

FIRST DIVISION

[G.R. No. 118002, September 05, 1997]

ULDARICO ESCOTO, PETITIONER, VS. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

D E C I S I O N

BELLOSILLO, J.:

ULDARICO ESCOTO, a security guard, was charged with homicide for killing his head guard Eugenio Tuangson. Escoto invoked self-defense but was not sustained by the trial court. He was convicted instead. His conviction was affirmed by the Court of Appeals. He now comes to us on a petition for review.

On 14 May 1993 a security guard of the Pioneer Security Agency, a certain Mantela, resigned from his job at Allied Bank in Cebu City. Uldarico Escoto, another security guard of the same agency, manifested his interest in the position to his head guard, Eugenio Tuangson, who was in charge of the guards' assignments. Escoto wanted Mantela's post as it provided for a twelve-hour work every day including weekends, while his own working hours were only eight hours per day excluding Saturday and Sunday. Being the most senior of the security guards Escoto was confident he would get the assignment. Tuangson agreed to give the post to him but asked for P2,000.00 as grease money. In his earnestness to get the new post so he could earn more for his family, Escoto gave Tuangson the amount immediately the following day. However, on 16 May 1993 Escoto learned that the job was given to Jessie Bienavenida, another security guard. Feeling aggrieved, Escoto confronted Tuangson why the post was given to somebody else but the latter implored him to calm down as the job could still be his come 21 May 1993. On 23 May 1993 Escoto again confronted Tuangson and a heated argument ensued. In the process Escoto shot Tuangson. It proved to be fatal.

Charged with homicide before the Regional Trial Court of Cebu accused Uldarico Escoto pleaded not guilty and invoked the justifying circumstance of self-defense. But the trial court was not persuaded. It convicted Escoto of homicide but appreciated in his favor the mitigating circumstances of passion and obfuscation, and voluntary surrender, and accordingly sentenced him to to suffer the indeterminate penalty of five (5) years of prision correccional as minimum to ten (10) years of prision mayor as maximum, and to indemnify the heirs of Tuangson in the amount of P30,000.00. ^[1]

The Court of Appeals affirmed the factual findings and conclusion of the court a quo. But upon motion for partial reconsideration by the prosecution the appellate court increased the indemnity for the death of Eugenio Tuangson from P30,000.00 to P50,000.00, and awarded additionally P40,000.00 for actual damages.

Escoto now claims that the trial court as well as the appellate court misunderstood,

hence misapplied, the concept of self-defense.

Self-defense as a justifying circumstance is present when the following concur: (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. The lower courts were one in their finding that there was absence of unlawful aggression on the part of Tuangson and that, on the contrary, it was Escoto who appeared to be the aggressor. Quite understandably, Escoto was so disappointed for failing to get the promised post after he gave Tuangson the grease money that the latter demanded. His frustration could indeed have worsened when after asking for his money back he was told by Tuangson that recovery was out of the question as he had already spent it.

Having confessed to the killing of Tuangson, it was incumbent upon the accused to prove clearly and sufficiently the elements of self-defense otherwise his conviction will have to be affirmed. Thus Escoto testified -

Uldarico Escoto:

I approached him and then told him this, 'Bay, you just tell me whether I will get the position or not.'

Atty. Remotique:

At the time you told him that, what was your position, were you standing up, or sitting or whatever?

A: I was standing.

Q: How about Eugenio Tuangson, what was his position?

A: He was sitting.

Q: Sitting on what?

A: On a chair.

Q: At that time was Eugenio Tuangson also armed?

A: Yes.

Q: What was his firearm?

A: .38.

Q: Where did he place it?

A: On the holster.

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Q: When you saw Mr. Eugenio Tuangson sitting on a bench you told him, 'Bay make it clear to me whether I can get the position or not.' What was the reply of Mr. Tuangson?

A: He said, 'You just wait, anyway we are here. Just You are very insistent.'

Q: And when you heard that, what did you do or say to Eugenio Tuangson?

A: I told him, 'Your promise was on the 21st and now it is the 23rd.'

Q: After that, what else transpired between you?

A: Then further, I told him, 'As if this is not clear to me, Bay, you just return the money I gave you.'

Q: You mean the P2,000.00?

A: Yes.

Q: And then, what was the reply of Mr. Eugenio Tuangson?

A: He said, 'Are you crazy? Why are you going to get back the money when I am going to give you the position?'

Q: After that, what did you do or say?

A: I said, 'You just give me back the money, Bay. What is the date now?'

Q: And then, what else transpired?

A: Since I insisted, he told me that the money I gave him was already spent by him.

Q: When he informed you that the money you gave him was already spent by him, what did you do or say?

A: I told him even if you will give me back the one-half and other half will be given on pay day.

Q: And what was the reply of Mr. Eugenio Tuangson?

A: He said, 'Are you crazy? I will kill you (birahan tika unya).'

Q: After that what else transpired?

A: I said, 'Bay, I will not fight with you. If you are not going to return the money, I will report you to Sir.'

Q: When you say, Sir, whom you do mean?

A: Our manager of the agency.

Q: When you said that I will report you to the manager, Bay, what did Eugenio Tuangson do?

A: He was very mad.

Q: And after that, what did you do?

A: I said, 'That is my promise, Bay, if you are not going to return the money, I will report you.'

Q: When you said for the second time that I will report you to the manager, what did Mr. Eugenio Tuangson do . . . before that . . . all the while during this conversation you remained standing and Mr. Tuangson remained sitting?

A: Yes.

Q: How far were you from each other?