

## SECOND DIVISION

[ G.R. No. 190340, July 24, 2013 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
ROGELIO RAMOS AND MARISSA INTERO RAMOS, ACCUSED-  
APPELLANTS.**

### D E C I S I O N

**DEL CASTILLO, J.:**

In convincing this Court to overturn their conviction for murder, appellants in this case invoke self-defense, denial and alibi.

On appeal is the September 9, 2009 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-GR CR-H.C. No. 02785, which affirmed with modification the February 28, 2007 Decision<sup>[2]</sup> of the Regional Trial Court (RTC) of Agoo, La Union, Branch 32 in Criminal Case No. A-5295. The RTC found the appellants Rogelio Ramos (Rogelio) and Marissa Intero Ramos (Marissa) guilty beyond reasonable doubt of the crime of murder, sentenced them to *reclusion perpetua*, and ordered them to pay the heirs of the victim Ronald A. Abacco (Abacco) civil indemnity and moral damages in the amounts of P75,000.00 and P50,000.00, respectively.

#### ***Factual Antecedents***

On June 28, 2006, appellants were charged with the crime of murder under Article 248 of the Revised Penal Code (RPC). The Information<sup>[3]</sup> reads thus:

The undersigned Prosecutor accuses ROGELIO RAMOS & MARISSA INTERO-RAMOS of the crime of MURDER with the Aggravating Qualifying circumstances of treachery and abuse of superior strength committed as follows:

That on or about April 11, 2006 at about 7:00 pm or immediately thereafter, at the Municipality of Sto. Tomas, Province of La Union, Philippines and within the jurisdiction of this Honorable Court, the accused, with intent to kill, conspiring, confederating and helping one another by using their superior strength to subdue the victim RONALD A. ABACCO, did then and there willfully, unlawfully and feloniously kill [the] said victim by attacking him with a bladed weapon, pulling him to the ground to subdue him and while there on the ground and defenseless, accused ROGELIO RAMOS hack[ed] him several times while accused MARISSA INTERO-RAMOS shout[ed], "kill him, kill him" thus causing massive injuries to the body of the victim that caused his death to the damage and prejudice of his heirs.

The crime is attended by the qualifying circumstances of treachery by attacking a defenseless victim and with abuse of superior strength.

CONTRARY TO LAW.<sup>[4]</sup>

Upon arraignment on June 29, 2006, both appellants pleaded not guilty to the crime charged.<sup>[5]</sup> After pre-trial, trial on the merits followed.

### ***Version of the Prosecution***

Eight witnesses testified for the prosecution: Dr. Arsenio Parazo (Dr. Parazo), PO3 Aris De Guzman, Onofre Tandoc (Tandoc), Anthony Ramos (Anthony), Ryan Roquero (Ryan), Gina Ramos (Gina), Adrian Ruther Abacco, and PO2 Eduardo Laroya. Their testimonies are summarized as follows.

In the evening of April 11, 2006, Rogelio threw stones at the house of his brother-in-law, Ramon Ramos, where Tandoc and his daughter, as well as Abacco, were resting. After Tandoc warned Rogelio to stop throwing stones as he might hit his daughter, Rogelio retreated to his house. After a while, Marissa went out and shouted at them. Tandoc then suggested to Abacco that they leave the place to avert further trouble. However, instead of leaving, Abacco, then unarmed, approached the appellants' house and asked Rogelio to come out so they could talk. Rogelio and Marissa then opened their gate. As soon as the gate was opened, Rogelio hacked Abacco twice with a *samurai* sword. When Abacco fell to the ground, the appellants dragged him into their yard and banged his head on the wall of their house. Abacco begged for his life crying out, "*Tama na bayaw, tama na, hindi ako lalaban.*"<sup>[6]</sup> Despite this, Marissa hacked Abacco on his back with a bolo while he was still on the ground. She then told Rogelio, "*Sige, patayin mo na yan!*"<sup>[7]</sup> Notwithstanding the plea for mercy, Rogelio still hacked Abacco several times until the latter died.

Dr. Parazo who conducted the autopsy, testified that Abacco died of hypovolemic shock or massive blood loss secondary to multiple hacked wounds in different parts of the body, such as the head, neck, shoulders, forearms, and back.<sup>[8]</sup> He further testified that the injuries on Abacco's head and on his right hand might have been caused by a sharp-edged instrument like a *samurai* sword, bolo, or knife. The wounds were so deep that some of Abacco's bones such as the scapula (shoulder blades) and the humerus (upper arm bone) were exposed. The wound in the lumbar area (lower back) almost transected the spinal cord.<sup>[9]</sup> Abacco's body bore 12 wounds.

### ***Version of the Defense***

The defense presented six witnesses: Basilio Tavora (Tavora), Elpidio Barroga, William Bumanlag (Bumanlag), Dr. Emmanuel Soriano (Dr. Soriano), and Marissa and Rogelio. Rogelio invoked self-defense while Marissa interposed denial and alibi. Their testimonies are summarized as follows.

At about 7:00 p.m. of April 11, 2006, Rogelio was in his house with his live-in partner Marissa. While Rogelio was taking a bath near their deep well, Abacco

threw stones at their house hitting the roof five times. Abacco then shouted at Rogelio and challenged him to come out so they could talk. Rogelio then went inside the house and told Marissa to call the *barangay* officials. At about 8:00 p.m., Marissa went out to seek the aid of the *barangay* officials. Abacco was still outside shouting and challenging Rogelio. When Abacco stopped shouting, Rogelio went out of the house to look for Marissa. As he reached the gate and was about to go out of the compound, he was suddenly hacked on his right arm by Abacco with a bolo. He stepped back since Abacco again swung at him with his bolo. Rogelio went inside his house to get his *samurai* sword so that he could defend himself. Abacco resumed his attack as soon as Rogelio came out. Parrying the blow of Abacco, Rogelio was able to get a hold of Abacco's hand as well as the bolo. He then hacked Abacco with the *samurai* sword several times until he was dead.

Abacco was already lifeless when *Kagawad* Barroga arrived. Rogelio surrendered to Barroga and told him that he killed the deceased out of self-defense. Later on, Marissa arrived with the *barangay* officials.

Marissa corroborated the testimony of Rogelio. To bolster her defense of denial and alibi, Marissa testified that after Abacco repeatedly challenged Rogelio, she went to the house of Liwayway del Prado to ask someone to accompany her to the house of a *barangay kagawad*.<sup>[10]</sup> Bumanlag accompanied her to the house of *Kagawad* Rafanan but no one was there. Marissa and Bumanlag then proceeded to the house of *Kagawad* Tavora arriving there at about 9:00 p.m. When Marissa told Tavora that Abacco was going berserk,<sup>[11]</sup> Tavora refused to go with them saying that the area is outside of his sector and instead advised them to go to the municipal hall. However, they no longer got to the municipal hall because when they passed by appellants' house, they learned that Abacco was already dead.

### ***Ruling of the Regional Trial Court***

After hearing all the testimonies presented by both sides and receiving their respective evidence, the RTC on February 28, 2007 convicted Rogelio and Marissa of the crime of murder. The dispositive part of the Decision reads:

**WHEREFORE**, upon the foregoing, judgment is hereby rendered adjudging both accused Rogelio Ramos and Marissa Intero-Ramos **guilty beyond reasonable doubt of the crime of Murder**. They are sentenced to suffer the penalty of Reclusion Perpetua.

They are also ordered to pay civil indemnity to the heirs of Ronald Abacco of STO. TOMAS, La Union in the amount of Seventy-Five Thousand pesos\* and moral damages in the amount of Fifty Thousand pesos for a total of One Hundred Twenty Five Thousand pesos.

SO ORDERED.<sup>[12]</sup>

The RTC rejected the claim that Rogelio only acted in lawful self-defense. It held that the elements of self-defense, specifically unlawful aggression on the part of Abacco and reasonable necessity of the means employed to repel the aggression, were not established.

With respect to the element of unlawful aggression on Abacco's part, the RTC ratiocinated thus:

Assuming arguendo that Ronald Abacco was indeed armed when he confronted Rogelio Ramos at the latter's house, Rogelio became the unlawful aggressor from the time he was able to get hold of Abacco's hand and started hacking him. At that moment, the unlawful aggression made by Abacco, if ever there was any, ceased and evidently shifted to the accused Rogelio Ramos.<sup>[13]</sup>

Anent the element of reasonable necessity of the means employed to repel the aggression, the RTC held that the number of wounds sustained by the deceased reveals that the means employed by Rogelio was unreasonable. In addition, in comparison with Rogelio's injuries which the attending physician and the RTC found to be minor, the fatal wounds suffered by Abacco belie the claim of self-defense.

As to Marissa, the RTC held that her claim of denial and alibi cannot prevail over the positive testimonies of the prosecution witnesses positively identifying her to have participated in the commission of the crime.

### ***Ruling of the Court of Appeals***

On appeal, the CA affirmed with modification the Decision of the RTC. The dispositive portion of the CA's assailed September 9, 2009 Decision reads:

**WHEREFORE**, the instant appeal is **DENIED**. The decision appealed from is **AFFIRMED** with the modification that the appellants Rogelio Ramos and Marissa Ramos are ordered to pay, jointly and severally, additional P25,000.00 as exemplary damages, to the heirs of Ronald Abacco.

**IT IS SO ORDERED.**<sup>[14]</sup>

The CA held that the appellants failed to discharge the burden of evidence in proving that Rogelio killed Abacco in self-defense. Instead, what Rogelio did was an act of retaliation. With respect to Marissa, the said court ruled that her defense of denial and alibi cannot prosper as it was not physically impossible for her to have been at the scene of the crime at the time of its commission.

### ***Assignment of Errors***

Not satisfied, the appellants now appeal to this Court adopting the same issues they raised before the CA. They assert that the trial court gravely erred in:

MURDER, WHEN THEIR GUILT HAS NOT BEEN PROVEN BEYOND REASONABLE DOUBT.

## II

X X X GIVING WEIGHT AND CREDENCE TO THE HIGHLY INCREDULOUS TESTIMONIES OF THE PROSECUTION'S EYEWITNESSES, AND IN DISREGARDING THE CREDIBLE VERSION OF THE DEFENSE.

## III

X X X RULING THAT THE CRIME COMMITTED WAS MURDER DESPITE THE ABSENCE OF PROOF THAT THE AGGRAVATING CIRCUMSTANCE OF TREACHERY ATTENDED THE COMMISSION OF THE CRIME.<sup>[15]</sup>

### **Our Ruling**

The appeal has no merit.

*Rogelio's claim of self-defense is unavailing.*

Rogelio admits that he killed Abacco albeit in self-defense. "The rule consistently adhered to in this jurisdiction is that when the accused [admits] that he [is] the author of the death of the victim and his defense [is] anchored on self-defense, it becomes incumbent upon him to prove the justifying circumstance to the satisfaction of the court."<sup>[16]</sup> With this admission, the burden of evidence is shifted to the appellant to prove that all the essential elements of self-defense are present. He must show and prove by clear and convincing evidence that his act was justified. Otherwise his conviction must be upheld and he cannot be exonerated from criminal liability. On this score, the accused must rely on the strength of his own evidence and not on the weakness of the prosecution's evidence.

To successfully invoke the justifying circumstance of self-defense, the following requisites must be present:

- (1) unlawful aggression;
- (2) reasonable necessity of the means employed to prevent or repel it;
- (3) lack of sufficient provocation on the part of the person defending himself.<sup>[17]</sup>

Unlawful aggression is the indispensable element of self-defense, for if no unlawful aggression attributed to the victim is established, self-defense is unavailing as there is nothing to repel. The unlawful aggression of the victim must put the life and personal safety of the person defending himself in actual peril. A mere threatening or intimidating attitude does not constitute unlawful aggression.<sup>[18]</sup>

In this case, appellants claim that Abacco went to Rogelio's house and threw stones at it, shouted at Rogelio, and challenged him to come out. When Rogelio finally