby causing the instantaneous death of the said Pacenciano Bitoy, to the damage and prejudice of his heirs and of social order.

CONTRARY TO LAW.^[4]

Siega pleaded not guilty to the crime charged and alleged the defense of the justifying circumstance of self-defense.^[5]

In the course of the reverse trial, Siega averred that:

On October 16, 2005, at around 4:00 p.m., Siega was about to enter his house when he heard a sound coming from the feeder road facing his residence.^[6] When Siega turned to the source of the noise, he saw Pacenciano Bitoy (Bitoy), rushing towards him and shouting at him to get out of his house so that they could end their grudge against each other.^[7] As Bitoy was nearing him, Siega saw the former

attempting to draw the bolo that was wrapped on his waist.^[8] Scared by Bitoy's actions, Siega immediately grabbed onto the bolo that was then beside him and hacked Bitoy.^[9] Siega inflicted several injuries on Bitoy, before the latter retreated and ran away.^[10] Siega then went inside his house, changed his clothes and surrendered to the authorities.^[11]

The defense also presented Emiliano Gildore (Gildore), who testified on direct examination that, at the time of the incident, he was at the back of the house of Siega, checking the piglets being raised by the latter, when he heard someone utter the following words in vernacular, "*gawas diha kay atong tiwason atong dumot*" which means "go out so that we can finish our previous grudges."^[12] Gildore glanced and saw Bitoy, armed with a sharp pointed bolo, facing Siega.^[13] When Bitoy allegedly got hold of the handle of his bolo, Siega was able to stab him first, hitting the victim at the center of his breast.^[14] Upon seeing the stabbing, Gildore ran away and did not report the incident to the police.^[15]

On cross-examination, Gildore averred that Siega's uncle, Pepe Siega, who is his friend asked him to testify for the accused.^[16]

On the other hand, the prosecution, through the testimonies of Melicio Alingasa (Alingasa) and Dr. Lodivico C. Mosot (Dr. Mosot), alleged that:

At about 4:30 p.m. of October 16, 2005, Bitoy and his friend Alingasa were walking along the feeder road of Sitio Lubong Sapa on their way home to Sitio Jagna. As they were nearing the Purok Center of Sitio Lubong Sapa, just near the house of Siega, the latter armed with a bolo suddenly approached them and asked "*kinsay mopalag*" or who would dare challenge me.^[17] Bitoy replied that no one would dare challenge him.^[18] Seemingly satisfied with Bitoy's response, Siega walked towards the direction of the Purok Center; while Bitoy and Alingasa continued to walk towards Sitio Jagna.^[19] Bitoy then intimated to Alingasa that it was a good thing that he had nothing on Siega then.^[20] Suddenly, Siega turned back, asked Bitoy whether he was the tough guy of Jagna, and stabbed the latter with a long bolo on the left part of his chest.^[21] Surprised by the incident, Bitoy tried to flee but Siega ran after him and continued his assault.^[22] Alingasa saw Siega continue to hack Bitoy even if the latter was already lying on the ground.^[23] Alingasa ran away and proceeded to the direction of Sitio Jagna. He hurried to the wife of Bitoy and told her the fate that befell her husband.^[24]

Due to the severity of his wounds, Bitoy died that afternoon.^[25]

The postmortem report of Dr. Mosot showed that Bitoy sustained three (3) hack wounds on his face, which caused his right eyeball to pop out; two (2) hack wounds on his forearms; and three (3) deep penetrating stab wounds on his chest cavity,^[26] which could have caused his immediate death due to hemorrhage or massive bleeding and loss of blood.^[27]

RTC Ruling.

In its Decision^[28] dated January 22, 2009, the RTC found Siega guilty beyond reasonable doubt of the crime of Murder and sentenced him to suffer the penalty of

reclusion perpetua and indemnify the heirs of the victim in the amount of P50,000.00 and to pay the costs.^[29] According to the RTC, Siega failed to prove the element of unlawful aggression. Siega's claim that Bitoy tried to draw a weapon from his waist was belied by the fact that no such weapon was recovered from the victim or at the scene of the incident; and Alingasa's credible testimony verified that Bitoy was not carrying any weapon at the time of the incident.^[30]

The RTC also found the testimony of Gildore unbelievable and unreliable, being a biased witness.^[31] According to the RTC, Gildore was incoherent and inconsistent during his testimony in open court that the defense counsel had to ask leading questions to get him back on track.^[32] The RTC, on the other hand, found the testimony of Alingasa credible, straightforward, positive and direct to the point.^[33]

Moreover, the RTC found that the killing of Bitoy was attended by treachery because, as testified by Alingasa, Siega suddenly stabbed Bitoy, who was unsuspecting and unarmed.^[34] However, the RTC did not appreciate the qualifying circumstance of evident premeditation because there was no proof on how Siega planned and prepared in the killing of Bitoy and on the lapse of time for Siega to reflect and cling to his determination to execute the crime.^[35]

The RTC, on the other hand, appreciated the mitigating circumstance of voluntary surrender and imposed the lower penalty of *reclusion perpetua*.^[36]

CA Ruling.

In a Decision^[37] dated July 27, 2012, the CA affirmed, with modifications on the civil damages, the ruling of the RTC. The CA held that the RTC did not err in convicting Siega for the crime of Murder as there was failure of the defense to sufficiently prove self-defense and it was positively proven by the prosecution that the killing of Bitoy was attended by treachery.^[38] The CA ruled that there was no unlawful aggression on the part of Bitoy and that the numerous inflicted wounds on the victim belie any claim of self-defense but illuminate the determined effort of Siega to kill the victim.^[39] The CA further ruled that Siega's act of getting close to the weaponless victim, asking him a question and swiftly and unexpectedly hacking him is nothing short of treachery, as it ensured the commission of the crime without any risk to himself.^[40]

Accordingly, the CA found Siega guilty of Murder and sentenced him to suffer the penalty of *reclusion perpetua*, without eligibility for parole.^[41] The CA further ordered Siega to pay the heirs of the victim the following: 1) P75,000.00 as civil indemnity; 2) P50,000.00 as moral damages; and 3) P30,000.00 as moral damages, all of which is subject to six percent (6%) interest per annum from the finality of the decision until full payment.^[42]

The State, through the Office of the Solicitor General (OSG), moved for a partial reconsideration as to the award of damages claiming that temperate damages should also be awarded to the heirs of the victim in view of the funeral and sundry expenses incurred by his heirs.^[43]

In the assailed Amended Decision,^[44] the CA granted the State's motion and modified the *fallo* of its July 27, 2012 Decision as follows:

IN LIGHT OF ALL THE FOREGOING, the Court hereby AFFIRMS with MODIFICATION the assailed Decision dated January 22, 2009 of the Regional Trial Court, Branch 39, Sogod, Southern Leyte, in Criminal Case No. R-478. The accused-appellant Leonardo B. Siega is found GUILTY of the crime of Murder and is hereby sentenced to suffer the penalty of reclusion perpetua without eligibility of parole. He is further ordered to pay the heirs of Pacenciano Bitoy the amount of Php 75,000.00 as civil indemnity, Php 50,000.00 as moral damages and Php 25,000.00 as temperate damages in lieu of actual damages. Exemplary damages is also awarded in the amount of Php 30,000.00. Interest at the rate of six percent (6%) per annum on the civil indemnity, moral, temperate and exemplary damages from the finality of this decision until fully paid shall likewise be paid by accused-appellant to the heirs of Pacenciano Bitoy.

[45]

Hence, this appeal.[46]

Issue

The issue to be resolved in this case is whether or not the CA erred in upholding Siega's conviction for the crime of Murder.

The Court's Ruling

The appeal lacks merit.

An accused, who pleads self-defense, has the burden of proving, with clear and convincing evidence, that the killing was attended by the following circumstances: (1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel such aggression; and (3) lack of sufficient provocation on the part of the person resorting to self-defense.[47] Of these three, unlawful aggression is most important and indispensable. Unlawful aggression refers to "an actual physical assault, or at least a threat to inflict real imminent injury, upon a person." [48] Without unlawful aggression, the justifying circumstance of self-defense has no leg to stand on and cannot be appreciated.[49]

In this case, records disclose that Siega failed to establish unlawful aggression on the part of the victim, Bitoy. Thus, his claim of self-defense must necessarily fail.

In his version of the incident, Siega claimed that Bitoy came rushing to his house armed with a bolo.[50] When Bitoy attempted to draw his weapon, Siega picked up a sharp pointed bolo and stabbed Bitoy several times.[51] However, as duly pointed out by the RTC and CA, Siega's account of events is belied by the straightforward and credible testimony of Alingasa that Bitoy did not carry any weapon at that time. [52] This was corroborated by the fact that no weapon was recovered from the victim.

Moreover, even if the Court were to believe Siega's version of the events, still, no unlawful aggression can be deduced, because there was clearly no imminent danger on the person of Siega as would justify his killing of Bitoy.[53] Unlawful aggression is predicated on an actual, sudden, unexpected or imminent danger — not merely a threatening or intimidating action.[54] Bitoy's supposed act of holding a weapon from his waist does not pose any actual, sudden or imminent danger to the life and