

FIRST DIVISION

[G.R. No. 181430, March 09, 2010]

FELIPE RONQUILLO Y GUILLERMO AND GILBERT TORRES Y NATALIA, PETITIONERS, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

D E C I S I O N

CARPIO MORALES, J.:

Herein appellants Felipe Ronquillo (Ronquillo) and Gilbert Torres (Torres) were charged before the Regional Trial Court (RTC) of Ballesteros, Cagayan of homicide under an Information reading

x x x x

That on or about June 23, 2001 in the [M]unicipality of Ballesteros, [P]rovince of Cagayan and within the jurisdiction of this Honorable Court, the said accused, Felipe Ronquillo y Guillermo and Gilber[t] Torres y Natal[i]a, armed with shovel and bamboo, conspiring together and helpin[g] each other, with intent to kill, did then and there wilfully, unlawfully and feloniously attack, assault and hit with the said shovel and bamboo one Edgar Ronquillo y Paranaque, inflicting upon him wounds on his head which caused his death.

CONTRARY TO LAW.

x x x x^[1]

The following facts are established.

On June 23, 2001 at 5:30 p.m., while appellants, together with Alejandro Rivera (Rivera), were drinking near the store of Henry Ugale, Edgar Ronquillo (the victim), a first cousin of appellant Ronquillo, passed by as he repaired to the store to buy cigarettes. As Ronquillo followed the victim at the store, a heated argument ensued between them during which the two boxed each other. Ronquillo thereafter twice kicked the victim who drew out his knife which hit Ronquillo at his left thigh.^[2]

Torres joined the fray and struck the victim on the nape with a shovel. As the victim lay unconscious on the ground, Ronquillo repeatedly hit him with a bamboo pole on the head and on different parts of his body.^[3] The victim died the following day.^[4]

The death certificate^[5] of the victim showed the following:

CAUSES OF DEATH

Immediate cause	a. <u>Brain herniation</u>
Antecedent cause	b. <u>Intracranial hemorrhage</u>
Underlying cause	c. <u>Mauling</u>
Other significant conditions contributing to death	<u>Closed fracture M/3rd humerus (L)</u>

x x x x (emphasis and underscoring supplied)

Ronquillo and Torres, interposing self-defense, gave the following version:

A heated argument arose when the victim called Ronquillo's father a "wicked witch." [6] With a knife, the victim chased Ronquillo for about ten minutes around the store's premises, [7] after which the victim turned towards Torres to attack him, hence, Torres repaired to a parked truck where he got a shovel which he used to hit the victim on the nape. [8] Unaffected by the blow, the victim again ran after Ronquillo who was trying to pull a bamboo peg beside the road. At that instant, the victim stabbed the left thigh of Ronquillo [9] who retaliated by striking the victim with the bamboo pole.

Ruling out self-defense, the trial court held, quoted *verbatim*:

The testimony of the two accused is not credible. If the victim chased Gilbert with a knife, [the victim] could have inflicted injuries on [Gilbert]. **If it is true that Gilbert struck [the victim] at the nape...why did the victim still go to Felipe who is away from him and stabbed him on his thigh. [The victim] could have stabbed Gilbert first because he was the one who clubbed him.** The testimony of the accused is unnatural. (emphasis and underscoring supplied)

By Decision of June 30, 2005, [10] the trial court thus convicted petitioners of homicide, disposing as follows:

WHEREFORE, premises considered[,] the prosecution having proven the guilt of the accused Felipe Ronquillo and Gilbert Torres beyond reasonable doubt of the crime charged, the Court sentences the accused Felipe Ronquillo and Gilbert Torres to suffer a penalty of eight (8) years and four (4) months to fourteen (14) years and eight (8) months and to pay the heirs of the victim solidarily in the amount of Fifty Thousand Pesos (P50,000.00) as civil [indemnity] due to the death of the victim, Fifty Thousand Pesos (P50,000.00) as moral damages, Fifty Thousand Pesos (P50,000.00) as actual damages and to pay the cost.

The accused are entitled in full of their preventive imprisonment.

SO ORDERED.

By Decision of July 27, 2007,^[11] the Court of Appeals *affirmed* the findings of the trial court but *modified* the penalty and ordered the payment of temperate damages in lieu of actual damages. Thus the appellate court disposed:

WHEREFORE, premises considered, the appealed Decision of the Regional Trial Court, Branch 33, Ballesteros, Cagayan, in Criminal Case No. 33-483-2001 is hereby AFFIRMED with MODIFICATION. Accused-appellants Felipe Ronquillo y Guillermo and Gilbert Torres y Natalia are hereby sentenced to suffer **the indeterminate penalty of eight (8) years and one (1) day of prision mayor as minimum to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal as maximum.** Accused-appellants are also hereby ordered to pay, jointly and severally, the heirs of the victim Edgar Ronquillo, **the amount of P25,000.00 as temperate damages** in lieu of actual damages which is hereby DELETED. The appealed Decision is AFFIRMED in all other respects. The damages awarded herein and those affirmed in the appealed judgment are to be paid, jointly and severally, by both accused-appellants.

SO ORDERED. (emphasis and underscoring supplied)

Hence, the present petition for review.

Justifying their actions, petitioners assert that unlawful aggression emanated from the victim who was armed with a knife; that the means adopted by them were reasonably necessary to repel the victim's aggression; and that they did not provoke the victim whom they merely invited for a drink.^[12]

And petitioners contend that there was no sufficient, direct and clear evidence to establish conspiracy in the killing of the victim.^[13]

The petition fails.

As did the trial and appellate courts, the Court finds that petitioners failed to discharge the burden of proving the circumstances to justify their actions.

It is a statutory and doctrinal requirement that the presence of unlawful aggression is a condition *sine qua non* for self-defense to be warranted.^[14]

The testimony of the lone prosecution witness Rivera that the aggression emanated not from the victim but from petitioner Ronquillo himself impresses the Court. Consider his following testimony, quoted *verbatim*:

Q: Now when **Felipe Ronquillo followed Edgar Ronquillo** in front of the store of Henry Ugale, what happened next, if

any?

A: I was surprised, sir because it was the start of their quarrel.

Q: What do you mean quarrel?

A: **They started boxing each other, sir.**

Q: And when they started boxing each other, what happened next if any?

A: **Felipe Ronquillo kicked Edgar Ronquillo.**

Q: And after Felipe Ronquillo kicked Edgar Ronquillo what happened next if any?

A: Edgar Ronquillo drew his knife, sir.

Q: And after Edgar Ronquillo drew his knife what happened next if any?

A: **When Felipe Ronquillo kicked him for the second time, it was then that Edgar Ronquillo used his knife to parry the kick of Felipe Ronquillo who was hurt at the thigh.**

Q: After Felipe Ronquillo was injured because of use of the knife which Edgar Ronquillo used to parry his kick what happened next?

A: **Edgar Ronquillo went to the edge of the road and Felipe Ronquillo followed him again, sir.**

Q: Now when Edgar Ronquillo went to the side of the street and he was followed by Felipe Ronquillo again what happened next if any?

A: **When they were already face to face it was at that moment . . . Gilbert Torres clubbed Edgar Ronquillo with a shovel, sir.**

Q: Where did Gilbert Torres come from when he struck Edgar Ronquillo with a shovel?

A: **From the back, sir.**

x x x x

Q: Now when Gilbert Torres struck Edgar Ronquillo with a shovel what did Felipe Ronquillo do if any?

A: **Edgar Ronquillo fell down unconscious and that the time that Felipe Ronquillo used a piece of bamboo to club him**