

TENTH DIVISION

[CA-G.R. CR NO. 25441, August 25, 2006]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROGER MORCILLA, ACCUSED-APPELLANT.

DECISION

TIJAM, J.:

This is an *Appeal*^[1] from the *Judgment*^[2] dated March 26, 2001, of the Regional Trial Court of Tabaco, Albay, Branch 17, in Criminal Case No. T-2783, finding Accused- Appellant guilty of Homicide.

The facts are as follows:

In an *Information*^[3] dated November 29, 1996, Accused-Appellant Roger Morcilla was charged with Homicide allegedly committed as follows:

“That on or September 12, 1996, at Tiwi, Albay, Philippines, and within the jurisdiction of this Honorable Court, the said accused did then and there willfully, unlawfully and feloniously with intent to kill, stab, assault, attack and wound Antonio Bobiles with a fan knife, directing blows against the vital parts of his body, thereby inflicting upon him mortal wounds which directly caused his death to the damage and prejudice of his legal heirs.

ACTS CONTRARY TO LAW.”

Prosecution witnesses, Dr. Leonides Cruel,^[4] SPO4 Rosalio Fusana, Jr,^[5] Domingo Almonte,^[6] Nancy Bobiles^[7] and Oscar Conde,^[8] testified as follows:

At around 10:00 PM of September 12, 1996, the victim, Antonio Bobiles, was drinking with Oscar Conde (Conde) and two other friends at LGR 3 Sisters Pub House in Gajo, Tiwi, Albay, when the victim decided to go outside to relieve himself followed by Conde.

Accused-Appellant suddenly appeared at the victim’s side, then held and repeatedly stabbed the victim with a fan knife. Thereafter, Accused-Appellant pushed the victim causing him to fall on the cemented portion at the entrance of the pub. Conde was shocked and ran inside the pub and sought the help of their companions while Accused- Appellant fled.

Domingo Almonte (*Almonte*), who was talking with his friend in his tricycle parked just outside the pub, witnessed the whole incident and, with the victim’s companions, brought the victim to the hospital. The victim was *found*^[9] to have

suffered 4 stab wounds which caused his immediate death.

Accused-Appellant^[10] invoked self-defense and, together with his wife, Lorna Morcilla,^[11] testified that:

At around 7:00 PM of September 12, 1996, the victim arrived with his friends at the pub managed by Lorna Morcilla (Lorna), Accused-Appellant's wife.

At around 10:00 PM, the victim and his companions were already drunk and were becoming rowdy. The victim then carried a knife which he used to slice their 'pulutan'.

The victim stood and headed towards the door at the same time Accused-Appellant was about to enter the pub. The victim suddenly boxed Accused-Appellant causing the latter to fall. When Accused-Appellant got up, the victim immediately swung with his knife at the Accused-Appellant. Accused-Appellant was able to evade the attack and to wrestle the knife from the victim which caused both of them to fall. Accused-Appellant was able to take the knife from the victim but he accidentally stabbed the victim with said knife.

Accused-Appellant saw the victim's friends coming out from the pub and he decided to flee instead. Two days after, Accused-Appellant surrendered himself to Malinao Police and was transferred to Tiwi Police Station for detention.

On March 26, 2001, the Trial Court rendered the assailed Decision convicting Accused-Appellant of the crime charged disposing as follows:

"WHEREFORE, premises considered, accused Roger Morcilla is found guilty beyond reasonable doubt of having committed the crime of Homicide as charged. Considering the mitigating circumstance of voluntary surrender in his favor without any aggravating circumstance to offset the same, and applying the Indeterminate Sentence Law, he is hereby sentenced to suffer an indeterminate penalty of six (6) years and one (1) day of Prision Mayor as minimum to twelve years and one (1) day of Reclusion Temporal as maximum and to pay the surviving heirs of Antonio Bobiles the following amounts:

1. P50,000.00 as civil indemnity for the death of Bobiles;
2. P30,000.00 as moral damages, and
3. P1,944,000.00 as loss of earning capacity.

The accused is ordered to pay the costs of the suit.

xxx

SO ORDERED."

Accused-Appellant's Motion for Reconsideration was likewise denied. Hence, this Appeal where Accused- Appellant alleged that the Trial Court "*committed grave and irreparable error in convicting*" him.

The Appeal lacks merit.

Accused-Appellant claimed self-defense. Jurisprudence holds that, when the accused admits committing the crime but invokes self-defense to escape criminal liability, the burden of proof shifts to him. It necessarily follows that he must now rely on the strength of his own evidence and not on the weakness of that of the prosecution, for even if the latter's evidence is weak, it cannot be disbelieved after the accused has admitted the killing. He must then, prove the following elements of self- defense:

1. unlawful aggression on the part of the victim;
2. reasonable necessity of the means employed to prevent or repel it;
- and,
3. lack of sufficient provocation on the part of the one resorting to self-defense.^[12]

Of these requisites, the most indispensable is unlawful aggression on the part of the victim. If there is no unlawful aggression, there is nothing to prevent or repel. And for unlawful aggression to be appreciated, there must be a strong and positive act of real aggression, not merely a threat or an intimidating stance. Thus, the accused who claims self defense must positively establish that there was an actual, sudden and unexpected attack, or imminent danger thereof, by the victim.^[13]

The question of whether or not the appellant acted in self-defense is one of fact. The trial court ruled, after calibrating the evidence on record, that the appellant's plea of self-defense had no factual basis, and that, in fact, he was the unlawful aggressor.^[14]

The settled rule is that the trial court's findings are accorded finality, unless there appears on the record some fact or circumstance of weight which the lower court may have overlooked, misunderstood or misappreciated, and which if properly considered, would alter the result of the case. This is because of the unique advantage of the trial court of observing at close range the conduct, demeanor, and deportment of the witnesses as they regale the trial court with their testimonies. The trial court gave credence and probative weight to the collective testimonies of the prosecution witnesses. We have carefully reviewed the records and find no justification to deviate from the findings of the trial court.^[15]

Besides, even if it was true that the initial act of aggression came from the victim, still Accused-Appellants' plea of self-defense cannot be sustained.

The physical evidence, more specifically, the nature, location, and number of the wounds inflicted upon the victim militate against Accused-Appellant's claim of self-defense. The postmortem findings showed that the victim suffered 4 wounds, 2 of them inflicted on the chest of the victim and were, thus, fatal. It is an oft-repeated rule that the presence of many wounds on the victim negates self- defense; it in fact indicates a determined effort to kill him.^[16]

Even assuming for the sake of argument that it was the deceased who initiated the attack and the accused merely defended himself, clearly there was no need for him to stab the victim several times if the purpose was simply to disable the victim or make him desist from his unlawful assault.^[17]