

SECOND DIVISION

[G.R. No. 170462, February 05, 2014]

**RODOLFO GUEVARRA AND JOEY GUEVARRA, PETITIONERS, VS.
PEOPLE OF THE PHILIPPINES, RESPONDENT.**

DECISION

BRION, J.:

We review in this petition for review on *certiorari*^[1] the decision^[2] dated October 24, 2005 of the Court of Appeals (CA) in CA-G.R. CR No. 28899. The CA affirmed, with modification on the amount of damages, the joint decision^[3] dated April 16, 2004 of the Regional Trial Court (RTC), Branch 20, Cauayan City, Isabela, finding Rodolfo Guevarra and Joey Guevarra (*petitioners*) guilty beyond reasonable doubt of the crimes of frustrated homicide and homicide.

Factual Antecedents

Rodolfo and his son, Joey, were charged with the crimes of frustrated homicide and homicide under two Informations which read:

In Criminal Case No. Br. 20-1560 for Frustrated Homicide:

That on or about the 8th day of January, 2000, in the municipality of Alicia, province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conspiring, confederating together and helping one another, with intent to kill and without any just motive, did then and there, willfully, unlawfully and feloniously, assault, attack, hack and stab for several times with a sharp pointed bolo one Erwin Ordoñez, who as a result thereof, suffered multiple hack and stab wounds on the different parts of his body, which injuries would ordinarily cause the death of the said Erwin Ordoñez, thus, performing all the acts of execution which should have produced the crime of homicide as a consequence, but nevertheless, did not produce it by reason of causes independent of their will, that is, by the timely and able medical assistance rendered to the said Erwin Ordoñez, which prevented his death.^[4]

In Criminal Case No. Br. 20-1561 for Homicide:

That on or about the 8th day of January, 2000, in the municipality of Alicia, province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conspiring, confederating together and helping one another, with intent to kill and without any just motive, did then and there, willfully, unlawfully and feloniously, assault, attack, hack and stab for several times with. sharp pointed bolo one David

Ordoñez, who as a result thereof, suffered multiple hack and stab wounds on the different parts of his body which directly caused his death.^[5]

Although the informations stated that the crimes were committed on January 8, 2000, the true date of their commission is November 8, 2000, as confirmed by the CA through the records.^[6] The parties failed to raise any objection to the discrepancy.^[7]

On arraignment, the petitioners pleaded not guilty to both charges.^[8] The cases were jointly tried with the conformity of the prosecution and the defense. At the pre-trial, the petitioners interposed self-defense, which prompted the RTC to conduct reverse trial of the case.^[9] During the trial, the parties presented different versions of the events that transpired on November 8, 2000.

Version of the Defense

To prove the petitioners' claim of self-defense, the defense presented the testimonies of Rodolfo, Joey, and the petitioners' neighbor, Albino Agustin.

Testimony of Rodolfo

Rodolfo, who was then fifty-five (55) years old, narrated that, at around 11:00 p.m., on November 8, 2000, brothers Erwin Ordoñez and David Ordoñez, together with their companion, Philip Vingua, forced their way into his compound and threw stones at his house and tricycle. Through the back door of his house, Rodolfo went down to the basement or "*silung*" and shouted at the three men to stop. David saw him, threatened to kill him, and struck him with a "*panabas*," hitting him on the palm of his left hand. Rodolfo responded by reaching for the bolo tucked in the "*solera*" of his house, and hacked and stabbed Erwin and David until the two brothers fell to the ground. Upon seeing Erwin and David lying on the ground, Rodolfo called on someone to bring the brothers to the hospital. He stayed in his house until the policemen arrived.

Testimony of Joey

Joey, who was then thirty-one (31) years old, narrated that, at around 11:00 p.m., on November 8, 2000, he was awakened by the sound of stones being thrown at their house in Bliss, Paddad, Alicia, Isabela. Through the window, he saw Erwin, David and Philip breaking into their gate, which was made of wood and interlink wire and located five (5) to six (6) meters away from their house. He then heard his father Rodolfo say to the three men, "*kung ano man ang problema bukas na natin pag-usapan[.]*"^[10] and David retorted in their dialect, "*Okininam nga lakay adda ka gayam dita, patayin taka[.]*"^[11]

Testimony of Albino

Albino narrated that, from inside his house in Bliss, Paddad, Alicia, Isabela, at around 10:00 p.m., on November 8, 2000, he heard a person from the outside saying "*Sige banatan ninyo na[.]*"^[12] He opened his door and saw David, Erwin and Philip throwing stones at the house of his neighbor Crisanto Briones. Briones got mad and

scolded the three men, "Why are you hitting my house? Why don't you hit the house of your enemy, *mga tarantado kayo!*"^[13] David, Erwin and Philip then aimed their stones at the petitioners' house. Balbino heard David calling out to Joey, "*Joey, kung tunay kang lalaki lumabas ka diyan sa kalsada at dito tayo magpatayan[,]*"^[14] but no one came out of Rodolfo's house. The stoning lasted for about thirty (30) minutes.

Afterwards, Balbino saw David, Erwin and Philip destroy Rodolfo's gate and pull the gate towards the road. He heard David say to his companions, "*koberan ninyo ako at papasok kami[.]*"^[15] David, Erwin and Philip entered the petitioners' compound and damaged Rodolfo's tricycle with stones and their "*panabas.*" Also, he heard Rodolfo say to David in Filipino that they could just talk about their problems with him the following day. But David approached Rodolfo and hacked him with a "*panabas.*" Rodolfo parried the blow with the back of his hand, and David and Rodolfo struggled for the possession of the "*panabas.*"

Balbino also saw Erwin hit Rodolfo on the face with a stone and Joey was hit on his right foot, causing Rodolfo and Joey to retreat to the "*silung*" of their house from where Rodolfo got "something shiny," and with it stabbed David and Erwin. He saw the two brothers fall to the ground.

Version of the Prosecution

As its rebuttal witness, the prosecution presented the sole testimony of Erwin who survived the hacking.

Erwin narrated that, at around 10:00 to 11:00 p.m., on November 8, 2000, he, his brother David and Philip went to. birthday party and passed in front of the petitioners' compound. He was walking twenty (20) meters ahead of his companions when, suddenly, Philip ran up to him saying that David was being stabbed by Joey with. bolo. While approaching the scene of the stabbing, which was three (3) meters away from where his brother David was, Erwin was met by Rodolfo who then hacked him, hitting his arm and back. Thereafter, Rodolfo and Joey dragged Erwin inside the petitioners' compound and kept on hacking him. He was hacked and stabbed thirteen (13) times. He became weak and ultimately fell to the ground.

Erwin denied that he and David threw stones at the petitioners' house and damaged Rodolfo's tricycle. They did not likewise destroy the petitioners' gate, which was only damaged when his brother David clung on to it while he was being pulled by Rodolfo and Erwin into their compound. While they were being hacked and stabbed by Rodolfo and Erwin, stones actually rained on them and people outside the petitioners' gate were saying, "Do not kill the brothers. Allow them to come out."^[16]

After the incident, Erwin and David, both unconscious, were brought to the hospital. David died in the hospital while being treated for his wounds.

The RTC's Ruling

In a decision dated April 16, 2004, the RTC gave credence to the prosecution's version of the incident and found the petitioners guilty beyond reasonable doubt of the crimes of frustrated homicide and homicide. It disbelieved the defense's version

of the events due to material inconsistencies in the testimonies of the defense witnesses. It denied the petitioners' claim of self-defense for lack of clear, convincing and satisfactory supporting evidence.

The RTC explained in its decision that "[w]hen an accused invokes the justifying circumstance of self-defense, he loses the constitutional presumption of innocence and assumes the burden of proving, with clear and convincing evidence, the justification for his act";^[17] that self-defense is an affirmative allegation which must be proven with certainty by sufficient, satisfactory and convincing evidence that excludes any vestige of criminal aggression on the part of the person invoking it.^[18] The RTC held that the petitioners miserably failed to prove that there was unlawful aggression on the part of the victims, Erwin and David.

Accordingly, the RTC disposed of the case as follows:

WHEREFORE, finding the accused Rodolfo Guevarra and Joey Guevarra guilty beyond reasonable doubt of the crimes for which they are charged, and absent any mitigating or aggravating circumstance/s that attended the commission of the crimes, the Court hereby sentences each of the accused to suffer -

In Criminal Case No. Br. 20-1560 for Frustrated Homicide - an indeterminate penalty ranging from Three (3) years and one day of prision correccional as minimum to Nine (9) years of prision mayor as maximum and to indemnify the victim Erwin Ordoñez moral damages in the amount of Twenty Thousand (P20,000.00) Pesos, without any subsidiary imprisonment in case of insolvency. Cost against the accused.

In Criminal Case No. Br. 20-1561 for Homicide - an indeterminate penalty ranging from Eight (8) years and one day of prision mayor as minimum to Fifteen (15) years of Reclusion Temporal as maximum and to indemnify the heirs of the deceased David Ordoñez Sixty Thousand. P60,000.00) Pesos plus Thirty Thousand. P30,000.00) Pesos as moral damages without subsidiary imprisonment in case of insolvency. Costs against the accused.

The bail bonds of the accused are CANCELLED.^[19]

The CA's Ruling

On appeal, the CA affirmed the RTC's judgment and convicted the petitioners of the crimes charged. As the RTC did, the CA found that Erwin and David committed no unlawful aggression sufficient to provoke the actions of the petitioners; that "[a]ggression, to be unlawful, must be actual and imminent, such that there is. real threat of bodily harm to the person resorting to self-defense or to others whom that person is seeking to defend."^[20] Even assuming the truth of the petitioners' claims that David challenged Joey to a fight and threatened to kill Rodolfo on the night of November 8, 2000, the CA held that these acts do not constitute unlawful aggression to justify the petitioners' actions as no real or actual danger existed as the petitioners were then inside the safety of their own home.

The CA further held that the petitioners' plea of self-defense was belied by the