

EIGHTH DIVISION

[CA-G.R. CR No. 36167, March 12, 2015]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
SEVERINO BUMANLAG, ACCUSED-APPELLANT.**

D E C I S I O N

LANTION, J.A.C., J.:

Before Us is an appeal from the Decision^[1] dated 08 June 2013 of the Regional Trial Court of Palawan, Branch 52 (**court a quo**) in Criminal Case No. 12358, the dispositive portion of which reads:

"WHEREFORE, accused **SEVERINO BUMANLAG** is found guilty beyond reasonable doubt of the felony of Frustrated Homicide and he is hereby sentenced to the indeterminate sentence of two (2) years and six (6) months of *prision correccional*, as minimum, to seven (7) years of *prision mayor* as maximum. Accused is likewise ordered to pay private complainant Nonelon Beof the amount of P20,000 as temperate damages and P30,000 as moral damages. Let the corresponding *mittimus* issue after the finality of this Decision.

IT IS SO ORDERED."

THE FACTS

Accused-appellant Severino Bumanlag (**accused-appellant**) was charged with the crime of Frustrated Homicide under the following Information:

"That on or about the 9th day of January, 1995, at Barangay Poblacion, Municipality of Narra, Province of Palawan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, while armed with a bladed weapon, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and stab with his bladed weapon, to wit: a knife, one NONELON BEOF, hitting him in the vital part of his body and inflicting upon him a stab wound which would ordinarily cause his death, thus performing all the acts of execution which would have produced the crime of Homicide, as a consequence, but nevertheless did not produce it by reason of causes independent of the will of the accused, that is, by the timely and able medical assistance rendered to said Nonelon Beof at the WESCOM Hospital, Puerto Princesa City, which prevented his death.

CONTRARY TO LAW."^[2]

When arraigned on 17 August 1995, accused-appellant pleaded "NOT GUILTY" to the offense charged against him.^[3] After the completion of the pre-trial conference, trial

on the merits ensued.^[4]

The Prosecution presented as witnesses the following: 1) Nonelon Beof (**Beof**), the private complainant; 2) Benwar Tac-on (**Tac-on**) 3) Hereberto Faldas (**Faldas**) and 4) Dr. Nicanor Funelas (**Dr. Funelas**).

The first witness presented by the Prosecution was Beof whose narration of the events that transpired was summarized in the Appellee's Brief^[5] as follows:

"On January 9, 1995, private complainant Nonelon Beof, a member of the Citizen Armed Forces Geographical Unit, or CAFGU, testified that he conducted a surveillance operation of the illegal logging activities around Barangay Strella in Narra, Palawan, and coordinated with the barangay officials there and introduced himself to Mr. Mauro Ferrer, the barangay captain, and appellant Severino Bumanlag, who was a kagawad.

He claimed that when he approached the appellant, the latter, for no apparent reason, angrily told him: "*Beof, ano ba ang gusto mo palabasin?*", to which question he remarked "*wala naman akong gustong palabasin.*" He was surprised when appellant suddenly tried to box him. So he told him again "*Kagawad, I have no grudge against you*", but appellant angrily retorted that "*Be ready I will kill you*", which actuation confused him extremely as he did not know of any reason why appellant would bear a grudge against him.

Another CAFGU member, Victor Gudapas, intervened and pacified appellant. Thereafter, complainant went home to Barangay Panacan and changed to civilian clothes. At around 4:00 o'clock in the afternoon, he proceeded to the terminal in front of Narra Pawnshop to wait for transportation going to Barangay Dumanguena, where their detachment was stationed.

While waiting, he unexpectedly saw the appellant walking towards his direction and when they were near each other, he greeted him. But appellant did not seem to be in a friendly mood and instead displayed continued hostility and anger at him, prompting him to again dissuade the former from resorting to anything untoward by telling him: "*Kagawad huwag hindi kita katalo.*"

Appellant opened a book he was bringing along which contained a knife inside, and menacingly shouted at the complainant "*You are number 37 of my case*". Suddenly, without any warning, appellant drew the knife and stabbed at the complainant, hitting him in the left side of his chest which left a wound of approximately two (2) inches in length, and which required no less than five (5) stitches.

Complainant tired to fight back and grappled with appellant for possession of the knife. The appellant's wife, Chita, helped the latter by holding and restraining both hands of the complainant. During their struggle, complainant managed to pick up a stone which he used to hit the appellant in the head and complainant used that opportunity to get away from the appellant."

The second witness for the Prosecution was Tac-on, a tricycle driver from Panacan. Tac-on testified that on 09 January 1995 at around 4 o'clock in the afternoon, while waiting for a passenger at the terminal of Panacan in Barangay Narra, he saw two men and a woman standing by, who he later found out from the police as Beof, accused-appellant and Chita (accused-appellant's wife). Tac-on testified that he saw accused-appellant stab Beof. Tac-on narrated that he was only about twenty (20) meters away and clearly saw accused-appellant's hand thrust a knife on the left side of Beof's stomach. Tac-on said that knife used in stabbing Beof was more or less seven (7) inches long. Tac-on said that he saw Beof seriously wounded as the knife held by accused-appellant was bloody. Tac-on narrated that he thereafter boarded his tricycle and went to fetch Hereberto Faldas, the brother-in-law of Beof. According to Tac-on, he and Faldas went back to the place of the incident but did not find Beof so they proceeded to the Narra Hospital and found Beof confined there.^[6]

The third witness was Faldas who corroborated the testimony of Tac-on. Faldas said that on 09 January 1995, Tac-on went to Faldas' house and informed him that Beof had been stabbed at Poblacion, Narra, Palawan. Faldas narrated that upon hearing this, he and Tac-on immediately went to the place of the incident but Beof was no longer there so they proceeded to Narra Hospital and found Beof therein. Faldas testified that Beof appeared to be in serious condition so Faldas decided to transfer Beof to the Puerto Princesa City Station Hospital for further medical attention. While Faldas was trying to look for a jeep to board, Beof mentioned to Faldas that accused-appellant was the person who stabbed the latter.^[7]

The last witness presented was Dr. Nicanor Funelas who interpreted the medical certificate issued by his associate, Dr. Mario Joey Blasco, regarding the stab wound of Beof. Dr. Funelas explained that the patient in this case sustained a stab wound which is two (2) centimeters wide at the seventh intercostals, the space between the ribs counted from the topmost to the lowest. Dr. Funelas stated that the stab wound penetrated the cavity causing the *omentum*, to come out, which in layman's term is "*tuwalya*" or "*callos*". Dr. Funelas further said that the stab wound could have caused by a sharp pointed object like a knife. Dr. Funelas also testified that the stab wound, if not attended to, could cause the death of the patient.^[8]

For its part, the Defense presented the following as witnesses: 1) Arsenia Guboyan; 2) accused-appellant; 3) Joselito Gabuco; 4) Rolando Asuncion; and 5) Dr. Rebethia Alcala. The version of the Defense, as synthesized in the Appellant's Brief,^[9] is in this wise:

"13. Accused SEVERINO BUMANLAG (Bumanlag) only knew NONELON BEOF (Beof) as a member of the CAFGU who often visited other CAFGU members assigned in Barangay Estrella Village, Narra, Palawan, but not until he heard the confession of ARSENIA GUBOYAN (Guboyan), his sister-in-law. According to Guboyan, she and Beof, both married, were having an illicit relationship.

14. Accused Bumanlag then advised Guboyan to stop seeing Beof. Guboyan listened and decided to stop the relationship but Beof threatened to harm her, the accused, and his family. Guboyan immediately reported the threat to the latter.

15. Thus, on January 9, 1995, at around 3:00 o'clock in the afternoon, accused Bumanlag, together with his wife Victoria Bumanlag (Victoria), Guboyan, and his brother-in-law Ponciano Guboyan, filed a police blotter against Beof. On the way home, however, Beof appeared in the tricycle station and confronted him. Guboyan and her husband, on the other hand, proceeded to the Elohim Appliance Center from the police station.

16. Accused Bumanlag and Victoria tried to avoid Beof who walked with them. Beof said "I am here now Kagawad, why did you say that you want to blast me off there at Barangay Estrella Village?" to which he replied, "I did not say anything. It was you who said that you will blast me off." Suddenly, Beof drew a knife and stabbed the accused.

17. He was able to parry the first thrust of the knife but Beof hit him in the left elbow in the second thrust. He then held both Beof and the blade of the knife and fell on the ground in the process. Beof, in turn, picked-up a stone and hit him in the left eyebrow. This was the last thing he can remember because he went unconscious.

18. Accompanied by Victoria, accused Bumanlag surrendered the knife to the police. He also had the incident entered into the police blotter and himself placed under police custody due to fear. 19. JOSELITO GABUCO (Gabuco) witnessed the stabbing incident. He also noticed that only accused Bumanlag sustained a wound during the incident.

20. Before the incident, Beof and his companion boarded the tricycle of ROLANDO ASUNCION (Asuncion) in going to the store of Zoilada Zambales. He heard Beof tell his companion that he would kill somebody.

21. Accused Bumanlag sustained a wound on the left side of his face just above the eyeball with the surroundings of the left eye swollen, caused probably by a piece of wood or stone. The left side of his elbow and forearm area likewise showed a 6-centimeter-stab wound and open wound, respectively, caused by a bladed weapon and his left palm and left thumb have incised wounds.

22. Based on the interpretation of Dr. REBETHIA ALCALA (Dr. Alcala) of the medical certificate, the locations of these wounds establish that accused Bumanlag was on the defensive stance and his attacker was taller and standing on a higher ground during the stabbing incident. She, however, could not determine the gravity of the wounds because she did not personally examine (*sic*) the accused."

On 08 June 2013, the court *a quo* rendered the assailed Decision finding accused-appellant guilty beyond reasonable doubt of the crime of Frustrated Homicide.

Hence, this appeal.

ASSIGNMENT OF ERRORS

I.

THE COURT A QUO GRAVELY ERRED WHEN IT FAILED TO APPRECIATE SELF-DEFENSE IN FAVOR OF THE ACCUSED-APPELLANT.

II.

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED DESPITE THE PRIVATE COMPLAINANT'S INHERENT INCONSISTENCIES.

III.

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED DESPITE THE INHERENT WEAKNESS OF THE PROSECUTION EVIDENCE.^[10]

OUR RULING

The core issues for Our resolution are as follows: 1) whether or not accused-appellant acted in self-defense; and 2) whether or not accused-appellant is guilty beyond reasonable doubt of Frustrated Homicide.

Anent the first issue, accused-appellant contends that the court *a quo* erred in ruling that his denial of inflicting Beof any injury is inconsistent with the theory of self-defense.^[11]

Accused-appellant's contention fails to persuade.

Preliminarily, it is a settled rule that when an accused claims the justifying circumstance of self-defense, ***an accused admits having caused the injuries of the victim.*** The burden of proof then shifts on the accused to prove, with clear and convincing evidence, the confluence of the essential requisites for such a defense, namely: (a) unlawful aggression on the part of the victim; (b) 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.^[12]

Here, accused-appellant was charged with Frustrated Homicide because of the stab wound sustained by the victim, Beof, and accused-appellant interposed the self-defense theory. However, it can be gleaned from the records that accused-appellant has not been candid and consistent with his claim of self-defense. Thus, the court *a quo* decided against a reversed trial. It bears noting that during the preliminary investigation, accused-appellant claimed self-defense. Nonetheless, the investigating prosecutor observed that it was not clear from the account of accused-appellant as to how Beof sustained the stab wound. Thus, the investigating prosecutor recommended the evaluation of the version of the Defense in a full blown trial.^[13]