

SECOND DIVISION

[G.R. No. 181071, March 15, 2010]

LADISLAO ESPINOSA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

D E C I S I O N

PEREZ, J.:

The Case

This case comes before this Court as an appeal, by way of a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, from the Decision^[1] of the Court of Appeals affirming the conviction of herein petitioner, Ladislao Espinosa, for the crime of Serious Physical Injuries under the third paragraph of Article 263 of the Revised Penal Code.^[2] The dispositive portion of the assailed decision reads:

WHEREFORE, the Decision of the Regional Trial Court of Iba, Zambales, Branch 71 dated 30 March 2005, finding appellant Ladislao Espinosa **GUILTY** beyond reasonable doubt of the crime of **SERIOUS PHYSICAL INJURIES** is **AFFIRMED** with the **MODIFICATION** that he will suffer the straight penalty of six (6) months of *Arresto Mayor* and pay the amount of P54,925.50 as actual damages.

With costs against accused-appellant.

The Facts

The undisputed facts of the case, as found by the Regional Trial Court, and as confirmed by the Court of Appeals on appeal, may be so summarized:

On 6 August 2000, at about 10 o'clock in the evening, private complainant Andy Merto, bearing a grudge against the petitioner, went to the house of the latter in the Municipality of Sta. Cruz, Zambales. While standing outside the house, private complainant Merto shouted violent threats, challenging the petitioner to face him outside.

Sensing the private complainant's agitated state and fearing for the safety of his family, petitioner went out of his house to reason with and pacify Merto. However, as soon as he drew near the private complainant, the latter hurled a stone at the petitioner. The petitioner was able to duck just in time to avoid getting hit and instinctively retaliated by hitting the left leg of the private complainant with a *bolo* scabbard. The private complainant fell to the ground. Petitioner then continuously mauled the private complainant with a *bolo* scabbard, until the latter's cousin,

Rodolfo Muya, restrained him.^[3]

As a consequence of the incident, private complainant Merto sustained two (2) bone fractures, one in his left leg and another in his left wrist. It took about six (6) months for these injuries to completely heal.^[4]

On 22 September 2000, petitioner was originally charged with Frustrated Homicide, under an Information^[5] which reads as follows:

That on or about the 6th day of August 2006 at about 10 o'clock in the evening, at Brgy. Pagatpat, in the Municipality of Sta. Cruz, Province of Zambales, Philippines and within the jurisdiction of this Honorable Court, the said accused, with treachery, evide[nt] premeditation and intent to kill, did then and there willfully, unlawfully and feloniously, assault, attack and hack several times one Andy Merto, thereby inflicting upon the latter the following physical injuries, to wit:

1. Fracture open III A P/3 Tibia left secondary to Hacking Wound;
2. Incised wound, wrist joint with Incised Extensor Pollicis Brevis Tendon, Left S/P F Debridement Right Wrist S/P Long Circular Cast, Left

thus performing all the acts of execution which would produce the crime of murder as a consequence, but nevertheless, did not produce it by reason of causes independent of his will, that is by the timely and able medical assistance rendered to said Andy Merto which prevented his death.

CONTRARY TO LAW.

Petitioner pleaded not guilty, and trial thereafter ensued.

On 14 December 2004, the Regional Trial Court of Iba, Zambales, Branch 71, convicted petitioner only of Serious Physical Injuries under the third paragraph of Article 263 of the Revised Penal Code, noting that the prosecution had failed to prove the element of "intent to kill," which is necessary to a conviction for Frustrated Homicide. The dispositive^[6] portion of the ruling reads:

WHEREFORE premises considered, judgment is rendered finding accused Ladislao Espinosa GUILTY beyond reasonable doubt of the crime of Serious Physical Injuries defined and penalized under Art. 263, paragraph 3 of the Revised Penal Code and is hereby sentenced [to] suffer the penalty of six (6) months of *Arresto Mayor* as minimum to two (2) years, eleven (11) months and ten (10) days of *prision correccional* as maximum. Accused is ordered to pay private complainant Andy Merto the amount of P54,925.50 as and by way of actual damages.

Undeterred, petitioner filed a Motion for Reconsideration dated 7 February 2005, before the trial court, invoking for the first time complete self-defense, under the first paragraph of Article 11 of the Revised Penal Code. In a Resolution^[7] dated 30 March 2005, the trial court denied petitioner's motion for reconsideration holding that self-defense cannot be appreciated to justify the act of petitioner. The trial court cites the means adopted by the petitioner in repelling the attack as not reasonably necessary in view of the surrounding circumstances and the severity of the victim's injuries.

On appeal, the Court of Appeals affirmed the judgment of conviction with the modification that the penalty imposed by the trial court should be lowered by one degree in accordance with the privileged mitigating circumstance of incomplete self-defense under Article 69^[8] of the Revised Penal Code. Consequently, the Motion for Reconsideration^[9] filed by the petitioner was also denied by the Court of Appeals *via* a Resolution^[10] dated 4 January 2008.

Hence, this appeal.

The Issue

The sole issue raised in this appeal is whether under the set of facts given in this case, complete self-defense may be appreciated in favor of the petitioner.

The Ruling of the Court

The Court rules in the negative.

The requirements of self-defense as a justifying circumstance are found in the first paragraph of Article 11 of the Revised Penal Code, to wit:

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 requisites 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.

In their decisions, both the trial court and the Court of Appeals found that the first and third elements of self-defense are present in the case at bar. This finding was never questioned by either of the parties and, as such, may be taken as established for purposes of this appeal. Nonetheless, to dispel any doubts, the Court hereby affirms the existence of the first and third elements of self-defense, based on the