

## FIRST DIVISION

[ G.R. No. 192581, November 17, 2010 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
DENNIS D. MANULIT, ACCUSED-APPELLANT.**

### D E C I S I O N

**VELASCO JR., J.:**

#### **The Case**

This is an appeal from the November 26, 2009 Decision of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 03776<sup>[1]</sup> entitled *People of the Philippines v. Dennis D. Manulit*, which affirmed the January 28, 2009 Decision<sup>[2]</sup> in Criminal Case No. 03-219494 of the Regional Trial Court (RTC), Branch 27 in Pasay City.

Accused-appellant Dennis D. Manulit stands convicted of the crime of Murder, as defined and penalized under Article 248 of the Revised Penal Code (RPC). He was sentenced to suffer the penalty of *reclusion perpetua*.

#### **The Facts**

The charge against accused-appellant stemmed from the following Information:

That on or about July 6, 2003, in the City of Manila, Philippines, the said accused, armed with a firearm, with intent to kill, with treachery, did then and there willfully, unlawfully and feloniously attack, assault and use personal violence upon one Reynaldo Juguilon y Mansueto, by shooting the latter several times and hitting him on the different parts of the body, thereby inflicting upon the latter multiple gunshot wounds which were the direct and immediate cause of his death thereafter.

Contrary to law.<sup>[3]</sup>

On November 10, 2008, accused-appellant was arraigned, and he pleaded "not guilty" to the offense charged.<sup>[4]</sup> After pre-trial, trial on the merits ensued.

During trial, the prosecution presented as its witnesses Lydia Juguilon, Ralphy Villadolid y Laguerta, Eduardo Juguilon, and Dr. Romeo T. Salen. On the other hand, the defense presented accused-appellant; his cousin, Marvin Manulit; Maria Fontillar-Liwanag; and Arlene Manulit-Intal as its witnesses.

The facts culled from the records are as follows:

On July 6, 2003, at around 9:00 p.m., Anabel Bautista and her live-in partner, Reynaldo Juguilon, were walking along Dagupan Extension, Tondo, Manila on their way home when they passed by accused-appellant Manulit, who was sitting in front of his house across the *barangay* hall. Upon seeing them, Manulit stood up and successively shot Reynaldo at the back, resulting in the latter's death. He then tucked the gun in his waist, raised his hands, and shouted, "*O, wala akong ginawang kasalanan at wala kayong nakita.*" (I did not do anything wrong, and you saw nothing.) And he ran towards the direction of the basketball court adjoining the *barangay* hall.

Lydia Juguilon, Manulit's aunt and the victim's sister-in-law, saw what happened but kept quiet about it until, bothered by her conscience, she decided to issue a statement before the prosecutor of Manila.<sup>[5]</sup> She said that, on the date and time of the incident, she went out of her house to buy some snacks in a nearby store. She saw Manulit in front of his house, while Reynaldo was walking two arms length ahead of Anabel towards the direction of their house. The place was well lighted.<sup>[6]</sup> Suddenly, she heard a gunshot, and when she turned her head to where the sound came from, she saw Manulit firing successive shots at Reynaldo's back until Reynaldo fell to the ground.<sup>[7]</sup> She was then three to four meters away from Reynaldo.<sup>[8]</sup> Afterwards, Manulit shouted, "*Wala kayong nakita, wala akong ginawa kay Boyet,*"<sup>[9]</sup> and tucked the gun back to his waist.<sup>[10]</sup> She further stated that Reynaldo is the brother of her husband, while Manulit is her nephew being the son of her elder brother.<sup>[11]</sup> She explained that during the wake, she kept quiet about the incident; and she went to Tarlac afterwards to keep her silence, but her conscience kept bothering her.<sup>[12]</sup>

Ralph Villadolid, another witness, corroborated Lydia's testimony.<sup>[13]</sup> Ralph was walking along Dagupan Extension, Tondo, Manila when he saw the victim, Reynaldo, on his way home. Ralph was near the *barangay* hall when he saw Manulit seated at the ground floor of his house. Manulit suddenly stood up and followed Reynaldo, after which Manulit pulled out a gun and shot Reynaldo several times, causing him to fall to the ground. Thereafter, Manulit immediately fled while shouting, "*O, wala akong ginawang kasalanan, ha. Wala kayong nakita.*" Frightened, Ralph sought cover behind a parked motorcycle and came out only when Manulit was gone. He immediately prepared an affidavit regarding the incident, but only submitted it to the authorities a week after the incident.

Reynaldo's father, Eduardo Juguilon, testified as to the funeral and other miscellaneous expenses he incurred due to the death of his son.<sup>[14]</sup>

Dr. Romeo T. Salen, Medico-Legal Officer of the Manila Police District Crime Laboratory, testified that he conducted the autopsy on the cadaver of Reynaldo.<sup>[15]</sup> Upon inspection, Dr. Salen found that Reynaldo sustained four (4) gunshot wounds--two (2) at the back and two (2) at his right hand.<sup>[16]</sup> The gunshot wounds on the back exited at the neck and armpit and both were enough to cause the death of the victim.<sup>[17]</sup> The trial court presented his testimony, thus:

1. Gunshot wound, thru and thru, point of entry, left scapular region, measuring 0.5 by 0.4 cm, 12 cm from the posterior midline with an

abraded collar, measuring 0.4 cm inferiorly directed anteriorwards, upwards and medialwards, fracturing the 4<sup>th</sup> left thoracic ribs, lacerating the lower lobe of the left lung, the larynx, trachea, making a point of exit at the neck, measuring 1.2 [by] 0.8 cm.

2. Gunshot wound thru and thru, point of entry, right scapular region, measuring 0.5 by 0.4 cm, 13 cm from the posterior midline with an abraded collar, measuring 0.2 cm, superiorly directed anteriorwards, downwards, and medialwards, fracturing the scapula and 4<sup>th</sup> right thoracic ribs, lacerating the upper and lower lobes of the right lung, making a point of exit at the left postaxillary region, measuring 1 by 0.6 cm, 18 cm from the posterior midline.
3. Gunshot wound thru and thru, point of entry, middle third of the right arm, measuring 0.5 by 0.4 cm, along its anterior midline, directed posteriorwards, downwards, and lateralwards, lacerating the soft tissues and muscle, making [a] point of exit at the distal 3<sup>rd</sup> of the right arm, measuring 1 by 0.6 cm, from its anterior midline.
4. Gunshot wound thru and thru, point of entry, distal 3<sup>rd</sup> of the left forearm, measuring 0.5 by 0.4 cm, 3 cm from its posterior midline, directed anteriorwards, upwards, lacerating the soft tissues and muscle, making a point of exit at the proximal 3<sup>rd</sup> left of the left arm, measuring 1 by 0.8 cm, from its posterior midline.<sup>[18]</sup>

In his defense, Manulit offered a story of self-defense. He testified that on July 6, 2006, at about 9:00 p.m., he asked his cousin, Marvin Manulit, to have a drink with him. While they were drinking, Reynaldo barged in holding a gun with both his hands.<sup>[19]</sup> He appeared not to be his normal self with reddish eyes, as if high on drugs.<sup>[20]</sup> Reynaldo poked the gun at Manulit and said, "Ano, Dennis."<sup>[21]</sup> Manulit stood up and countered, "Anong ano?"<sup>[22]</sup> They then grappled for the possession of the gun until they reached the alley near the *barangay* hall where Manulit got hold of the gun.<sup>[23]</sup> Suddenly, Reynaldo opened a fan-knife.<sup>[24]</sup> This caused Manulit to shoot Reynaldo several times, causing him to turn around.<sup>[25]</sup> He dropped the gun and went straight to the house of his parents and told them what happened.<sup>[26]</sup> His cousin, Marvin Manulit, corroborated his testimony.<sup>[27]</sup>

The other defense witness, Maria Fontillar-Liwanag, testified that the victim had been involved in several mischiefs but that she had no personal knowledge of the incident.<sup>[28]</sup> On the other hand, Arlene Manulit-Intal, sister of Manulit, testified that her brother was inside the house drinking liquor with Marvin Manulit. When she heard a gun fired, she hid and saw nothing. She later learned from others that Reynaldo was shot dead.<sup>[29]</sup>

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

After trial, the RTC convicted Manulit. The dispositive portion of its January 28, 2009

Decision reads:

WHEREFORE, in view of all the foregoing, judgment is hereby rendered finding accused **Dennis Manulit y Diwa, Guilty** beyond reasonable doubt of the crime of murder, treachery being attendant to qualify the killing, and hereby sentences him to suffer the penalty of reclusion perpetua, to indemnify the heirs of the victim the sum of P50,000.00, to pay them the additional sum of P50,000.00 as moral damages and P29,000.00 as actual damages and to pay the costs.

SO ORDERED.<sup>[30]</sup>

### **Ruling of the Appellate Court**

On November 26, 2009, the CA affirmed the judgment of the lower court. It held that accused-appellant failed to prove the presence of unlawful aggression, which is one of the key elements of self-defense. The dispositive portion of the CA Decision reads:

WHEREFORE, premises considered, finding no error committed by the trial court in arriving at the assailed decision, the same is hereby **AFFIRMED** and the appeal is hereby **DISMISSED** for lack of merit.

SO ORDERED.<sup>[31]</sup>

### **The Issues**

Manulit contends in his *Brief* that:

I

THE TRIAL COURT ERRED IN REJECTING THE ACCUSED-APPELLANT'S SELF-DEFENSE;

II

THE TRIAL COURT ERRED IN APPRECIATING THE QUALIFYING CIRCUMSTANCE OF TREACHERY AGAINST THE ACCUSED-APPELLANT;

III

THE TRIAL COURT ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT.<sup>[32]</sup>

### **The Court's Ruling**

The appeal has no merit.

## **Unlawful aggression is absent**

In his *Brief*, accused-appellant argues that the trial court failed to appreciate the facts properly as he only acted in self-defense. He contends that unlawful aggression was present when the victim barged into his house for no apparent reason and started to point a gun at him.

We do not agree.

The essential elements of self-defense are: (1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel such aggression; and (3) lack of sufficient provocation on the part of the person resorting to self-defense.<sup>[33]</sup> The person who invokes self-defense has the burden of proof of proving all the elements.<sup>[34]</sup> More importantly, "to invoke self-defense successfully, there must have been an unlawful and unprovoked attack that endangered the life of the accused, who was then forced to inflict severe wounds upon the assailant by employing reasonable means to resist the attack."<sup>[35]</sup>

Although all of the three elements must concur, unlawful aggression must be proved first in order for self-defense to be successfully pleaded, whether complete or incomplete. In other words, "[t]here can be no self-defense, whether complete or incomplete, unless the victim had committed unlawful aggression against the person who resorted to self-defense."<sup>[36]</sup>

Unlawful aggression is an actual physical assault, or at least a threat to inflict real imminent injury, upon a person.<sup>[37]</sup> In case of threat, it must be offensive and strong, positively showing the wrongful intent to cause injury.<sup>[38]</sup> It "presupposes actual, sudden, unexpected or imminent danger--not merely threatening and intimidating action."<sup>[39]</sup> It is present "only when the one attacked faces real and immediate threat to one's life."<sup>[40]</sup>

In the instant case, accused-appellant failed to prove the existence of unlawful aggression. He wants this Court to believe that the victim was the aggressor, not him. In his testimony, he stated that while he and his cousin were drinking at the ground floor of his house, the victim suddenly barged in and poked a gun at him. They grappled for the gun and when he was able to obtain possession of it, the victim opened a fan-knife. This resulted in his act of shooting down the victim.

The Court is not convinced. After a careful perusal of the records of this case, this Court finds no plausible reason to question the trial court's assessment of the credibility of the witnesses. It is well-entrenched in our jurisprudence "that the assessment of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court because of its unique opportunity to observe the witnesses first hand and note their demeanor, conduct and attitude under grilling examination."<sup>[41]</sup> This rule is even more binding and conclusive when the trial court's assessment is affirmed by the appellate court.<sup>[42]</sup>

In finding accused-appellant guilty, the trial court found the testimonies of the prosecution witnesses credible, while it found the testimony of accused-appellant