

SECOND DIVISION

[G.R. No. 222561, August 30, 2017]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
JONATHAN TICA Y EPANTO, ACCUSED-APPELLANT.**

D E C I S I O N

PERALTA, J.:

This is an appeal from the August 24, 2015 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01130-MIN, which affirmed with modifications the September 14, 2012 Decision^[2] of the Regional Trial Court (RTC), Branch 17, Cagayan de Oro City.

The Facts

Accused-appellant Jonathan Tica y Epanto (*Tica*) was indicted for Murder defined and penalized under Article 248 of the Revised Penal Code (*RPC*). The accusatory portion of the Information dated July 29, 2008 alleged:

That on July 27, 2008, at about 4:30 o'clock in the afternoon, at Zone 4, Sarat, Baybay, Agusan, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, armed with a knife, which he was then conveniently provided of, with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and stab one Eduardo Intia y Dalagan, hitting the 4th intercostal space, left anterior axillary, thereby inflicting a fatal wound on the victim which was the direct and immediate cause of his death.^[3]

In his arraignment, Tica pleaded "Not Guilty" to the offense charged in the Information.^[4] He admitted killing Eduardo Intia (*Intia*), but put up the justifying circumstance of self-defense; hence, reverse trial ensued while he was under detention.

The prosecution presented Eliza Sabanal (*Sabanal*) and Emelita Bagajo (*Bagajo*), while Tica, Pablo Daig (*Daig*), and Edgardo Florig (*Florig*) testified for the defense.

Version of the Prosecution:

On July 27, 2008, around 4:30 p.m., Sabanal and Bagajo, together with Marina Opeso and Nora Panisan, were talking near the seashore. They saw Intia sitting while facing the seashore. Later, they noticed Tica passed by, holding a knife and proceeding towards Intia. When he went near him, the latter tried to stand up and run away, but he fell down to the sea face up. He was immediately stabbed about six times while Tica was on top of him. Many people approached and watched the

incident. After that, Tica went home, while Intia was brought to the hospital, where he was declared dead on arrival. Subsequently, Tica was arrested by the *barangay tanods* and was brought to Puerto police station.

Version of the Defense:

Around 8:30 p.m. on July 26, 2008, Intia dropped by the house of Tica and looked at the shells that the latter got from the sea. Tica agreed to sell them to Intia's friend so that he could have money to buy food for his children. However, Intia did not return to give the proceeds of the seashells. When they met later, Tica confronted him. He got mad and boxed Intia. When Tica went back to his house, Intia followed him. With a hammer and a stone, Intia shouted Tica's name, told him to come down the house, and challenged him to a fight. Tica went downstairs, but her mother pacified them. As a result, he went back inside while Intia left.

The day after, Tica was at the seashore washing his slippers when he saw Intia running towards him to attack. Upon seeing that Intia brought with him a long-necked bottle with broken edges, Tica tried to evade by swimming towards the sea. Intia chased him and was able to catch the back collar of his t-shirt. They submerged themselves in the seawater while grappling with each other. Intia pulled Tica's hair and pushed him down to drown him. On his part, Tica held Intia's feet until he reached the latter's left waistline and held his knife, which he used to stab him on his left breast. As a result, Intia released Tica, who, upon standing up, again stabbed him. Thereafter, Tica went home, changed his clothes, and went to the police station together with Florig, who is his godfather, a neighbor, and the Chief of barangay police. Florig went to the seashore after somebody told him that there was a commotion in the area. When he went to Tica's house, the latter approached and told him that he was going to surrender and requested to be accompanied at the Puerto police station.

On September 14, 2012, the RTC convicted Tica of the crime charged. The dispositive portion of the Decision states:

WHEREFORE, premises considered, the Court finds accused JONATHAN TICA Y EPANTO guilty of the crime of MURDER punished under Art. 248 of the Revised Penal Code and is hereby meted the penalty of Reclusion Perpetua and to indemnify the heirs of the victim in the amount of Fifty Thousand Pesos. No subsidiary imprisonment.

SO ORDERED.^[5]

In concluding that the requisites of self-defense were not met to justify the killing of Intia, the RTC ratiocinated:

The Court finds the testimony of the accused to be incredible taking into account the circumstances attendant thereto. If indeed the victim had a knife tucked in his waistline, he could have made use of it instead of the broken bottle just to ensure the death of the accused if ever. He could have stabbed the accused instead of drowning him first.

The accused demonstrated in Court during his testimony on direct examination as to their relative height and position at the time he was

allegedly pushed down by the victim in order to be drowned. He admitted to be taller by three (3) inches than the victim as he stands 5 ft. and 4 inches. x x x. The Court cannot imagined (sic) why it was the victim who was pushing him down to the bottom of the sea when the accused is taller than him. He even admitted that he is bigger in built and younger than the victim. x x x. There were also inconsistencies noted by the Court particularly on how he was able to get the knife allegedly from the waistline of the victim and the fact that he was not able to fight back when the victim was allegedly in the act of drowning him. x x x

Granting *arguendo* that the aggression emanated from the victim, yet there was no reasonable necessity to stab the victim several times. The Medical Certificate showed that the victim sustained a [stab wound] at the "4th intercostal space, left anterior Axillary", which means that the injury was at the left side of the breast. The location of the fatal wound indicated that the victim was lying faced (*sic*) up. This will buttressed (sic) the testimony of the eyewitnesses that the accused was on top of the victim.

The prior incident of July 26, 2008 at 8:30 PM triggered the incident of July 27, 2008. Admitted by the accused was that he got angry when the victim failed to account to him the proceeds of the seashells that the accused needed much. He even admitted to have punched the victim out of anger. x x x. This circumstance led the accused to premeditate and clung (sic) to his desire to avenge.^[6]

On the appeal, the CA ruled that Tica failed to discharge the burden of proving his plea of self-defense by credible, clear, and convincing evidence. It agreed with the RTC that his testimony is too incredible since it was not only uncorroborated by separate competent evidence but also extremely doubtful in itself. Moreover, the number and seriousness of the stab wounds of Intia indicated Tica's determined effort to kill him. Lastly, no evidence of improper motives on the part of Sabanal and Bagajo was found for them to falsely testify against the accused. While the judgment of conviction was sustained, the award of damages was modified. The *fallo* of the August 24, 2015 Decision reads:

WHEREFORE, the appeal is **DENIED**. The Decision dated September 14, 2012 of the Regional Trial Court (RTC) of Cagayan de Oro City, Branch 17 in Criminal Case No. 2008-472 convicting accusedappellant Jonathan Tica y Epanto of Murder is **AFFIRMED** with **MODIFICATIONS**. Accused-appellant is ordered to indemnify the heirs of the late Eduardo Intia the sum of PhP 75,000.00 as civil indemnity, PhP 50,000.00 as moral damages, PhP 30,000.00 as exemplary damages, and interest on all damages at the rate of six percent (6%) per annum from the finality of judgment until fully paid.

SO ORDERED.^[7]

Now before Us, both the People and the accused-appellant manifested that they would dispense with the filing of a Supplemental Brief so as to avoid repetition of the issues and arguments already discussed in their respective briefs filed before the CA.^[8]