

FIRST DIVISION

[G.R. No. 177763, July 03, 2013]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. GARY VERGARA Y ORIEL AND JOSEPH INOCENCIO^[1] y PAULINO, ACCUSED-APPELLANTS.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

Before this Court is an appeal of the March 30, 2007 **Decision**^[2] of the Court of Appeals in CA-G.R. CR.-H.C. No. 02387,^[3] affirming with modification the December 29, 2001 **Decision**^[4] of the Regional Trial Court (RTC), Branch 116, Pasay City in Crim. Case No. 01-0275, entitled *People of the Philippines v. Gary Vergara y Oriel alias "Gary" and Joseph Inocencio y Paulino alias "Joseph,"* finding accused-appellants Gary Vergara (Vergara) and Joseph Inocencio (Inocencio) guilty beyond reasonable doubt of murder as principal and accomplice, respectively.

On February 13, 2001, an Information for the crime of murder qualified by treachery was filed against accused-appellants.

On March 12, 2001, upon arraignment, accused-appellants pleaded not guilty to the crime charged.^[5] Trial on the merits ensued.

The prosecution established that at around midnight of February 10, 2001, accused-appellants were causing a ruckus on Libertad-Colayco Streets, Pasay City by throwing water bottles at passers-by. At around 2:00 a.m., the victim, Miguelito Alfante, who was seemingly drunk, walked down the street. Vergara approached Alfante and told him: "*Pare, mukhang high na high ka.*" Alfante retorted: "*Anong pakialam mo?*" At this juncture, Vergara threw his arm around Alfante's shoulder, received a knife from Inocencio, and suddenly stabbed Alfante. Vergara then said "*Taga rito ako.*" Thereafter, Vergara and Inocencio ran from the scene but were pursued by several witnesses. Alfante, meanwhile, was brought to the Pasay City General Hospital where he died.^[6]

The autopsy report conducted on the cadaver of the victim revealed that Alfante sustained eight stab wounds: five located on the chest area and three on the left forearm. The victim sustained two fatal wounds: one which severed the left ventricle of the heart and another wound puncturing the lower lobe of the left lung. The Autopsy Report N-01-151^[7] signed by Dr. Dominic Agbuda, medico-legal officer of the National Bureau of Investigation who conducted the autopsy, stated that:

CAUSE OF DEATH: MULTIPLE STAB WOUNDS, CHEST, LEFT ARM.

The common-law wife of the victim, Gina Alfante,^[8] testified that she incurred the following expenses in connection with the death and burial of Alfante:

- a) P17,000.00 for the coffin
- b) P3,000.00 for the *nicho*
- c) P250.00 for the mass
- d) P15,000.00 for food and drinks for the wake; and
- e) P16,000.00 for the burial lot.

Gina further testified that Alfante had been working as a mason prior to his death earning P500.00 a day.^[9]

In his defense, Vergara denied the version of the prosecution. He testified that on February 10, 2001, at around midnight, he and Inocencio went to a convenience store to buy salted eggs for "baon" the following day. When they passed by Libertad corner Colayco Streets in Pasay City to go to the 7-11 convenience store, they saw Alfante together with nine other persons. Contrary to the testimony of prosecution witnesses, it was Alfante who approached Vergara, knife in hand and proceeded to stab him. He was able to evade the attack and grappled with Alfante for possession of the knife and, in the course of their struggle, Alfante sustained his injuries. Inocencio stood by his side for the duration of the incident.^[10] Thereafter, he fled the scene. He went to the nearest police station and was subsequently brought to the Ospital ng Maynila for treatment for the injury on his right palm sustained during the tussle.^[11]

Dr. Oliver Leyson, Medical Officer III of the Ospital ng Maynila, testified to his medical examination and treatment of Vergara's injury caused by a bladed weapon which he sustained on February 11, 2001.^[12]

After evaluating the respective evidence of the contending parties, on December 29, 2001, the RTC found accused-appellants guilty beyond reasonable doubt of the crime of murder as defined under Article 248 of the Revised Penal Code. The decretal portion of the Decision stated:

WHEREFORE, in the light of the foregoing premises and considerations, this Court hereby renders judgment finding the accused GARY VERGARA Y ORIEL alias GARY and JOSEPH INOCENCIO Y PAULINO alias JOSEPH both **GUILTY** as principal and accomplice, respectively, for the crime of Murder, as this felony is defined and penalized by Article 248 of the Revised Penal Code, as amended by R.A. 7659, and appreciating in favor of the accused Gary Vergara y Oriel alias Gary the mitigating circumstance of voluntary surrender without any aggravating circumstance to offset the same, the Court hereby sentences said accused Gary Vergara y Oriel alias Gary to suffer the penalty of reclusion perpetua and the other accused Joseph Inocencio y Paulino alias Joseph to suffer an indeterminate penalty of imprisonment ranging from Eight (8) Years and One (1) Day of Prison Mayor, as minimum, to Fourteen (14) Years, Eight (8) Months and One (1) Day of Reclusion Temporal, as maximum, and for them to pay, jointly and severally the Heirs of the deceased Miguelito Alfante the sums of Php51,250.00, as actual

damages, Php1,020,000.00, as indemnity for loss of earnings of the same deceased, Php250,00.00 as moral damages, plus costs (sic).^[13]

Accused-appellants filed their notice of appeal on February 5, 2002 to the Supreme Court.^[14] The appeal was accepted by this Court in its Resolution^[15] dated September 4, 2002 but was subsequently transferred to the Court of Appeals pursuant to *People v. Mateo*.^[16]

As in the Court of Appeals, accused-appellants challenge the court *a quo*'s finding of guilt beyond reasonable doubt. They averred that the elements of the crime of murder were not proven.^[17] On March 30, 2007, the Court of Appeals affirmed with modification as to the award of damages the Decision of the RTC. The Court of Appeals thus disposed of the appeal in the following manner:

WHEREFORE, premises considered the Decision dated December 29, 2001, of the Regional Trial Court (RTC), National Capital Judicial Region, Branch 116, Pasay City is **AFFIRMED** with **MODIFICATION** in that the accused-appellants are jointly and severally held liable to pay the heirs of the victim, to the exclusion of his common-law-wife, the following amount, to wit:

- a. P50,000.00 as civil indemnification;
- b. P50,000.00 as moral damages; and
- c. P51,250.00 as actual damages.^[18]

Hence, this appeal.^[19] Accused-appellants' confinement was confirmed by the Bureau of Corrections on April 11, 2007.^[20]

The appellee^[21] manifested that it would not file a supplemental brief.

On May 13, 2008, accused-appellant Joseph P. Inocencio filed a motion to withdraw his appeal stating that he is no longer interested to pursue an appeal.^[22] This Court, in a Resolution dated June 25, 2008, granted the motion of appellant Inocencio and declared the case terminated as far as he is concerned.^[23]

Due to the failure of accused-appellant Vergara's counsel to file a supplemental brief, the Court, in a Resolution dated November 19, 2008, resolved to dispense with its filing.^[24]

We affirm the March 30, 2007 decision of the Court of Appeals with modification respecting the award of damages.

The pertinent provision in this case is Article 248 of the Revised Penal Code, to wit:

Article 248. *Murder*. - Any person who, not falling within the provisions of Article 246, shall kill another, shall be guilty of murder and shall be punished by reclusion perpetua to death if committed with any of the

following attendant circumstances:

- 1) With **treachery**, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity[.] (Emphasis added.)

Jurisprudence is consistent in reiterating that the trial court is in a better position to adjudge the credibility of witnesses especially if it is affirmed by the Court of Appeals.^[25] *People v. Clores*^[26] reminds us that:

When it comes to the matter of credibility of a witness, settled are the guiding rules some of which are that (1) the Appellate court will not disturb the factual findings of the lower Court, unless there is a showing that it had overlooked, misunderstood or misapplied some fact or circumstance of weight and substance that would have affected the result of the case, which showing is absent herein; (2) the findings of the Trial Court pertaining to the credibility of a witness is entitled to great respect since it had the opportunity to examine his demeanor as he testified on the witness stand, and, therefore, can discern if such witness is telling the truth or not[;] and (3) a witness who testifies in a categorical, straightforward, spontaneous and frank manner and remains consistent on cross-examination is a credible witness. (Citations omitted.)

The rationale for these guidelines is that, having heard the witnesses themselves and having observed firsthand their deportment and manner of testifying under grueling examination, the trial courts are in a better position to decide the question of credibility.^[27] On the other hand, this Court is far detached from the details and drama during trial and relies only on the records of the case in its review. On the matter of credence and credibility of witnesses, therefore, this Court admits to its limitations and acknowledges the advantage of the trial court whose findings we give due deference.

We see no need to depart from the aforestated rules. A careful review of the records reveals that accused-appellant Vergara failed to negate the findings of the trial court with concrete evidence that it had overlooked, misconstrued or misapplied some fact or circumstance of weight and substance that would have affected the result of the case. We agree with the Court of Appeals when it stated that:

The death of the victim, Miguelito Alfante, is directly caused by the stab wounds inflicted by [appellant Vergara] when he placed his left arm on the shoulder of the victim and stabbed him repeatedly in his chest and left forearm with a knife handed [to him] by [appellant Inocencio]. This is an overwhelming evidence, and in stark contrast, all [appellant Vergara] could offer are denial and self-defense. Denial is an intrinsically weak defense, which the accused must buttress with strong evidence of non-culpability to merit credibility. Having failed to satisfy, the denial must necessarily fail.^[28] (Citation omitted.)

Anent accused-appellant Vergara's claim of self-defense, the following essential elements had to be proved: (1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel such aggression; and (3) lack of sufficient provocation on the part of the person resorting to self-defense.^[29] A person who invokes self-defense has the burden of proof. He must prove all the elements of self-defense. However, the most important of all the elements is unlawful aggression on the part of the victim. Unlawful aggression must be proved first in order for self-defense to be successfully pleaded, whether complete or incomplete.^[30]

Unlawful aggression is an actual physical assault, or at least a threat to inflict real imminent injury, upon a person. In case of threat, it must be offensive and strong, positively showing the wrongful intent to cause injury. It "presupposes actual, sudden, unexpected or imminent danger - not merely threatening and intimidating action." It is present "only when the one attacked faces real and immediate threat to one's life."^[31]

In the present case, the element of unlawful aggression is absent. By the testimonies of all the witnesses, the victim's actuations did not constitute unlawful aggression to warrant the use of force employed by accused-appellant Vergara. The records reveal that the victim had been walking home albeit drunk when he passed by accused-appellants. However, there is no indication of any untoward action from him to warrant the treatment that he had by accused-appellant Vergara's hands. As succinctly stated by the RTC:

[T]he victim was just walking, he [was] neither uttering invectives words nor provoking the [appellants] into a fight. [Appellant Vergara was] the unlawful aggressor. He was the one who put the life of the victim in actual peril. This can be inferred from the wounds sustained by the victim."^[32]

It is thus clear that there being no unlawful aggression on the part of the victim, the act of accused-appellant Vergara of taking a knife and stabbing the victim was not made in lawful self-defense.

We also agree with the RTC and the Court of Appeals that the acts of accused-appellant Vergara constituted treachery qualifying the crime committed to murder. As we have previously ruled upon, treachery is present when the offender commits any of the crimes against persons, employing means, methods, or forms in the execution, which tend directly and specially to insure its execution, without risk to the offender arising from the defense which the offended party might make.^[33]

Here, accused-appellant Vergara after exchanging words with the victim, threw his arm around the victim's shoulder and proceeded to stab him. The victim was totally unaware of the evil that would befall him. The number and severity of the wounds received by the victim indicated that he was rendered immobile and without any real opportunity to defend himself other than feebly raising his arm to ward off the attack. We, thus, sustain the trial court and the Court of Appeals in finding that the