

FIRST DIVISION

[G.R. No. 228638, July 13, 2020]

DOMINGO NAAG, JR., MARLON U. RIVERA AND BENJAMIN N. RIVERA, PETITIONERS, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

DECISION

REYES, J. JR., J.:

Assailed in the instant Petition^[1] for Review on *Certiorari* are the February 29, 2016 Decision^[2] and November 29, 2016 Resolution^[3] of the Court of Appeals (CA) in CA-G.R. CRNo. 36273 affirming the November 7, 2013 Decision^[4] of the Regional Trial Court (RTC) of Naga City, Branch 21 in Criminal Case No. RTC-2009-0462 finding petitioners Domingo Naag, Jr. (Domingo), Marlon U. Rivera (Marlon), and Benjamin N. Rivera (Benjamin; collectively, petitioners) guilty beyond reasonable doubt of the crime of Frustrated Homicide.

The Facts

On October 5, 2009, petitioners were charged in an Information that reads as follows:

That on November 21, 2008 at around 12:30 a.m. in Magarao, Camarines Sur and within the jurisdiction of the Honorable Court, the above-named accused, conspiring with one another and with intent to kill, did then and there willfully, unlawfully and feloniously attack and assault by striking with iron pipes one JOSEPH CEA hitting the latter on the head thereby sustaining fetal injuries that could have cause[d] his death if not for the timely medical treatment rendered, to the damage and prejudice of herein private complainant.

CONTRARY TO LAW.^[5]

When arraigned on January 14, 2010, petitioners pleaded not guilty to the charge, and, during the pre-trial, interposed the justifying circumstance of self-defense. Thus, a reverse trial ensued.^[6]

Version of the Defense

The combined testimonies of petitioners and defense witnesses Wilson Alaya (Wilson), Ramon Roja, Jr. (Ramon), and Rommel Girao (Rommel), all of whom were employees of Metro Naga Water District (MNWD), sought to prove the following facts:

On November 20, 2008, from 6:00 p.m. until 12:00 a.m., eight employees of the

MNWD conducted emergency water flushing operations on three fire hydrants located in Magarao, Camarines Sur. At half past midnight, Domingo and Marlon were closing off a fire hydrant situated in Barangay Sto. Tomas when a certain "Igan" came running to inform them that *Tropang Asero* was approaching. Suddenly, six men appeared and began hitting them. Domingo recognized one of the attackers as private complainant Joseph Cea^[7] (Joseph) whom he personally knew as "Fading Ope." Marlon was smacked at the back of his head with a rock and fell unconscious. Domingo fought back and yelled for assistance. Benjamin arrived and, upon seeing his son Marlon on the ground, turned to face the aggressors. Joseph then swung a baseball bat at Benjamin but the latter was able to dodge so Domingo's left ear was hit instead. Thereafter, Benjamin punched Joseph and succeeded to wrestle the baseball bat from him. Moments later, policemen arrived and brought Marlon, Domingo, and Benjamin to the police station after they received medical treatment at the Bicol Medical Center (BicoMed) in Naga City.

Wilson, Ramon, and Rommel corroborated the material parts of petitioners' testimonies. .

Version of the Prosecution

The prosecution, through the testimonies of Joseph, Joven Alfie Ciudadano (Joven), Brylle Sinfuego (Brylle), and Dr. Juan Carlos Marzan (Dr. Marzan), presented a totally different version.

Joseph claimed that on November 21, 2008 he attended a birthday party with Brylle and Ricky Mendoza (Ricky). They left the party at around 12:30 a.m. and met Joven on their way home. While passing by a bridge, Joseph approached a group of men who were talking loudly and said to them "*Boss, mga taga saen kamo.*" Domingo angrily replied, "*Anong problema mo, Noy?*" to which Joseph answered, "*Dai man, mga tanod kami igdi*" and told the group that they were not looking for trouble. Benjamin then asked Joseph, "*Kaya mo na Noy ang buhay?*" but before the latter could give a reply, Marlon punched him on his right cheek causing him to fall down on the ground. Joseph, upon noticing that Domingo and Benjamin got a pipe wrench from a motorcycle, immediately got up, scampered away with his friends, and retreated to Joven's nipa hut. Thereafter, Domingo, together with Ramon and one other unidentified man, pounded on the walls of the nipa hut and called out Joseph's name. Fearing for his life, Joseph ran out the back door of the nipa hut and descended towards the bridge. There, he was able to evade Benjamin and Marlon but Domingo caught up to him and whacked him on the forehead with a pipe wrench rendering him unconscious on the ground.^[8]

On December 5, 2008, Joseph regained consciousness at the BicolMed where he was confined for 15 days incurring medical expenses in the amount of P58,922.10. As indicated in a Medical Certificate dated November 26, 2008 issued by Dr. Harold G. Esparcia, Joseph suffered from T/C diffuse axonal injury and subarachnoid hemorrhage fracture, left frontal and medial wall of left orbit.^[9]

The foregoing declaration was corroborated by the testimonies of Biylle and Joven. Dr. Marzan confirmed that: 1) the phrase "Subarachnoid Hemorrhage" means that there is bleeding in that part of the brain; 2) the term "Diffuse Axonal Injury" or "*nabugbog*" in tagalog, refers to an internal injury inside the brain; 3) the words

"Fracture Left Frontal and Medial of the Left Orbit" simply means a crack sustained in the skull or forehead; 4) the laceration on the left frontal area could have been caused either by a blunt object, like a pipe wrench, or a vehicular accident; and finally, 5) the said injuries were all fatal and could lead to death if not given timely medical attention.^[10]

The RTC Ruling

In its Decision dated November 7, 2013, the RTC found petitioners guilty as charged and sentenced each of them to an indeterminate prison term from two years, four months, and one day of *prision correccional* medium, as minimum, to eight years and one day of *prision mayor* medium, as maximum.^[11] It likewise ordered petitioners to jointly and severally pay Joseph the amount of P58,922.10 as actual damages with an interest of 12% *per annum* from the finality of said Decision until fully paid.^[12]

The RTC refused to give credence to petitioners' claim of self-defense, pointing out that their testimonies evince material loopholes and that there was no solid evidence of unlawful aggression on the part of Joseph.

The CA Ruling

Upon appeal, the CA, in the herein assailed Decision dated February 29, 2016 affirmed petitioners' conviction agreeing with the RTC that the existence of unlawful aggression was not satisfactorily proven. It emphasized that, indeed, petitioners' plea of self-defense was self-serving, it being uncorroborated by credible testimony or evidence. The decretal portion of the CA Decision reads:

WHEREFORE, premises considered, the appeal is **DISMISSED**. The Decision dated November 7, 2013 rendered by the [RTC] of Naga City, Branch 21, in Criminal Case No. RTC 2009-0462 is **AFFIRMED**.

SO ORDERED.^[13]

Petitioners filed a Motion for Reconsideration^[14] but the same was denied in a Resolution dated November 29, 2016.

Hence, the instant appeal contending that the CA erred in sustaining the verdict of the RTC considering that: 1) petitioners' acts were completely justified under the circumstances; and 2) the element of intent to kill and conspiracy were not duly established.

In its Comment^[15] dated August 7, 2017, respondent, through the Office of the Solicitor General (OSG), prayed that the assailed CA ruling be affirmed since: 1) petitioners unsuccessfully invoked the justifying circumstance-of self-defense, there being no unlawful aggression; and 2) all the elements of frustrated homicide were found present in this case.

Petitioners, in their Reply^[16] dated November 27, 2017, reiterated that they simply defended themselves from six malefactors who unexpectedly attacked them.