

SECOND DIVISION

[G.R. No. 153287, June 30, 2008]

**NOEL GUILLERMO Y BASILIANO, PETITIONER, VS. PEOPLE OF
THE PHILIPPINES, RESPONDENT.**

DECISION

BRION, J.:

For our review is the petition^[1] filed by the petitioner Noel Guillermo y Basiliano (*petitioner*) against the decision^[2] dated November 15, 2001 and the resolution^[3] dated April 5, 2002 of the Court of Appeals (CA) in **CA-G.R. CR No. 24181**. The challenged decision^[4] affirmed the decision of the Regional Trial Court (RTC), Branch 18, Roxas City convicting and penalizing the petitioner for the crime of homicide with an indeterminate sentence of six (6) years of *prision correccional*, as minimum, to ten (10) years of *prision mayor*, as maximum. The assailed resolution, on the other hand, denied the petitioner's motion for reconsideration.

BACKGROUND

For the death of one Winnie Alon (*Winnie*), the prosecution charged Arnaldo Socias,^[5] Joemar Palma, and the petitioner with the crime of homicide under an Information that states:

x x x

That at or about 5:40 o'clock in the afternoon, on or about July 21, 1996, at Brgy. Poblacion Takas, Municipality of Cuartero, Province of Capiz, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating[,] and mutually helping one another, armed with knives and with intent to kill, did then and there willfully, unlawfully and feloniously assault, attack and stab one WINNIE ALON y BILLANES, hitting the latter and inflicting multiple stab wounds on the different parts of his body, which injuries caused his death shortly thereafter.

That due to the untimely death of Winnie Alon y Billanes[,] his heirs are entitled to death indemnity in the amount of P50,000.00 and other damages pursuant to the provisions of the Civil Code of the Philippines.

ACTS CONTRARY TO LAW.^[6]

The petitioner and his co-accused were arraigned and pleaded not guilty to the offense charged with the assistance of their counsel *de parte*. The prosecution presented Vicente Alon (*Vicente*) and Eddie Roque (*Eddie*) as witnesses in the trial

that followed; Dr. Ricardo Betita, Jr. (*Dr. Betita*), Baby Lou Felipe (*Baby Lou*), and the three accused - the petitioner, Arnaldo Socias, and Joemar Palma - took the witness stand for the defense.

The material points in the testimony of Vicente were summarized by the trial court in its decision^[7] as follows:

Vicente Alon averred that at 5:40 in the afternoon of July 21, 1996, Winnie Alon, Wilfredo Cabison, Eddie Roque, and him [sic] were at the public market of Cuartero, at [sic] the restaurant of Melecio Heyres to eat.^[8] Noel Guillermo, Arnel Socias, and Joemar Palma were at the restaurant drinking beer. Noel Guillermo and Arnel Socias are known to him since childhood since they come from the same barangay.^[9] Joemar Palma is known to him only recently in that incident.^[10]

While sitting at the table inside the restaurant, an altercation between Arnel Socias and Winnie Alon regarding the cutting of wood by a chain saw [sic] transpired. Noel Guillermo suddenly took hold of Winnie Alon and stabbed the latter at the neck three (3) times.^[11] Joemar Palma went to the kitchen and got a knife. Arnel Socias hit him with a bottle of beer by [sic] the head. He fell down and lost consciousness.^[12] [Footnotes referring to the pertinent parts of the record supplied]

Significantly, Vicente admitted on cross-examination that he and Winnie were already drunk even before they went to the restaurant where the stabbing took place.^[13]

Eddie corroborated the testimony of Vicente on material points, particularly on the state of their intoxication even before going to the scene of the stabbing. His testimony on what transpired at the restaurant was summarized in the RTC decision^[14] as follows:

Eddie Roque alleged that at around 5:40 o'clock in the afternoon of July 21, 1996, he, together with Winnie Alon, Vicente Alon and Wilfredo Cabison, were [sic] inside the restaurant of Mrs. Heyres at Cuartero Public Market to leave their tools of the chain saw [sic] and to eat and drink.^[15] Noel Guillermo, Arnel Socias, and Joemar Palma were ahead of them to [sic] the restaurant and were drinking beer. They invited them and they joined them.^[16] Before each of them could fully consume a bottle served upon each of them, Winnie Alon and Arnel Socias argued about the cutting of wood by means of a chain saw [sic]. The argument was so heated that each of the protagonists stood up and Arnel Socias took 2 bottles which were thrown to Vicente Alon who was hit on the forehead.^[17]

Noel Guillermo hugged or embraced Winnie Alon and stabbed him three times (3) on [sic] the neck with a Batangueño knife. Arnel Socias went around, then behind, and stabbed Winnie Alon once, on the left side of his body, just below his left armpit, with a pointed object, but he could not determine what weapon was used. Joemar Palma also helped in

stabbing Winnie Alon once, hitting him at the right side of his body.^[18]

Winnie Alon resisted trying to struggle [sic], but could not move because he was ganged up by the three.^[19] [Footnotes referring to the pertinent parts of the record supplied]

Dr. Betita, rural health physician of Cuartero, Capiz, declared on the witness stand that he conducted on July 22, 1996 a postmortem examination on the body of Winnie^[20] and made the following findings:

POSTMORTEM EXAMINATION

The postmortem examination is done on the remains of Winnie Alon, 31 years old, single, from Malagab-i, Cuartero, Capiz, was stab [sic] to death at about 5:40 P.M. at Pob. Takas, Public Market, Cuartero, Capiz sustaining the following injuries:

1. Stab wound 1.5 x 3 cm with 6-8 cm depth [L]eft anterior chest at level of 5th rib mid clavicular area.
2. Stab wound 2 x 3 cm with 5 cm depth anterior neck just above the sternum.
3. Stab wound 2 x 3 cm with 3-5 cm depth at epigastric area.

The most probable cause of death was massive [H]emorrhage secondary to multiple stab wounds.^[21]

According to Dr. Betita, the cause of death was massive hemorrhage due to multiple stab wounds.^[22] He added that the three (3) stab wounds were probably caused by a sharp-bladed instrument like a knife.^[23]

The petitioner gave a different version of the events, summarized in the RTC decision as follows:

Noel Guillermo testified that at 5:30 in the afternoon of July 21, 1996, he was in Cuartero at the restaurant of Melecio Heyres, husband of Gertrudes Heyres, together with Arnel Socias and Joemar Palma drinking beer, consuming only about half a bottle, when Winnie Alon, Eddie Roque, Vicente Alon, and Wilfredo Cabison arrived and ordered beer from BabyLou Felipe. Winnie Alon came to him and requested to join them in their table which he affirmatively answered. Winnie Alon then had an altercation with Arnel Socias regarding "*labtik*" (string used in marking wood to be cut).^[24]

Winnie Alon challenged Arnel Socias to a contest on clean or straight cutting of wood. Arnel declined the challenge claiming that he is only an assistant to his brother-in-law. Winnie Alon got angry and told him that he has long been in [the] chain saw [sic] business but "you're stupid" ("*gago ka!*"). Arnel responded: "If the wood is crooked and you would deviate from line, you're stupid."^[25]

Winnie Alon suddenly stood up and said to Arnel: "Don't ever call me stupid," pointing his finger to Arnel. He told them to settle the matter peacefully as they are friend [sic], but Winnie Alon was so furious and grabbed Arnel Socias by the collar. Arnel tried to release the hold of Winnie from his collar. While he was pacifying the two telling them to settle the matter peacefully, Winnie Alon turned to him and said: "you also," then struck him with a beer bottle. He was hit at the right top of his head thrice. He stood up and boxed Winnie who again picked up a bottle break [sic] it against the wall, and struck him with the broken bottle. He stepped back, pulled his knife, and stabbed him three (3) times but cannot remember what part of his body was hit by his successive stabs.^[26] x x x [Footnotes referring to the pertinent parts of the record supplied]

Baby Lou, a waitress at the restaurant of Melecio Heyres, narrated that in the afternoon of July 21, 1996, the petitioner, together with Arnaldo and Joemar, arrived at the restaurant and ordered beer.^[27] A few minutes later, Vicente, Eddie, Winnie, and Wilfredo Cabison arrived and also ordered beer. She then saw the group of Winnie transfer to the table occupied by the petitioner and his companions. Thereafter, the group had a heated argument among themselves regarding "*labtik*."^[28] In the course of the exchange, she saw Winnie strike the petitioner on the head with a bottle. Winnie and the petitioner then grappled with each other. At that point, she hid behind the refrigerator and did not see what happened next. Afterwards, she saw the bloodied body of Winnie lying outside the restaurant.^[29] She likewise saw the petitioner outside the restaurant; his shirt was splattered with blood.^[30]

Dr. Betita, this time testifying as defense witness, stated, among others, that the contusion hematoma suffered by the petitioner could have been caused by a hard object like a beer bottle, while the linear abrasion could have been caused by a fingernail.^[31]

Arnaldo Socias testified that on July 21 1996, he, together with the petitioner and Joemar, was drinking beer at the restaurant of Melecio Heyres^[32] when Winnie stood up and asked if they (Winnie's group) could join them at their table. Arnaldo and his companions agreed. Winnie's group then transferred to the table of Arnaldo's group.^[33]

The discussion took a bad turn when the matter of cutting by chainsaw was raised. Winnie challenged Arnaldo to a contest to determine who could do the cleanest cut. He declined and claimed he does not know how to operate a chainsaw. To this, Winnie retorted, "You are already old in that business, but your finished product is still crooked. You are all dumb." He countered, "If the wood itself is crooked, you cannot have a straight lumber. You are dumb if you insist you can." At that point, Winnie stood up and grabbed him by the collar. The petitioner intervened and told them to settle their differences peacefully. Winnie then grabbed a bottle and struck the petitioner on the head three times.^[34] Arnaldo added that he did not see who stabbed Winnie, because while the petitioner and Winnie were grappling, he was busy fighting with Vicente.^[35]

Joemar Palma testified that in the afternoon of July 21, 1996, the petitioner,

Arnaldo, and he were drinking beer at the restaurant of Mr. Heyres when four persons, who appeared to be drunk (later identified as Vicente, Eddie, Winnie, and Wilfredo Cabison), entered the restaurant and ordered beer.^[36] After the latter group joined them at their table, Winnie and Arnaldo had a heated discussion regarding expertise in operating a chainsaw. Winnie grabbed the shirt collar of Arnaldo in the course of the heated exchange.^[37] The petitioner advised them to calm down, but Winnie struck him (petitioner) on the head with a beer bottle three times. Vicente also tried to strike Arnaldo, but the latter managed to duck and so he (Joemar) took the hit instead. Thereafter, he and Arnaldo engaged Vicente.^[38]

The RTC, in its decision of January 8, 2000, convicted the petitioner of the crime of homicide, but acquitted Arnaldo and Joemar. The dispositive portion of the decision reads:

WHEREFORE, the evidence on record having established the guilt of Noel Guillermo as principal in the crime of homicide for stabbing three (3) times Winnie Alon which caused the latter's death, attended by a special or privileged mitigating circumstance of incomplete justification, and without any aggravating or mitigating circumstances attendant, he is imposed an indeterminate sentence of six (6) years of *prision correccional*, as minimum, to ten (10) years of *prision mayor*, as maximum, with the corresponding accessory penalties, and to pay death indemnity of P50,000.00 to the heirs of Winnie Alon, in the service of his sentence he shall be credited the period that he undergone [sic] preventive imprisonment, conformably with Art. 29 of the Code.

Costs against the accused.

For insufficiency of evidence, the accused Arnaldo Socias and Joemar Palma are acquitted of the crime charged. The bail bond for their provisional liberty is **CANCELLED AND DISCHARGED**.

SO ORDERED.^[39] [Emphasis in the original]

The petitioner appealed to the CA whose decision is now assailed in the present petition. The petitioner essentially claims that the RTC and the CA erred in failing to recognize the existence of all the elements of self-defense.

THE COURT'S RULING

We resolve to deny the petition for lack of merit.

Plea of Self-Defense

We note at the outset that the petitioner does not deny that he killed Winnie. He expressly made this admission in his testimony of July 15, 1999:

ATTY. VILLAREAL:

Q: And what did you do when he struck you with the bottle?