

SECOND DIVISION

[G.R. No. 218946, September 05, 2018]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RICKY GONZALES Y COS AND RENE GONZALES Y COS, ACCUSED, RICKY GONZALES Y COS, ACCUSED-APPELLANT.

DECISION

CAGUIOA, J:

Before this Court is an appeal^[1] filed under Section 13, Rule 124 of the Rules of Court from the Decision^[2] dated December 11, 2014 of the Court of Appeals (CA), Second Division in CA-G.R. CR.-H.C. No. 06452, which affirmed the Decision^[3] dated September 5, 2013 of the Regional Trial Court of Masbate City, Branch 46 (RTC), in Crim. Case No. 11906, finding herein accused-appellant Ricky Gonzales (Ricky) guilty of the crime of murder under Article 248 of the Revised Penal Code.

The Facts

Ricky and his brother and co-accused Rene Gonzales (Rene) were charged with the crime of murder in an Information dated March 17, 2005. The accusatory portion of which, reads:

That on or about 1:00 o'clock in the morning of January 23, 2005, at Sitio Sabang, Brgy. Bantigue, Masbate City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully and feloniously, with intent to kill and with treachery and evident premeditation, attack, assault and use personal violence upon the person of one BOBBY SOLOMON, by then and there stabbing him with the use of a knife, hitting him on the chest and on the stomach, thereby inflicting upon him mortal wounds which were the direct and immediate cause of his death.

Contrary to Law.^[4]

Ricky pleaded not guilty, while Rene remains at large.

Version of the Prosecution

The prosecution presented four witnesses, namely: eyewitness Leo Garcia (Leo); Dr. Renato Quinto (Dr. Quinto); PO3 Dandy Ferriol (PO3 Ferriol); and Bobby Solomon's

(Bobby) widow, Mary Jane Solomon (Mary Jane).^[5]

Prosecution eyewitness Leo testified that in the morning of January 23, 2005, he was sleeping at his house.^[6] At around 1:00 a.m., he was awakened by the cry of his child whose sleep was disturbed by the commotion outside.^[7] Leo got up to investigate and, at the same time, to buy cigarettes.^[8] Leo then discovered that the commotion came from the house of his neighbor, Bobby.^[9] Bobby and his nephew, Rene, were outside Bobby's house and were taunting each other.^[10] This confrontation led to Rene punching Bobby who failed to retaliate.^[11]

Ricky then emerged from the plaza, which was five meters away from Leo's house, and without warning stabbed Bobby three times with a knife which was approximately nine inches long.^[12] Bobby was hit at his left forearm, middle of his chest, and at his stomach.^[13] When people started arriving to help the victim, Rene and Ricky escaped together.^[14]

Dr. Quinto was the doctor who admitted the victim at the Masbate Provincial Hospital on January 23, 2005 at 2:30 in the morning.^[15] He testified that the victim suffered four injuries on his body, the most fatal of which was the one he sustained at the upper left quadrant that caused perforations of his large and small intestines, as well as his blood vessels.^[16] Bobby died while in surgery.^[17]

PO3 Ferriol testified that he was the investigator in relation to the stabbing of the victim. He personally interviewed Leo and Mary Jane on January 24, 2005 or the day after the stabbing incident.^[18] He also testified that Barangay Kagawad Dario Gomez (Dario) went to the Masbate City Police Station and turned over the custody of Ricky.^[19] He was thereby informed by Dario that Ricky voluntarily surrendered to him.^[20]

Mary Jane testified that Ricky and Rene are the nephews of Bobby.^[21] She also mentioned that she had to spend P15,000.00 for her deceased husband's hospital bills and undetermined amount for hospital expenses.^[22] Unfortunately, she was unable to present any receipt in support thereof.^[23]

Version of the Defense

Ricky admitted that he stabbed and killed the victim, but only because it was necessary to defend himself.^[24] At around 11:00 p.m. of January 22, 2005, Ricky arrived at a benefit dance in the plaza.^[25] He got tired of dancing at around 1:00 a.m. of January 23, 2005, and decided to leave.^[26] As he passed by the house of Bobby, Ricky observed that Bobby was staring at him in a bad way.^[27] Ricky claimed that he saw Bobby was about to strike him with a knife, but he was fortunate enough to stab him first.^[28] When someone fired a warning shot to stop them, he ran away but later voluntarily surrendered himself to their barangay captain upon knowing that Bobby died.^[29]

Ruling of the RTC

The RTC found Ricky guilty beyond reasonable doubt of murder. It held that since there was treachery in Ricky's sudden and unexpected attack, the killing was qualified to murder. The dispositive portion of the RTC Decision reads:

Wherefore, premises considered, this court finds accused RICKY GONZALES Y COS GUILTY beyond reasonable doubt of the crime of MURDER. Considering the attendant circumstance of voluntary surrender pursuant to Article 63 of the Revised Penal Code, accused is hereby sentenced to an imprisonment of reclusion perpetua. His period of detention is credited in his favor. He is also ordered to pay the heirs of Bobby Solomon the amount of Fifty Thousand pesos (P15,000.00) (sic) as moral damage[s] and Twenty Five Thousand pesos (P25,000.00) as nominal damage[s].

It appears that the accused Rene Gonzales y Cos remains-at-large despite considerable lapse of time. The case against him is hereby ordered archived pending his arrest.

SO ORDERED.^[30]

Ruling of the CA

The CA dismissed the appeal. The CA held that there is no question that Ricky killed the victim. It also found that the RTC was correct in ruling that Ricky miserably failed to prove the justifying circumstance of self-defense.^[31]

Further, it ruled that there was indeed treachery as Bobby was completely deprived of a real chance to defend himself.^[32] He was just boxed by Rene when Ricky suddenly arrived and stabbed him.^[33] The dispositive portion of the CA decision reads:

WHEREFORE, premises considered, the appeal is hereby **DENIED**. The Decision dated September 5, 2013 of the Regional Trial Court, Branch 46, Masbate City is **AFFIRMED WITH MODIFICATION** in that the award of nominal damages is **DELETED**. Consequently, accused-appellant Ricky Gonzales is **ORDERED** to pay the heirs of victim Bobby Solomon the following: (a) Seventy-Five Thousand Pesos (P75,000.00) as civil indemnity; (b) Seventy-Five Thousand Pesos (P75,000.00) as moral damages; (c) Twenty-Five Thousand Pesos (P25,000.00) as temperate damages; and (d) interest on all award of damages at the rate of six percent (6%) per annum reckoned from the date of finality of this Decision until fully paid.

SO ORDERED.^[34]

The Court's Ruling

The appeal is partly meritorious.

The elements of self-defense were not established.

In the case at bar, the accused has already admitted that he stabbed and killed the victim, but he advances that his actions were necessary to defend himself. A plea of self-defense admits the commission of the act charged as a crime; accordingly, the *onus probandi* falls on the accused to prove that such killing was justified — failure to discharge which renders the act punishable.^[35]

Thus, to exonerate himself, the accused must establish: (i) that there was unlawful aggression by the victim; (ii) that the means employed to prevent or repel such aggression were reasonable; and (iii) that there was lack of sufficient provocation on his part.^[36] Of the three, unlawful aggression is the foremost requirement; absent such element, self-defense, whether complete or incomplete, cannot be appreciated.^[37]

The records of the case indubitably show that Ricky failed to establish that there was unlawful aggression on the part of Bobby. The Court agrees with the CA that Ricky's claim was self-serving, without any corroborating evidence.^[38] He did not even give any explanation on why Bobby allegedly attacked him with a knife.^[39] The Court, in *Toledo v. People*,^[40] held that the plea of self-defense cannot be justifiably entertained where it is uncorroborated by any separate competent evidence and is in itself extremely doubtful.

In fact, the evidence is more in accord with the prosecution's version of the events. Leo, the prosecution eyewitness, positively stated that Ricky was not coming to his brother's aid at the time of the stabbing, as the victim did not retaliate after receiving a blow from Rene. Leo's testimony is as follows:

Q: And what happened after your child woke up?

A: I heard a commotion outside our house.

Q: Can you tell us what was the commotion about?

A: Caused by teasing each other and after my child woke up I also woke up.

Q: And after you woke up what happened next?

A: When I woke up, I went outside our house to buy a cigarette.

x x x x

Q: Mr. Witness, after [you] woke up and went outside x x x the house to buy a [cigarette], can you tell us what is the incident that happened?

A: I saw Bobby Solomon was boxed by Rene.

x x x x

Q: And after this Rene Gonzales boxed Bobby Solomon, what happened next?

A: I saw Ricky Gonzales get out o[f] the plaza and [stab] Bobby Solomon.

x x x x

Q: For how many times did Ricky Gonzales [stab] Bobby Solomon?

A: 3 times.

Q: And can you tell this Court [where] was Bobby Solomon [stabbed by] Ricky Gonzales?

A: Witness pointed to his left forearm, at the middle of his chest and at the stomach.

Q: What was the weapon used by Bobby Solomon or Ricky Gonzales rather in stabbing Bobby Solomon?

A: Knife which is about 9 inches long.

x x x x

Q: And after Ricky stabbed [Bobby 3 times], what happened next?

A: They helped and brought Bobby to the hospital.

Q: What about Ricky and Rene?

A: Returned to their house.

x x x x

Q: And because Rene boxed Bobby and Bobby was hit, Bobby retaliated immediately, right?

A: No Sir.

Q: And how can you be sure x x x that Bobby did not retaliate when he was boxed by Rene?

A: Because I saw it.

x x x x

Q: And is it possible also that Ricky merely acted [in] defense of his brother?

A: No sir.^[41]

All told, the Court finds the evidence sorely lacking in establishing self-defense on the part of Ricky.