821 Phil. 636

THIRD DIVISION

[G.R. No. 224888, November 22, 2017]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RODERICK R. RAMELO, ACCUSED-APPELLANT.

D E C I S I O N

MARTIRES, J.:

On appeal is the 29 January 2016 Decision[1] of the Court of Appeals (*CA*) in CA-G.R. CEB-CR HC No. 01935 which affirmed with modification the 28 September 2014 Judgment[2] of the Regional Trial Court, Branch 14, Baybay City, Leyte (*RTC*), in Criminal Case No. B-09-05-55. The RTC found accused-appellant Roderick R. Ramelo (*Ramelo*) guilty beyond reasonable doubt of the crime of murder. On appeal, the CA found him guilty of homicide.

THE FACTS

On 20 May 2009, Ramelo was charged before the RTC with the crime of murder committed against Nelson Peña (*Nelson*). The Information reads:

> That on or about May 17, 2009, at about 1:55 o'clock in the morning in the City of Baybay, Province of Leyte, Philippines, within the jurisdiction of this Honorable Court, the above-named accused with intent to kill, employing treachery and evident premeditation did then and there willfully, unlawfully and feloniously attack, assault and suddenly stab NELSON PEÑA with a bladed weapon, a kitchen knife, which the accused provided themselves for the purpose thereby inflicting upon NELSON PEN A stab wound (L) upper quadrant abdomen penetrating abdominal cavity which caused his untimely death, to the damage and prejudice of the heirs of the victim NELSON PEÑA.
>
> Contrary to law.[3]

On 16 June 2009, Ramelo was arraigned and pleaded not guilty to the charge against him.[4] Pre-trial and trial ensued.

Evidence for the Prosecution

The prosecution presented four (4) witnesses, namely: Gilberta Ortega (*Ortega*), the Barangay Captain of Barangay San Isidro, Baybay City; Samuel Vega (*Vega*), a barangay *tanod* of the same barangay and Nelson's uncle; Alfredo Peña (*Alfredo*), Nelson's father; and Dr. Nelson Udtujan (*Dr. Udtujan*). Their combined testimonies tended to establish the following:

On 17 May 2009, at around 1:55 a.m., Nelson was standing outside the basketball

court of Barangay San Isidro, Baybay City, which was then being used as a venue for a dancing or disco event,[5] when Ramelo suddenly appeared before him and stabbed him.[6]

After witnessing what transpired, Vega immediately confronted the assailant and confiscated the weapon used, a knife. Ramelo, however, was able to run away. Vega turned over the weapon to his chief *tanod*.[7] Thereafter, Ortega and the chief *tanod* reported the incident to the police station and turned over the confiscated knife.[8]

Meanwhile, Nelson was brought to the Western Leyte Provincial Hospital for immediate medical treatment. He was transferred to the Ormoc District Hospital where he was attended to by Dr. Udtujan, but died the next day on 18 May 2009.[9]

The Post-Mortem Examination Report[10] prepared by Dr. Udtujan revealed that Nelson sustained an eight centimeter (8 cm)-deep stab wound on the left side of his abdomen. Dr. Udtujan testified that the stab perforated his stomach and caused massive bleeding[11] that led to Nelson's death.[12] Dr. Udtujan further theorized that the weapon could have been a wide sharp-bladed instrument more or less two inches wide.[13]

Evidence for the Defense

The defense presented Ramelo himself and Rey Pilapil (*Pilapil*) as witnesses. Their testimonies tended to establish that Ramelo acted in self-defense, as follows:

On 16 May 2009, at or between 11:00 p.m. and 12:00 midnight, Ramelo was at a store near the dancing hall of Barangay San Isidro, Baybay City. He noticed Nelson having a drinking spree with three other persons identified as Yokyok, Naji, and Tope. While Ramelo was smoking, he was approached by Nelson's three companions and was suddenly slapped by Naji without any provocation on his part.[14] Because of this, a scuffle soon followed.[15]

After the three walked away from Ramelo, Nelson approached him, held him by his collar, strangled him, and pulled him towards the dance area. There he was further manhandled by Nelson and his three companions who rushed towards them. The assault continued even after Ramelo fell to the ground.

Nelson sat on Ramelo's abdomen and proceeded to punch his face while his companions and three others including Vega hit him on other parts of his body including his legs.[16] Ramelo recalled that seven (7) persons had mauled him including Nelson, his three companions, and Vega. Nelson also tried to smash Ramelo's head with a stone but the latter was able to evade it. Fearing that they intended to kill him, Ramelo pulled out his knife which was concealed in his right shoe and stabbed Nelson with it.[17]

Thereafter, Ramelo handed his knife to Pilapil and ran away. Pilapil gave the knife to Vega.[18] On 17 May 2009, at about 11:00 a.m., Ramelo surrendered to the Philippine National Police in Baybay City (*PNP-Baybay*).[19]

The RTC Ruling

In its judgment, the RTC found Ramelo guilty beyond reasonable doubt of murder, unconvinced by Ramelo's submission of self-defense noting the incredibility of his testimony which did not even jibe with Pilapil 's account. The trial court gathered from Pilapil 's testimony that no unlawful aggression came from Nelson and that Ramelo was the one who initiated the attack. Further, the trial court ruled that treachery attended the killing as the manner and mode of attack employed by Ramelo against Nelson gave the latter no opportunity to defend himself. The dispositive portion of the decision reads:

> WHEREFORE, PREMISES CONSIDERED, this Court finds the accused GUILTY BEYOND REASONABLE DOUBT of the crime charged, and he is hereby sentenced to RECLUSION PERPETUA.
>
> He is further condemned to indemnify the heirs of the victim the amount of One Hundred Thousand (P100,000.00) Pesos as civil indemnity and Fifty Thousand (P50,000.00) Pesos as actual damages which will earn 6% annual interest from the finality of this judgment up to its satisfaction. [20]

Aggrieved, Ramelo appealed before the CA.

The CA Ruling

In its assailed decision, the CA affirmed with modifications the RTC's judgment. It concurred with the trial court's assessment that no unlawful aggression attended the killing noting Pilapil's claim that he was able to defuse the hostilities between Nelson and Ramelo. Thus, it opined that the defense failed to prove self-defense.

Nevertheless, the CA modified Ramelo's conviction to homicide and not murder ratiocinating that the attendance of treachery was not duly established. It gleaned from the testimonies of the witnesses that there was a prior confrontation between Nelson and Ramelo; and that the latter approached the former from the front. Hence, Nelson was forewarned of an impending danger and could have foreseen the attack by Ramelo.

The appellate court, however, credited the mitigating circumstance of voluntary surrender in favor of Ramelo as it was satisfied that the requisites for its appreciation were sufficiently proven. The dispositive portion of the assailed decision reads:

> WHEREFORE, the Judgment rendered by the Regional Trial Court, Branch 14 of Baybay City, Leyte, in Criminal Case No. B-09-05-55 is AFFIRMED with MODIFICATION, in that:
>
> 1. Accused-appellant Roderick R. Ramelo is declared guilty beyond reasonable doubt of homicide defined and penalized under Article 249 of the Revised Penal Code and is sentenced to suffer an indeterminate penalty of eight (8) years and 1 day of *prision mayor*, as minimum, to fourteen (14) years of *reclusion temporal*, as maximum.
>
> 2. He is ordered to pay the Heirs of the Late Nelson Peña P50,000.00 as

civil indemnity, P50,000.00 as moral damages and P25,000.00 as temperate damages.

3. Further, he shall pay interest at the rate of six percent (6%) per annum on the civil indemnity, moral damages and temperate damages from the finality of this decision until fully paid.

SO ORDERED.[21]

Hence, this appeal.

THE ISSUE

WHETHER THE TRIAL AND APPELLATE COURTS ERRED WHEN THEY FAILED TO APPRECIATE THE JUSTIFYING CIRCUMSTANCE OF SELF-DEFENSE IN FAVOR OF RAMELO.

THE COURT'S RULING

The appeal is bereft of merit.

Self-defense not established

It is settled that when the accused pleads self-defense and effectively admits that he killed the victim, the burden of evidence shifts to him. He must, therefore, rely on the strength of his own evidence and not on the weakness of that of the prosecution.[22] It becomes incumbent upon him to prove his innocence by clear and convincing evidence.[23]

To successfully claim self-defense, the accused must satisfactorily prove that: (1) the victim mounted an unlawful aggression against the accused; (2) that the means employed by the accused to repel or prevent the aggression were reasonable and necessary; and (3) the accused did not offer any sufficient provocation.[24] The most important of these elements is unlawful aggression because without it, there could be no self-defense, whether complete or incomplete.[25]

For unlawful aggression to be appreciated there must be an actual, sudden and unexpected attack or imminent danger thereof, not merely a threatening or intimidating attitude.[26]

After a thorough review of the records, the Court is convinced that Ramelo did not act in self-defense.

Ramelo claims that Nelson, who he admitted to be taller and bulkier than him, sat on his abdomen and proceeded to hit him on his face while his companions hit and kicked his legs. He further avers that to get his knife tucked in his right shoe, he parried Nelson's punches with his left hand, reached for the knife with his right hand, and then stabbed Nelson. This story is absurd. It is incredulous how Ramelo, with his back and legs against the ground and the force of Nelson's weight on him, could have reached for his knife. It would take a contortionist to accomplish such feat under the circumstances. Also, it is inconceivable for Nelson's companions - all

six of them to have done nothing when Ramelo allegedly reached for his knife while they were kicking at his legs. Ramelo's version of the incident deserves scant consideration.

Moreover, as aptly stated by the appellate court, any unlawful aggression which Nelson may have directed against Ramelo had already ceased when the latter stabbed the former. Pilapil, who was offered as a witness for the defense, testified in this wise:

> ATTY. SANTIAGO:
>
> Q. When you arrived there, what did you see if any?
> A. I saw that Roderick was held by Nelson at the neck.[27]
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> xxxx
>
> **Q. And while Roderick was being held [by] the neck by Nelson, what did you do if any?**
> **A. I pacified them, sir.**
>
> **Q. Did they heed your efforts?**
> **A. Yes, sir, they heeded my advice, and he let go of him.**
>
> Q. What did you say to them if any?
> A: I told them not to make any commotion at the place because that will disrupt the disco.
>
> Q. By the way, did this happen inside the disco or outside the disco place?
> A. Outside.
>
> Q. And after you told them what you said, what did they say to each other or to you if any?
> A. Roderick said, "I'm sorry, Kuya. You are not the one I'm looking for. It's Topi, Yokyok and Naji."
>
> Q. To whom did Roderick say those words, to you or to Nelson?
> A. To Nelson.[28]
>
> xxxx
>
> Q: And, after that, what happened?
> A. I thought they would no longer quarrel and I left.
>
> Q. And when you left, what happened next if any?
> A. I almost arrived at my motorcycle, I heard again shouts.
>
> Q. And after hearing those shouts, what did you do?
> A. I went back, sir, and I saw that Roderick was ganged up.
>
> Q. And, after that, what did you do if any?
> A. I helped Roderick because they were already grappling for the possession of the knife with the uncle of Nelson.[29] (emphases supplied)