

SECOND DIVISION

[G.R. No. 195021, March 15, 2017]

**NICOLAS VELASQUEZ AND VICTOR VELASQUEZ, PETITIONERS,
VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

DECISION

LEONEN, J.:

An accused who pleads a justifying circumstance under Article 11 of the Revised Penal Code^[1] admits to the commission of acts, which would otherwise engender criminal liability. However, he asserts that he is justified in committing the acts. In the process of proving a justifying circumstance, the accused risks admitting the imputed acts, which may justify the existence of an offense were it not for the exculpatory facts. Conviction follows if the evidence for the accused fails to prove the existence of justifying circumstances.

Through this Petition for Review on Certiorari^[2] under Rule 45 of the Rules of Court, the accused petitioners pray that the assailed March 17, 2010 Decision^[3] and December 10, 2010 Resolution^[4] of the Court of Appeals in CA-G.R. CR. No. 31333 be reversed and set aside, and that they be absolved of any criminal liability.

The Court of Appeals' assailed rulings sustained the July 25, 2007 Decision^[5] of the Regional Trial Court, Branch 41, Dagupan City, which found petitioners guilty beyond reasonable doubt of attempted murder.

In an Information, petitioners Nicolas Velasquez (Nicolas) and Victor Velasquez (Victor), along with four (4) others - Felix Caballada (Felix), Jojo Del Mundo (Jojo), Sonny Boy Velasquez (Sonny), and Ampong Ocumen (Ampong) - were charged with attempted murder under Article 248,^[6] in relation to Article 6,^[7] of the Revised Penal Code, as follows:

That on May 24, 2003 in the evening at Brgy. Palua, Mangaldan, Pangasinan and within the jurisdiction of this Honorable Court, the above named accused while armed with stones and wooden poles, conspiring, confederating and mutually helping one another, with intent to kill, with treachery and abuse of superior strength, did, then and there willfully, unlawfully and feloniously attack, maul and hit JESUS DEL MUNDO inflicting upon him injuries in the vital parts of his body, the said accused having thus commenced a felony directly by overt acts, but did not perform all the acts of execution which could have produced the crime of Murder but nevertheless did not produce it by reason of some causes or accident other than their own spontaneous desistance to his damage and prejudice.

Contrary to Article 248 in relation to Article 6 and 50 of the Revised Penal Code.^[8]

All accused, except Ampong, who remained at large, pleaded not guilty upon arraignment.^[9] Trial then ensued.^[10]

According to the prosecution, on May 24, 2003, at about 10:00 p.m., the spouses Jesus and Ana Del Mundo (Del Mundo Spouses) left their home to sleep in their nipa hut, which was about 100 meters away.^[11] Arriving at the nipa hut, the Del Mundo Spouses saw Ampong and Nora Castillo (Nora) in the midst of having sex.^[12] Aghast at what he perceived to be a defilement of his property, Jesus Del Mundo (Jesus) shouted invectives at Ampong and Nora, who both scampered away.^[13] Jesus decided to pursue Ampong and Nora, while Ana Del Mundo (Ana) left to fetch their son, who was then elsewhere.^[14] Jesus went to the house of Ampong's aunt, but neither Ampong nor Nora was there.^[15] He began making his way back home when he was blocked by Ampong and his fellow accused.^[16]

Without provocation, petitioner Nicolas hit the left side of Jesus' forehead with a stone. Petitioner Victor also hit Jesus' left eyebrow with a stone.^[17] Accused Felix did the same, hitting Jesus above his left ear.^[18] Accused Sonny struck Jesus with a bamboo, hitting him at the back, below his right shoulder.^[19] Ampong punched Jesus on his left cheek. The accused then left Jesus on the ground, bloodied. Jesus crawled and hid behind blades of grass, fearing that the accused might return. He then got up and staggered his way back to their house.^[20]

Jesus testified on his own ordeal. In support of his version of the events, the prosecution also presented the testimony of Maria Teresita Viado (Maria Teresita). Maria Teresita was initially approached by Jesus' wife, Ana, when Jesus failed to immediately return home.^[21] She and Ana embarked on a search for Jesus but were separated.^[22] At the sound of a man being beaten, she hid behind some bamboos.^[23] From that vantage point, she saw the accused mauling Jesus.^[24] The prosecution noted that about four (4) or five (5) meters away was a lamp post, which illuminated the scene.^[25]

At the Del Mundo Spouses' residence, Maria Teresita recounted to them what she had witnessed (Jesus had managed to return home by then).^[26] Ana and Maria Teresita then brought Jesus to Barangay Captain Pilita Villanueva, who assisted them in bringing Jesus to the hospital.^[27]

After undergoing an x-ray examination, Jesus was found to have sustained a crack in his skull.^[28] Dr. Jose D. De Guzman (Dr. De Guzman) issued a medico-legal certificate indicating the following findings:

- x.x. Positive Alcoholic Breath
- 3 cms lacerated wound fronto-parietal area left
- 1 cm lacerated wound frontal area left
- Abrasion back left multi linear approximately 20 cm
- Abrasion shoulder left, confluent 4x10 cm
- Depressed skull fracture parietal area left.

x.x.^[29]

Dr. De Guzman noted that Jesus' injuries required medical attention for four (4) to six (6) weeks.^[30] Jesus was also advised to undergo surgery.^[31] He was, however, unable to avail of the required medical procedure due to shortage of funds.^[32]

The defense offered a different version of events.

According to the accused, in the evening of May 24, 2003, petitioner Nicolas was roused in his sleep by his wife, Mercedes Velasquez (Mercedes), as the nearby house of petitioner Victor was being stoned.^[33]

Nicolas made his way to Victor's place, where he saw Jesus hacking Victor's door. Several neighbors - the other accused - allegedly tried to pacify Jesus.^[34] Jesus, who was supposedly inebriated, vented his ire upon Nicolas and the other accused, as well as on Mercedes.^[35] The accused thus responded and countered Jesus' attacks, leading to his injuries.^[36]

In its July 25, 2007 Decision,^[37] the Regional Trial Court, Branch 41, Dagupan City found petitioners and Felix Caballada guilty beyond reasonable doubt of attempted murder.^[38] The court also found Sonny Boy Velasquez guilty beyond reasonable doubt of less serious physical injuries.^[39] He was found to have hit Jesus on the back with a bamboo rod. Jojo Del Mundo was acquitted.^[40] The case was archived with respect to Ampong, as he remained at large.^[41]

The dispositive portion of its Decision read:

WHEREFORE, premises considered, judgment is hereby rendered finding accused NICOLAS VELASQUEZ, VICTOR VELASQUEZ and FELIX CABALLEDA guilty beyond reasonable doubt of the crime of Attempted Murder defined and penalized under Article 248 in relation to Articles 6, paragraph 3 and 51 of the Revised Penal Code, and pursuant to the law, sentences each of them to suffer on (sic) indeterminate penalty of four (4) years and one (1) day of Arrested (sic) Mayor in its maximum period as minimum to eight (8) years of Prison (sic) Correctional (sic) in its maximum period to Prison (sic) Mayor in its medium period as maximum and to pay proportionately to private complainant Jesus del Mundo the amount of Php55,000.00 as exemplary damages, and to pay the cost of suit.

The Court likewise finds the accused SONNY BOY VELASQUEZ [guilty] beyond reasonable doubt of the [crime] of Less Serious Physical Injuries defined and penalized under Article 265 of the Revised Penal Code and pursuant thereto, he is hereby sentenced to suffer the penalty of Arresto Mayor on one (1) month and one (1) day to six (6) months.

Accused JOJO DEL MUNDO is hereby acquitted on the ground of absence of evidence.

With respect to accused AMPONG OCUMEN, the case against him is archived without prejudice to its revival as soon as he is arrested and brought to the jurisdiction of this Court.^[42]

Petitioners and Felix Caballeda filed a motion for reconsideration, which the Regional Trial Court denied.^[43]

On petitioners' and Caballeda's appeal, the Court of Appeals found that petitioners and Caballeda were only liable for serious physical injuries because "first, intent to kill was not attendant inasmuch as the accused-appellants, despite their superiority in numbers and strength, left the victim alive and, second, none of [the] injuries or wounds inflicted upon the victim was fatal."^[44] The Court of Appeals thus modified the sentence imposed on petitioners and Caballeda.

The dispositive portion of its assailed March 17, 2010 Decision^[45] read:

WHEREFORE, premises considered, the July 25, 2007 Decision of Branch 41, Regional Trial Court of Dagupan City is hereby **MODIFIED**. Instead, accused-appellants are found guilty of Serious Physical Injuries and each of them is sentenced to suffer the penalty of imprisonment of six (6) months of *arresto mayor* as minimum to four (4) years and two (2) months of *prision correccional* as maximum.

SO ORDERED.^[46] (Emphasis in the original)

Following the denial of their Motion for Reconsideration, petitioners filed the present Petition.^[47] They insist on their version of events, particularly on how they and their co-accused allegedly merely acted in response to Jesus Del Mundo's aggressive behavior.

For resolution is the issue of whether petitioners may be held criminally liable for the physical harm inflicted on Jesus Del Mundo. More specifically, this Court is asked to determine whether there was sufficient evidence: first, to prove that justifying circumstances existed, and second, to convict the petitioners.

I

Petitioners' defense centers on their claim that they acted in defense of themselves, and also in defense of Mercedes, Nicolas' wife and Victor's mother. Thus, they invoke the first and second justifying circumstances under Article 11 of the Revised Penal Code:

ARTICLE 11. Justifying Circumstances. — The following do not incur any criminal liability:

1. Anyone who acts in defense of his person or rights, provided that the following circumstances concur:

First. Unlawful aggression;

Second. Reasonable necessity of the means employed to prevent or repel it;

Third. Lack of sufficient provocation on the part of the person defending himself.

2. Anyone who acts in defense of the person or rights of his spouse, ascendants, descendants, or legitimate, natural or adopted brothers or sisters, or of his relatives by affinity in the same degrees, and those by consanguinity within the fourth civil degree, provided that the first and second requisites prescribed in the next preceding circumstance are present, and the further requisite, in case the provocation was given by the person attacked, that the one making defense had no part therein.

A person invoking self-defense (or defense of a relative) admits to having inflicted harm upon another person - a potential criminal act under Title Eight (Crimes Against Persons) of the Revised Penal Code. However, he or she makes the additional, defensive contention that even as he or she may have inflicted harm, he or she nevertheless incurred no criminal liability as the looming danger upon his or her own person (or that of his or her relative) justified the infliction of protective harm to an erstwhile aggressor.

The accused's admission enables the prosecution to dispense with discharging its burden of proving that the accused performed acts, which would otherwise be the basis of criminal liability. All that remains to be established is whether the accused were justified in acting as he or she did. To this end, the accused's case must rise on its own merits:

It is settled that when an accused admits [harming] the victim but invokes self-defense to escape criminal liability, the accused assumes the burden to establish his plea by credible, clear and convincing evidence; otherwise, conviction would follow from his admission that he [harmed] the victim. Self-defense cannot be justifiably appreciated when uncorroborated by independent and competent evidence or when it is extremely doubtful by itself. Indeed, in invoking self-defense, the burden of evidence is shifted and the accused claiming self-defense must rely on the strength of his own evidence and not on the weakness of the prosecution.^[48]

To successfully invoke self-defense, an accused must establish: "(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."^[49] Defense of a relative under Article 11 (2) of the Revised Penal Code requires the same first two (2) requisites as self-defense and, in lieu of the third "in case the provocation was given by the person attacked, that the one making the defense had no part therein."^[50]

The first requisite - unlawful aggression - is the condition *sine qua non* of self-defense and defense of a relative:

At the heart of the claim of self-defense is the presence of an unlawful aggression committed against appellant. Without unlawful aggression, self-defense will not have a leg to stand on and this justifying