

SECOND DIVISION

**[G.R. NO. 169060 [Formerly G.R. No. 154915],
February 06, 2007]**

**THE PEOPLE OF THE PHILIPPINES, APPELLEE, VS. JOEY
CONCEPCION Y PEREZ, APPELLANT.**

D E C I S I O N

TINGA, J.:

For review is the Decision^[1] of the Court of Appeals affirming with modification the Judgment^[2] dated 24 June 2002 of the Regional Trial Court^[3] (RTC) Branch 12 of Malolos, Bulacan, finding appellant Joey Concepcion y Perez guilty beyond reasonable doubt of the crime of murder, and sentencing him to suffer the penalty of *reclusion perpetua*.

In an Amended Information^[4] filed by Assistant Provincial Prosecutor Salvador R. Santos, Jr. on 1 December 1998, appellant was charged with murder, thus:

Criminal Case No. 423-M-98

That on or about the 26th day of December 1997, in the municipality of Bustos, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife, with intent to kill one Rolando F. Nicolas, with treachery, did then and there wilfully (sic), unlawfully and feloniously attack, assault and stab with the said knife said [sic] Rolando F. Nicolas, hitting him on his abdomen, thereby inflicting upon him serious physical injuries which directly caused the death of the said Rolando F. Nicolas.

Contrary to law.

On 19 March 1998, appellant was originally charged with homicide in an Information^[5] filed before the RTC, Branch 77 of Malolos, Bulacan. However, following the execution of her *Karagdagang Sinumpaang Salaysay*,^[6] eyewitness Carmencita Baliña (Baliña),^[7] common-law wife of victim Rolando F. Nicolas (Nicolas), filed a motion for reinvestigation^[8] before the RTC, Branch 77. This motion was granted^[9] and after the completion of reinvestigation, the Amended Information for murder was filed. The case was thus re-raffled and assigned to RTC, Branch 12.

When arraigned, appellant pleaded not guilty to the charge.^[10] Subsequently, the defense manifested at pre-trial that while appellant indeed stabbed Nicolas in the stomach once, he did so however in self-defense. For this reason, the trial court, upon agreement of the parties, ordered the conduct of reverse proceedings with the

defense first to present its evidence on the alleged self-defense.^[11]

The pre-trial order^[12] issued by Judge Crisanto C. Concepcion embodied the stipulations agreed upon by the parties as follows: (1) the identities of the accused and the victim; (2) the date, time and place of the commission of the charged offense, that is, 26 December 1997, 12:10 in the morning, in Barangay Tanawan, Bustos, Bulacan; (3) that the cause of death of the victim was the single stab wound to the stomach; and (4) that prosecution witnesses Baliña, Jeffrey Lopez (Lopez) and Precy Baldazo (Baldazo) gave their respective statements to the police authorities, and this being so, the testimonies of the police officer who took the statements and the medico-legal officer may already be dispensed with.^[13]

Trial promptly ensued thereafter. To substantiate his theory, the defense presented as witnesses the appellant, appellant's father, appellant's mother, and SPO4 Eduardo Cuison, the arresting officer. The defense's version of the incident runs, thus:

At about 11 o'clock in the evening of 25th of December 1997, appellant and his friend Lopez joined Nicolas, Baliña, and their companions Gilbert de Guzman and Lenin Baldazo at the drinking session and holiday festivities then going on in the house of appellant's aunt Precy Baldoza.^[14]

The trouble that night allegedly began when appellant attempted to flirt with Baliña by touching her hand when she passed the videoke microphone to him. According to appellant, what he did angered the victim, causing the latter to utter in a loud voice, "*Putang ina mo, multo ka.*"^[15] Immediately thereafter, Baliña purportedly asked appellant to leave to avoid further problems. Thus, appellant claims to have gone, but that he was prompted to return to retrieve his mother, who had been left there in the course of their heated argument.^[16]

As he returned to fetch his mother, while situated about two (2) meters from his aunt's house, so appellant narrates, Nicolas suddenly appeared and pulled out a knife. Appellant approached Nicolas and asked, "*Ano ba ang problema?*" In the course of their argument, appellant allegedly attempted to wrestle the knife away from the victim. Consequently, in their struggle to gain possession of the knife, appellant and Nicolas fell on the ground, with the latter landing on top of appellant. According to appellant, he was surprised to see that the knife had pierced the stomach of Nicolas. Confused, as he was himself bloodied, appellant explains, he ran away and left the victim without helping him.^[17]

Appellant went straight to his home where he told his wife and father about what had transpired. His father then went to the police station and came back with two (2) police officers.^[18]

To counter the defense's account of the incident, the prosecution presented Baliña who claimed to have witnessed the killing of the victim. Her testimony attested to the following facts:

In the evening of 25 December 1997, appellant and Lopez joined a get-together at the house of Baldazo where, among others, Nicolas and Baliña were present. Throughout the night, the group drank beer and sang in celebration of the holidays.

Sometime during the drinking spree, however, Baliña noticed that appellant had surreptitiously left in a hurry without explanation and thereafter disappeared for a considerable amount of time. Baliña believes that at that point, appellant went home to get the murder weapon as his mother appeared at the venue of the festivities thereafter and inquired whether her son had a fight with anyone.^[19]

At around 11:45 that evening, the festivities ended uneventfully. Appellant, who was first to leave the group, seated himself in the veranda outside the house. He was followed by his mother, Nicolas, Baliña and the rest. As Baliña and Nicolas were going out of the house and into the veranda, the latter paused and stooped slightly to light a cigarette.^[20]

Baliña saw appellant suddenly stand up, rush toward Nicolas and stab him. Thereafter, appellant fled. Nicolas was stunned, managing to utter only the words, "Why, Joey?" before collapsing. He was rushed to a nearby hospital where he expired.^[21]

The Autopsy Report^[22] on the victim shows that the cause of his death was the stab wound in his abdomen. It describes the stab wound as follows:

x x x x

STAB WOUND -

gaping, 2.5 cms. located on the abdomen, along the anterior median line, 102 cms. from the right heel, one end is sharp, the other is contused, directed backwards and upwards involving the skin and underlying soft tissues, severing the omentum and intestines and hitting the liver with a depth of 8-9 cms.

x x x x

The prosecution asserts that appellant harbored ill-feelings toward Nicolas as a result of a disagreement some three (3) years back. Nicolas had purportedly reprimanded appellant for extorting money from those engaged in quarrying operations in their area. The victim had then allegedly poked a gun at appellant in one of their encounters.^[23]

To prove actual damages, Baliña presented receipts in the amount of P50,000.00 representing the expenses incurred during the wake and the service for the victim's funeral.^[24]

Finding the prosecution's version to be more credible than appellant's allegation of self-defense, the trial court found appellant guilty of murder and sentenced him to suffer the penalty of *reclusion perpetua*, to indemnify the heirs of the victim in the amount of P75,000.00, in addition to P50,000.00 for funeral expenses as actual damages, and P50,000.00 as moral damages.^[25]

Conformably with this Court's decision in *People v. Mateo*,^[26] appellant's appeal was remanded to the Court of Appeals. On 9 May 2005, the appellate court rendered its decision affirming the appellant's conviction, with modification as to appellant's civil indemnity. The dispositive portion of the decision states:

WHEREFORE, the appealed Decision of the Regional Trial Court of Malolos, Bulacan (Branch 12), dated June 24, 2002, in Criminal Case No. 423-M-98, finding appellant Joey Concepcion y Perez guilty of murder and sentencing him to suffer the penalty of *reclusion perpetua* and awarding actual and moral damages in favor of the legal heirs of the victim Rolando F. Nicolas is **AFFIRMED** with **MODIFICATION** that the civil indemnity awarded by the trial court also in favor of the said heirs is reduced to Fifty Thousand Pesos (P50,000.00). No pronouncement as to costs.

SO ORDERED.^[27]

Appellant maintains that the court *a quo* gravely erred: (1) in giving full faith and credence to the testimony of Baliña instead of the self-defense interposed by appellant; (2) in appreciating the qualifying circumstance of treachery; and (3) in finding appellant guilty beyond reasonable doubt of the crime of murder.^[28]

Appellant argues that all the essential elements of self-defense were sufficiently established to exculpate him from liability. He contends that no evidence on record shows that he intended to kill the victim; if at all, the death of the victim was purely accidental and only triggered by the provocation committed by the victim when he attacked appellant with a knife.^[29]

We are convinced of the appellant's guilt beyond reasonable doubt, however, the downgrading of the offense involved and the reduction of the penalty are in order.

Case law has established that in invoking self-defense, whether complete or incomplete, the *onus probandi* is shifted to the accused to prove by clear and convincing evidence all the elements of justifying circumstance, namely: (a) unlawful aggression on the part of the victim; (b) the reasonable necessity of the means employed to prevent or repel it; and (c) lack of sufficient provocation on the part of the person defending himself.^[30]

We find that appellant has miserably failed to demonstrate that the death of Nicolas had occurred on the occasion of a legitimate self-defense on his part. The accused, in cases of self-defense, must rely on the strength of his own evidence and not on the weakness of the prosecution's evidence since he admits the commission of the alleged criminal act.^[31] One who admits the infliction of injuries which caused the death of another has the burden of proving self-defense with sufficient and convincing evidence, for even if the evidence of the prosecution were weak, it could not be disbelieved after the accused himself had admitted the killing.^[32] Self-defense, like alibi, is a defense which can easily be concocted. If the accused's evidence is of doubtful veracity, and it is not clear and convincing, the defense must necessarily fail.^[33]

Accordingly, there can be no self-defense unless there was unlawful aggression on the accused. It thus follows that the accused has the burden of proof to show that he was the victim of an unlawful aggression in order to be entitled to his claim of self-defense.^[34] This is so, because it is a fundamental principle that one who exculpates himself with an allegation of justification has the burden of fully showing