

SECOND DIVISION

[G.R. No. 224102, July 26, 2017]

**RYAN MARIANO Y GARCIA, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.
DECISION**

LEONEN, J.:

The state of mind of the accused during an alleged act of self-defense, defense of a relative, or defense of a stranger must be considered in determining whether his or her means of repelling an aggressor were reasonable.

This is a Petition for Review assailing the Decision^[1] dated August 28, 2015 in the case docketed as CA-G.R. CR. No. 35590, which affirmed the Decision of Branch 114, Regional Trial Court, Pasay City. The Regional Trial Court found petitioner Ryan Mariano (Mariano) guilty beyond reasonable doubt of the crime of frustrated homicide under Article 249 of the Revised Penal Code.^[2]

Petitioner Mariano was charged with Frustrated Homicide in an Information dated July 23, 2010, which read:

That on or about the 22nd day of July 2010, in Pasay City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, Ryan Mariano y Garcia, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and stab one Frederick Natividad y San Juan, on the vital part of his body with a kitchen knife, thereby inflicting upon him serious physical injuries, 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 or causes due to the timely medical assistance rendered to said complainant, at Manila Adventist Hospital which prevented the latter's death.

CONTRARY TO LAW.^[3] (Citation omitted)

During arraignment, petitioner pleaded not guilty to the offense charged and trial ensued.^[4]

The prosecution's version of the events is as follows:

On July 22, 2010, at around 9:45 p.m., Frederick Natividad (Natividad) saw Yuki Rivera (Yuki) along Vergel Street.^[5] Yuki punched Natividad's head thinking that

Natividad would tell Yuki's aunt that he was selling marijuana.^[6] Natividad went to Yuki's house to report the punching.^[7] At Yuki's house, Natividad met petitioner Mariano and his common-law wife, Pamela Rivera (Pamela). Later, Mariano stabbed Natividad twice, once in the buttocks and once on the right side of his body.^[8] A certain Antonio San Juan (San Juan), who was in his canteen, heard the noise outside. Upon checking, San Juan saw that Natividad had been stabbed. He asked barangay tanod Benneth Santos to take Natividad to the hospital. San Juan noticed Mariano holding a kitchen knife. Mariano voluntarily surrendered the kitchen knife to San Juan, who then arrested and surrendered him and the kitchen knife to the police authorities.^[9]

Dr. Archie B. La Madrid was the surgeon who operated on Natividad and issued the Medical Certificate certifying his "penetrating wound at the right lobe of the liver caused by a sharp object. There was profuse bleeding from the liver." The wound in the abdomen punctured the liver, and Natividad would have died without the timely medical intervention.^[10]

The prosecution presented evidence to prove that Natividad incurred the amount of P428,375.51 in medical bills.^[11]

On the other hand, the defense's version of the events is as follows:

On July 22, 2010, at around 8:30 p.m., Mariano was in his mother's house. He then went to Pamela's house, where he saw Natividad and Yuki arguing because Yuki refused to buy marijuana for Natividad. Natividad went berserk, slapped Yuki, and kicked Pamela's daughter, Pia Rivera (Pia). Mariano went inside to tell his mother-in-law and Pamela that Natividad was hurting Yuki and Pia.^[12]

Pamela confronted Natividad, who then punched Pamela on the face and shoulder. Mariano pushed Natividad to the ground. Natividad stood back up and got a piece of wood and kept hitting Mariano. Petitioner Mariano evaded Natividad's blows because Natividad was drunk and staggering. Mariano picked up a knife and stabbed Natividad on his buttocks. Due to Natividad's continuous hitting, Mariano stabbed Natividad again, this time on the right side of his body.^[13]

Thus, Mariano claimed that he acted in self-defense and in defense of a relative.^[14]

Pamela testified that Mariano informed her and her mother that Natividad was hurting Yuki and Pia. When she went outside to confront Natividad, he punched her face and shoulder. Upon seeing this, Mariano pushed Natividad to the ground. Pamela, Pia, and Yuki went inside the house while Mariano stayed outside. Later, they learned that Mariano had stabbed Natividad.^[15]

Pia and Yuki corroborated Pamela's testimony. None of them witnessed the stabbing incident because they were already inside the house when it occurred.^[16]

The trial court found Mariano guilty of frustrated homicide:

WHEREFORE, premises considered, the Court finds accused RYAN MARIANO y GARCIA GUILTY beyond reasonable doubt of the offense charged of Frustrated Homicide defined and penalized under Article 249 of the Revised Penal Code, as amended, and hereby sentences him to suffer the imprisonment of six (6) years and one (1) day to twelve (12) years of Prison Mayor and to pay complainant Frederick Natividad the amount of Php428,375.00 as compensatory damages.

SO ORDERED.^[17] (Emphasis in the original)

The trial court held that Mariano failed to establish his defense with clear and convincing evidence^[18] and concluded that Natividad was not an unlawful aggressor. The trial court found some conflict in Mariano's and Pia's testimonies, which put into question whether Mariano sensed an imminent threat from Natividad:

In this case, there is a divergence in the testimonies of defense witnesses as to whether victim/complainant Frederick Natividad really attack [sic] accused Ryan Mariano with a piece of wood (2 x 2). Consider the following testimony of the accused during his direct examination:

Q: What did you do Mr. Witness when you witnessed Frederick Natividad boxing your wife?

A: I approached him and pushed him, sir.

Q: What happened to Frederick Natividad after you pushed him?

A: He fell to the ground, sir.

Q: And what happened next after Frederick Natividad fell on the ground?

A: He fell and when he was able to rise up, he was able to pick up a piece of wood, sir "parang dos por dos".

Q: Can you describe the width of this piece of wood picked up by Frederick Natividad?

A: Two inches by two inches (2" x 2"), sir.

Q: What did Frederick Natividad do after picking up the piece of wood?

A: He hit me with the same, sir.

Q: Where?

A: On the head, sir.

Q: Was he able to hit you on your head Mr. Witness?

A: No sir.

Q: Why Mr. Witness?

A: I was able to parry the blow, sir.

(TSN, Prado, pp. 12-13, July 5, 2011)

Upon the other hand, defense witness Pia Marie Leaño, during her direct testimony, unequivocally testified as follows:

Q: What happened to you when you were kicked by Frederick Natividad?

A: My stepfather saw me when I was kicked by Sonny.

Q: Who are you referring to as your stepfather?

A: Ryan Mariano.

Q: Where was Ryan Mariano in all those times that Frederick Natividad banged and kicked the gate and threw mono blocks?

A: He was about to get out of the room.

Q: What did Ryan Mariano do after he saw you being kicked by Mr. Natividad?

A: He tried to defend me.

Q: What exactly did he do Madam Witness?

A: He was able to pick up a piece of wood and tried to hit Sonny with the same.

Q: What kind of wood Madam Witness?

A: Small wood only.

Q: Was he able to hit Frederick Natividad with that wood?

A: No.

Q: What happened next when Ryan tried to hit Frederick Natividad with that piece of wood?

A: I went back to my room because my head was starting to bleed.

(TSN, Tapel, pp. 16-17, January 24, 2012)

With this conflict of who really got hold of a piece of wood and tried to hit who; emerges the question of whether the accused sensed an imminent threat to his life. Accused's contention therefore that there was an imminent threat of bodily harm coming from victim/complainant Frederick Natividad upon his person is at best illusory . . .

The span of time between the first and second stabbing and the nature of wounds suffered by victim Frederick Natividad negate any claim of self-defense or defense of a relative or stranger. Consider the following testimony of accused Ryan Mariano during his re-cross examination by the prosecution:

Q: After stabbing Frederick Natividad outside the compound for the first time, you are saying that 15 minutes more elapsed before you stabbed him for the second time, is that what you are saying?

A: Yes sir.

Q: And you testified that in 15 minutes interval, there was still a pagkakagulo?

A: Yes sir.

. . . .

Q: Despite of the fact that you stabbed him already at the buttock, he stayed in that place for 15 minutes?

A: Yes sir, he did not stop and the more he ran amuck.

Q: And despite the fact that you stabbed him at the buttock, he did not retaliate against you, is that what you are saying?

A: Because he was being pacified by Benet, sir.
(TSN, Arangonn, pp. 17-19, August 24, 2011)

The Court notes that Frederick Natividad's second wound was fatal as it affected the vital organ of his body specifically his liver. Had it not been for the timely and medical assistance rendered, the victim, Frederick Natividad, would have died. Had accused merely defended himself from the victim/complainant's unlawful aggression, one (1) stab to the buttock to immobilize him would have been enough. There was no reason for accused Ryan Mariano to stab the victim a second time on the abdomen area even aiming at his vital organs. It bears stressing that the nature of the second stab wound inflicted by the accused is an indication which disprove[s] a plea for self-defense or defense of a relative or defense of a stranger because it demonstrate[s] a determined effort to kill the victim and not just defend one's self. In the case at bar, Frederick Natividad's wounds serve to tell us that accused was induced by revenge, resentment or other motive and that he was bent on killing the victim.
[19]

Thus, in the absence of any unlawful aggression on the part of Natividad, the trial court ruled that there was no reasonable means employed by Mariano. Even with unlawful aggression, the means used by Mariano were unreasonable.[20] Natividad was drunk and staggering, which made it easy for Mariano to evade Natividad's continuous attempts to hit him. Mariano could have simply shoved Natividad outside the property and secured the gate, but instead, he chose to stab him twice. The nature and number of the stab wounds clearly show his intent to kill.[21]

On appeal, the Court of Appeals affirmed the ruling of the trial court in its Decision dated August 28, 2015.[22]

The Court of Appeals held that since Mariano claimed that he acted in self-defense, defense of a relative, and defense of a stranger when he stabbed Natividad, the burden of evidence shifted to him, to prove that all the essential elements of self-defense were present.[23] It found these elements, particularly unlawful aggression, to be absent:[24]

In this case, the element of unlawful aggression is patently absent. The records of the case shows [sic] that there is no actual or imminent danger on the person of the Accused when he stabbed the Complainant. Accused admitted that he was able to evade each hit by the Complainant because the latter was drunk and staggering at the time of the alleged unlawful aggression. The absence of unlawful aggression was even corroborated by the physical evidence that should clearly defeat the claim of unlawful aggression on the part of the Complainant because it was only the latter who was wounded in the assault. It was also testified by the Accused's own witnesses, i.e. Pamela Rivera, that the Complainant was merely shouting, to wit: