

FIRST DIVISION

[G.R. No. 212565, February 25, 2015]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BENJAMIN CASAS Y VINTULAN, ACCUSED-APPELLANT.**

DECISION

PERLAS-BERNABE, J.:

Before the Court is an ordinary appeal^[1] filed by accused-appellant Benjamin Casas y Vintulan (Casas) assailing the Decision^[2] dated November 20, 2013 of the Court of Appeals (CA) in CA-G.R. CR-HC. No. 05313 which affirmed the Decision^[3] dated November 4, 2011 of the Regional Trial Court of Pasig City, Branch 160 (RTC) in Crim. Case Nos. 136842 and 136843, finding Casas guilty beyond reasonable doubt of the crimes of Murder and Attempted Homicide under Articles 248 and 249 of the Revised Penal Code (RPC), respectively.

The Facts

Two (2) criminal Informations were filed before the RTC charging Casas of the Murder of Joel Tabiley Gulla^[4] (Joel) and the Frustrated Murder of Eligio^[5] Ruiz y Ricardo^[6] (Eligio), the pertinent portions of which respectively read:

Crim. Case No. 136842

That, on or about the 24th day of December, 2007, in the City of San Juan, a place within the jurisdiction of this Honorable Court, the above-named accused, in conspiracy with another person, whose true identity and present whereabouts are unknown, with the use of a bladed weapon, a deadly weapon, with intent to kill and by means of the qualifying circumstance treachery (sic), evident premeditation and abuse of superior strength, did, then and there willfully, unlawfully and feloniously attack, assault and stab one Joel Tabiley Gulla, thereby inflicting upon the latter several stab wounds on the different parts of his body, which directly caused his death.

CONTRARY TO LAW.^[7]

Crim. Case No. 136843

That, on or about the 24th day of December, 2007, in the City of San Juan, a place within the jurisdiction of this Honorable Court, the above-named accused, in conspiracy with another person, whose true identity and present whereabouts are unknown, with intent to kill and by means

of the qualifying circumstance treachery, evident premeditation and abuse of superior strength, which qualifies the crime to frustrated murder, with the use of a bladed weapon, a deadly weapon, did, then and there willfully, unlawfully and feloniously attack, assault and stab one Eligio Ruiz y Ricardo, thereby inflicting upon the latter several stab wounds on the different parts of his body, which ordinarily would have caused his death, thus, performing all the acts of execution which would produce the crime of murder as a consequence but which nevertheless, did not produce it by reason of causes independent of the will of the accused, that is, due to the timely medical assistance rendered unto said Eligio Ruiz y Ricardo, which prevented his death.

CONTRARY TO LAW.^[8]

During arraignment, Casas entered a plea of not guilty. After which, joint trial on the merits ensued.^[9]

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

On December 24, 2007, between 1 to 2 o'clock in the afternoon, Casas, accompanied by a certain "Ron-Ron" (Ron-Ron), went to a certain *taho* factory located at 313 F. Roman Street, San Juan City, looking for a certain Jesus. Failing to find the person he was looking for, Casas brandished a knife and stuck it into a pail used for making *taho*. Consequently, Eligio, an employee of the *taho* factory, confronted Casas, saying to the latter, "Benjie [(referring to Casas)], *bakit ang yabang mo? Kung hindi mo makita ang kalaban mo, dapat hanapin mo na lang.*" Casas replied "*Gusto mo ito?* (referring to his knife)." Eligio told Casas to get rid of the knife, which the latter gave to Ron-Ron. Eligio and Casas then had a fistfight. During the ensuing melee, Casas took the knife from Ron-Ron and stabbed Eligio twice while the latter was fleeing. Casas, during his continued pursuit of Eligio, then ran into Joel, who, for his part, tried to help Eligio with the use of a bamboo pole. However, Joel slipped, fell face first on the floor, and was prostrate. There and then, Casas stabbed him twice, the first blow entering his back and exiting at the front of his torso, and the second blow hitting the left side of his abdomen. Casas managed to overtake Eligio, and stabbed him again on the stomach. Fearing that Casas would kill him, Eligio grabbed a plastic stool and hit Casas on the head with it, forcing the latter to drop the knife and cease the attack. PO1 Silverio R. Fuentes (PO1 Fuentes) claimed that he was riding his motorcycle on the date of the incident when he met PO3 Eduardo Fronda (PO3 Fronda) who asked for assistance as the latter saw a bloodied male. The two immediately proceeded towards the victim, who turned out to be Casas, and asked him what happened. The latter replied that he had just stabbed someone. After confirming that there was indeed a stabbing incident nearby, PO1 Fuentes and PO3 Fronda arrested Casas.^[10]

After the prosecution rested its case, Casas filed a demurrer to evidence^[11] on the basis of the alleged inconsistencies in the testimonies of the prosecution witnesses, which the RTC denied in an Order^[12] dated December 30, 2010.^[13] With the demurrer's denial, the defense changed its theory as Casas admitted that he stabbed both Joel and Eligio but interposed self-defense to justify his actions.^[14] In particular, Casas claimed that he was a former employee of the *taho* factory and

that on December 24, 2007, the date of the incident, his former employer asked him to get the remainder of his salary. While at the factory, Joel challenged him to a fight. Casas averred that he refused to accept Joel's challenge, but the latter took a knife and attacked him. During the alleged attack, Casas posited that he suffered minor injuries when he disarmed and stabbed Joel. Eligio and one Rolando Jaronel witnessed the fight, and when they saw that Casas stabbed Joel they began to attack him also. In order to protect himself, Casas repeatedly stabbed Eligio. He maintained that he did not intend to kill Joel.^[15]

The RTC Ruling

In a Decision^[16] dated November 4, 2011, the RTC convicted Casas of the following:

(a) in Crim. Case No. 136842, Murder (of Joel), thereby sentencing him to suffer the penalty of *reclusion perpetua*, with all the concomitant accessory penalties, and ordering him to pay the amounts of P50,000.00 in civil indemnity, P12,500.00 in actual damages, P37,200.00 in loss of earning capacity, P30,000.00 in moral damages, P30,000.00 in exemplary damages, and costs; and

(b) in Crim. Case No. 136843, Attempted Homicide (of Eligio), thereby sentencing him to suffer an indeterminate penalty of imprisonment of six (6) months of *arresto mayor*, as minimum, to three (3) years and six (6) months of *prision correccional*, as maximum, and ordering him to pay the amount of P14,000.00 as temperate damages, and costs.^[17]

It declared that the evidence on record did not support Casas's theory of self-defense, observing that the victims showed no unlawful aggression towards Casas. On the other hand, the prosecution's witnesses invariably testified that it was Casas who wielded a knife, brought it to bear on Eligio, then on Joel as he lay prostrate, and again on Eligio as he was fleeing, establishing that Casas was the aggressor. Further, it was pointed out that Casas suffered only nine (9) injuries, consisting of three (3) abrasions, one (1) contusion, and five (5) incised wounds, which did not, collectively or individually, threaten his life at any time.^[18] Conversely, Joel was killed because of the stab wounds that Casas inflicted, while Eligio was stabbed multiple times. As such, the second requirement under Article 11 (1) of the RPC, *i.e.*, the reasonable necessity of the means employed to repel the unlawful aggression, was non-existent.^[19]

Meanwhile, the RTC found that Casas stabbed Joel twice when the latter slipped, fell, and lay prostrate, and in that position Joel could not defend himself. Accordingly, it ruled that Casas employed treachery in killing Joel, and thus should be convicted for Murder.^[20]

As for Eligio, the RTC opined that though Casas's intent to kill the former was present (as shown by the weapon he used, the number of wounds he inflicted, his resolution to chase and harm Eligio after the latter fled, and the parts of Eligio's body that Casas injured), the circumstances that would qualify the case to Murder

were not attendant; therefore, Casas should be convicted only of Homicide in such respect. The RTC also ruled that the said crime was only in its attempted stage given that the prosecution was not able to prove that he performed all the acts of execution which would consummate the Homicide,^[21] nor show the nature of Eligio's wounds.^[22]

Dissatisfied, Casas appealed^[23] to the CA.

The CA Ruling

In a Decision^[24] dated November 20, 2013, the CA affirmed the RTC's conviction of Casas but modified the amounts awarded to P75,000.00 in civil indemnity, P12,500.00 in actual damages, P37,200.00 in loss of earning capacity, P30,000.00 in moral damages, and P30,000.00 in exemplary damages for the Murder of Joel. As for the Attempted Homicide of Eligio, it awarded P25,000.00 in temperate damages, and P10,000.00 in moral damages, in order to conform with recent jurisprudence.

Aggrieved, Casas filed the instant appeal.^[25]

The Issue Before the Court

The issue for the Court's resolution is whether or not Casas's conviction for the crimes of Murder and Attempted Homicide should be upheld.

The Court's Ruling

The appeal is partly meritorious.

The Court first rules on the existence of criminal liability.

Essentially, Casas, in a sudden change of theory from the denial of his demurrer, banks on the justifying circumstance of self-defense in order to overturn his conviction for the crimes of Murder and Attempted Homicide. The statutory basis therefor is Article 11(1) of the RPC which reads:

Art. 11. *Justifying circumstances.* — The following do not incur any criminal liability:

1. Anyone who acts in defense of his person or rights, provided that the following circumstances concur:

First. Unlawful aggression;

Second. Reasonable necessity of the means employed to prevent or repel it;

Third. Lack of sufficient provocation on the part of the person defending himself.

After a careful review of the records, the Court is satisfied that the RTC, as affirmed

by the CA, correctly pronounced that the above-mentioned requirements were not present in this case. It is significant to point out that upon invoking the justifying circumstance of self-defense, Casas assumed the burden of proving the justification of his act with clear and convincing evidence. This is because his having admitted the killing required him to rely on the strength of his own evidence, not on the weakness of the prosecution's evidence, which, even if it were weak, could not be disbelieved in view of his admission.^[26]

Preliminarily, Casas failed to prove any unlawful aggression on the part of either Joel or Eligio, which is a condition *sine qua non* for the justifying circumstance of self-defense to obtain. **As case law puts it, there can be no self-defense unless the victim committed unlawful aggression against the person who resorted to self-defense.**^[27] As shown by the records, it was Casas who was actually the aggressor, as he was the one who wielded a knife, brought it to bear on Eligio, then on Joel as he lay prostrate, and again on Eligio as he was fleeing.^[28] Being the party initiating the attack, and overbearing with a deadly weapon, Casas cannot successfully claim that there was unlawful aggression. Verily, 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,^[29] as against the one claiming self-defense. Evidently, the contrary happened in this case.

It bears clarification that the initial fistfight between Eligio and Casas does not indicate that unlawful aggression was employed by the former against the latter considering that Eligio had already yielded from the brawl and, in fact, proceeded to flee. It is well-settled that the moment the first aggressor runs away – if and so such was the case with respect to Eligio – unlawful aggression on the part of the first aggressor ceases to exist; and when unlawful aggression ceases, the defender no longer has any right to kill or wound the former aggressor; otherwise, retaliation, and not self-defense, is committed. Retaliation is not the same as self-defense. In retaliation, the aggression that was begun by the injured party already ceased when the accused attacked him, while in self-defense the aggression was still existing when the aggressor was injured by the accused.^[30]

Thus, given that the core element of unlawful aggression was not proven, Casas's claim of self-defense falters and his criminal liability stands.

This notwithstanding, the Court, however, disagrees that Casas should be convicted of the crime of Murder with respect to the incidents in Crim. Case No. 136842, *i.e.*, the death of Joel, considering the prosecution's failure to prove the existence of treachery. The Court expounds.

The elements of Murder that the prosecution must establish are: (a) that a person was killed; (b) that the accused killed him or her; (c) that the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the RPC; and (d) that the killing is not parricide or infanticide.

Among the qualifying circumstances thus enumerated in Article 248 is treachery. Under Article 14 of the RPC, "[t]here is treachery when the offender commits any of the crimes against the person, employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make." In