

FIRST DIVISION

[G.R. No. 207629, October 22, 2014]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARNEL VILLALBA Y DURAN AND RANDY VILLALBA Y SARCO, ACCUSED-APPELLANTS.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

Before the Court is the Decision^[1] dated September 25, 2012 of the Court of Appeals in CA-G.R. CR.-H.C. No. 00844-MIN, which affirmed, with modifications as to the amount of damages imposed, the Judgment^[2] dated February 18, 2010 of the Regional Trial Court (RTC) of Butuan City, Branch 33, in Criminal Case No. 11736, finding accused-appellants Arnel Villalba y Duran (Arnel) and Randy Villalba y Sarco (Randy) guilty beyond reasonable doubt of the murder of Maximillian Casona y Lacroix (Maximillian).

In the Information dated May 1, 2006 filed with the RTC, accused-appellants were charged as follows:

That on or about the 29th day of April 2006 at 2:30 o'clock in the morning, more or less, at Capitol Avenue, near Gaisano Mall, Butuan City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping one another, with intent to kill, with treachery, evident premeditation, and abuse of superior strength, did then and there willfully, unlawfully, and feloniously, attack and stab one MAXIMILLIAN CASONA Y LACROIX, with the use of an ice pick, hitting the latter at his left breast and left portion of his stomach, which directly caused his death incurring damages which maybe proven in Court.^[3]

Accused-appellants pleaded not guilty during their arraignment on August 8, 2006.^[4]

At the pre-trial conference held on July 19, 2007,^[5] the parties stipulated only as to the time and place of the stabbing incident, *i.e.*, at around 2:00 in the early morning of April 29, 2006 near the Gaisano Mall in Butuan City. Thereafter, trial ensued.

The prosecution presented the testimonies of three persons who witnessed the stabbing incident: Maximillian's widow Josephine B. Casona (Josephine),^[6] Homer Ferdinand B. Hermosura (Homer),^[7] and Frederick L. Apolinario (Frederick).^[8] The prosecution also called to the witness stand the physicians who attended to

Maximillian before his death, namely, cardiologist Dr. Annalisa A. Gonzalez (Gonzalez)^[9] and surgeon Dr. Edesio C. Urag (Urag).^[10] Last to testify for the prosecution was Police Inspector (P/Insp.) Inocencio T. Amora (P/Insp. Amora),^[11] the investigator assigned to the case and the apprehending officer of accused-appellants.

The documentary exhibits of the prosecution consisted of the respective Sworn Statements, all dated May 1, 2006, of Josephine, Homer, and Frederick;^[12] the police blotter entry dated April 29, 2006 which reported Maximillian's stabbing and death;^[13] the police blotter entry dated April 30, 2006 which reported the subsequent arrests of accused-appellants for illegal gambling and concealment of deadly weapon;^[14] the Affidavit of Apprehension dated April 30, 2006 jointly executed by P/Insp. Amora, Senior Police Officer (SPO) 3 Antonio A. Claros, Police Officer (PO) 3 Rey Gabrielle B. Maderal, and PO2 Judan Q. Alvizo;^[15] three photographs depicting Frederick's identification of accused-appellants as Maximillian's assailants;^[16] a sketch and description of the puncture wounds found on Maximillian's body prepared by Dr. Urag;^[17] Maximillian's Certificate of Death;^[18] and the hospital and burial expenses in the total amount of P55,225.60 incurred by Josephine.^[19] These exhibits were all admitted in evidence by the RTC in its Order dated February 29, 2008.^[20]

The prosecution's evidence established the following version of events:

Maximillian, a college instructor, attended a farewell party for his students at Moff's Restaurant and Cocktail Lounge along JC Aquino Avenue in Butuan City on the night of April 28, 2006. Maximillian was accompanied by his wife Josephine and their friends Frederick, Homer, and Homer's wife Marilou.

Around 2:30 in the morning of April 29, 2006, Josephine begged Maximillian that they already go home. Josephine reminded Maximillian of the lateness of the hour and of the great amount of liquor that he had already consumed. Maximillian still did not want to leave, but Josephine insisted. Angry, Maximillian rushed out of the restaurant and headed towards the direction of the Gaisano Mall in Butuan City. Josephine asked Frederick to catch up with Maximillian. Josephine, Homer, and Marilou then trailed about 10 meters behind Maximillian and Frederick.

When they turned the corner of JC Avenue and Capitol Drive, Maximillian and Frederick chanced upon accused-appellants and their girlfriends. Maximillian's group and accused-appellants' group did not know each other prior to the early morning of April 29, 2006. Maximillian suddenly ordered accused-appellants to wear their shirts, and then asked accused-appellant Arnel, "How much is that?" referring to accused-appellant Arnel's girlfriend. Frederick intervened and told accused-appellant Arnel, "Brod, don't mind him. He is a little bit drunk." Accused-appellant Arnel replied, "That was nothing, *Kuya*." However, Maximillian and accused-appellant Arnel continued to stare at each other. Moments later, Maximillian tried to get hold of accused-appellant Arnel's left arm but the latter was able to wave away Maximillian's hand. Accused-appellant Randy blocked Maximillian's way and held Maximillian's hand/s as accused-appellant Arnel hit Maximillian on the chest and abdomen. At this point, it appeared to eyewitnesses Frederick, Josephine, and Homer that Maximillian was just being boxed by accused-appellant Arnel. Frederick

tried to break the scuffle, as Josephine and Flomer, who were only five meters away, came running to help. Accused-appellants stepped back and then ran away. Despite telling Josephine that he was stabbed, Maximillian still chased accused-appellants, with Frederick and Homer at his heels. Stones were thrown their way but none of them were hit. All of a sudden, Maximillian fell to the ground. Josephine checked Maximillian's body yet found no blood or wound. Assuming that Maximillian was simply drunk and in pain because of the fist fight, Josephine, with the help of Frederick and Homer, brought Maximillian home on board a motorized "*trisikad*." During the ride home, Maximillian was unconscious but snoring heavily. However, when they were already at their house, Josephine felt that Maximillian had no more pulse and his eyes had turned white. Josephine, again with Frederick and Homer, rushed Maximillian to Manuel J. Santos Hospital.

Maximillian arrived at the hospital at around 3:00 in the morning of April 29, 2006. Dr. Gonzalez, the attending physician at the emergency room, noticed that Maximillian was already unresponsive and had no more heartbeat. Dr. Gonzalez performed cardiopulmonary resuscitation and was able to revive Maximillian. Dr. Gonzalez conducted close physical examination of Maximillian's body and discovered two hardly visible stab wounds located at the latter's left chest and abdomen. Dr. Gonzalez immediately referred Maximillian to Dr. Urag, a surgeon.

As a result of his own examination, Dr. Urag reported that Maximillian's stab wounds both had a lateral width of about 3-5 mm, and that the stab wound on Maximillian's chest penetrated the pericardium of his heart, which caused the entry of fluid into the said organ. The delay in the discovery of the fatal chest wound and the lack of hospital facilities rendered it too late to save Maximillian. Resultantly, Maximillian died of "Cardio Pulmonary Arrest secondary to Pericardial Tamponade secondary to penetrating stab wound left chest." Dr. Urag called Maximillian's wounds as puncture wounds, which could be caused by any sharp instrument or bladed weapon, or even nails.

Josephine reported Maximillian's stabbing and death to the police on April 29, 2006. P/Insp. Amora, then the Chief of the General Investigation Section of the Butuan City Police Office, took charge of the investigation of Maximillian's case. P/Insp. Amora conducted an ocular inspection of the scene of the crime and was able to identify accused-appellants as the suspects. The following day, April 30, 2006, P/Insp. Amora came upon information that accused-appellants were in P-I Barangay Imadejas Subdivision, Butuan City. P/Insp. Amora proceeded to the given location and there found accused-appellants playing and betting on a game of cards. The police immediately arrested accused-appellants for illegal gambling and brought them to the police station. Upon being informed of accused-appellants' arrest, Josephine and Frederick arrived at the police station and identified accused-appellants as Maximillian's assailants.

Accused-appellants testified in their own defense.

Accused-appellant Arnel^[21] while admitting his presence at the time and scene of the crime, narrated a different version of the events surrounding Maximillian's stabbing.

According to accused-appellant Arnel, at around 2:30 in the morning of April 29, 2006, he was with his girlfriend Jenny and friends Johndale and Tata in the vicinity

of Gaisano Mall, waiting for a tricycle. When Jenny was about to board a tricycle, four persons, who all looked drunk, came out of a store. One of these four persons, who turned out to be Maximillian, approached and asked accused-appellant Arnel how much was the girl he was with. Maximillian's crude remark angered Jenny, who immediately left with Tata, on board the tricycle. A companion of Maximillian approached accused-appellant Arnel and requested him to bear with Maximillian who was already drunk. Accused-appellant Arnel expressed that he understood the situation. However, Maximillian suddenly blocked the way of accused-appellant Arnel and Johndale. Maximillian punched accused-appellant Arnel, hitting the latter on the neck, just below his left ear. Johndale was able to run away. Accused-appellant Arnel asked Maximillian why the latter hit him. Instead of answering the question, Maximillian threw back another question, asking if accused-appellant Arnel was brave. Accused-appellant Arnel looked for a stone to throw at Maximillian to fend off the latter, but saw none. What accused-appellant found and grabbed as a weapon to defend himself was a barbecue stick, about six inches long. Accused-appellant Arnel stabbed Maximillian once with the barbecue stick on the left side of the body, after which, the barbecue stick broke. When stabbed, Maximillian did not show any reaction but just walked away from accused-appellant. At that point, Maximillian's three companions also began to attack accused-appellant Arnel. After their attack, Maximillian's three companions left. Accused-appellant Arnel sat down for a while near Gaisano Mall, then went home. The following day, accused-appellant Arnel was apprehended by the police. Accused-appellant Arnel was surprised to learn from the police that Maximillian had died. Accused-appellant Arnel insisted that he had no intention of killing Maximillian and denied any knowledge of how Maximillian sustained the second stab wound. Accused-appellant Arnel further clarified that it was his friend Johndale, not his cousin accused-appellant Randy, who was with him when he encountered Maximillian the early morning of April 29, 2006.

Accused-appellant Randy^[22] narrated on the witness stand that he was at his house in Barangay Doongan with his wife and children in the early morning of April 29, 2006. Accused-appellant Randy knew nothing about Maximillian's stabbing and death. Accused-appellant Randy was with his wife at the house of a traffic aide called Puspup in Lower Doongan when he was accosted by the police. The police asked accused-appellant Randy for the whereabouts of his cousin accused-appellant Arnel. When accused-appellant Randy answered that he did not know, the police immediately arrested him and brought him to the police station. At the police station, the police promised that they would drop the charges against accused-appellant Randy if the latter would reveal where accused-appellant Arnel was. Accused-appellant Randy thus told the police that accused-appellant Arnel was in Pareja Subdivision. Accused-appellant Arnel was indeed found and arrested in Pareja Subdivision and was also brought to the police station. Accused-appellants were then presented before a witness to Maximillian's stabbing. The witness was wearing a cap and a cover on his face. The witness first pointed only at accused-appellant Arnel, but after some coaching from the police, the witness also pointed at accused-appellant Randy.

On February 18, 2010, the RTC promulgated its Judgment convicting accused-appellants as charged. The trial court found that the prosecution had duly established the essential elements of murder, and rejected the uncorroborated claim of self-defense of accused-appellant Arnel and defenses of denial and alibi of accused-appellant Randy. The trial court held that Maximillian's killing was murder given the presence of the qualifying circumstances of abuse of superior strength and

treachery, but not evident premeditation. The RTC sentenced accused-appellants thus:

WHEREFORE, in view of the foregoing, the court finds accused Arnel Villalba and Randy Villalba guilty beyond reasonable doubt of the crime of Murder as defined and penalized under Article 248 of the Revised Penal Code, qualified by treachery and abuse of superior strength, with no mitigating circumstance. Pursuant to Republic Act No. 9346, banning the imposition of the death penalty, said accused are hereby sentenced to suffer the penalty of Reclusion Perpetua without possibility of parole. The accused are further ORDERED to pay the heirs of Maximillian Casona the amounts of SEVENTY[-]FIVE THOUSAND (P75,000.00) PESOS as civil indemnity, TWENTY[-]FIVE THOUSAND (P25,000.00) PESOS as exemplary damages, FIFTY[-]FIVE THOUSAND TWO HUNDRED TWENTY[-]FIVE PESOS AND SIXTY CENTAVOS (P55,225.60) as actual damages, FIFTY THOUSAND (P50,000.00) PESOS as moral damages, and TWENTY THOUSAND (P20,000.00) PESOS as attorney's fees.^[23]

Accused-appellants appealed their conviction before the Court of Appeals, based on the following grounds:

[I] THE COURT A *QUO* ERRED IN CONVICTING THE ACCUSED-APPELLANTS OF THE CRIME OF MURDER DESPITE THE FAILURE OF THE PROSECUTION TO PROVE THE QUALIFYING CIRCUMSTANCES OF TREACHERY AND EVIDENT PREM[E]DITATION

[II] THE COURT A *QUO* LIKEWISE ERRED IN CONVICTING THE ACCUSED-APPELLANTS OF THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE THE GUILT OF THE ACCUSED-APPELLANT BEYOND REASONABLE DOUBT.

[III] THE COURT A *QUO* ERRED WHEN IT FAILED TO APPRECIATE THE EXISTENCE OF SELF-DEFENSE ON THE PART OF THE ACCUSED-APPELLANT ARNEL VILLALBA.^[24]

On September 25, 2012, the Court of Appeals rendered its assailed Decision affirming the conviction of accused-appellants for murder. Like the RTC, the appellate court gave scant consideration to accused-appellants' unsubstantiated defenses. The appellate court likewise agreed with the finding of the RTC that treachery attended Maximillian's killing, reasoning thus:

The court *a quo* for its part, had this to say about its finding of treachery:

The essence of treachery is a deliberate and sudden attack, affording the hapless, unarmed and unsuspecting victim no chance to resist or to escape. Frontal attack can be treacherous when it is sudden and unexpected and the victim is unarmed. What is decisive is that the execution of the