

## FIRST DIVISION

[ G.R. No. 184601, November 12, 2012 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
MARCIAL MALICDEM Y MOLINA, ACCUSED-APPELLANT.**

### D E C I S I O N

**LEONARDO-DE CASTRO, J.:**

Before this Court is the appeal of the April 21, 2008 **Decision**<sup>[1]</sup> of the Court of Appeals in CA-G.R. CR.-H.C. No. 02522,<sup>[2]</sup> which affirmed with modification the July 31, 2006 **Decision**<sup>[3]</sup> of the Regional Trial Court (RTC), Branch 42, Dagupan City in Crim. Case No. 2002-0561-D, entitled *People of the Philippines v. Marcial Malicdem y Molina*, that found appellant Marcial Malicdem guilty beyond reasonable doubt for the crime of murder.

On September 12, 2002, the following information for the crime of murder was filed against appellant:

That on or about August 11, 2002 in the evening at Brgy. Anolid, Mangaldan, Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with a bladed weapon, with intent to kill and with treachery, did then and there, willfully, unlawfully and feloniously attack, stab and hit WILSON S. MOLINA, inflicting upon him a fatal stab wound on the vital part of the body, causing his untimely death to the damage and prejudice of his heirs.

CONTRARY to Article 249 of the Revised Penal Code as amended by RA 7659.<sup>[4]</sup>

Appellant was arraigned on October 17, 2002 where he pleaded not guilty.<sup>[5]</sup> Trial on the merits ensued thereafter.

The prosecution presented the following as its witnesses: Dr. Ophelia T. Rivera (Dr. Rivera), Bernardo Casullar (Bernardo), Joel Concepcion (Joel), Felipe Molina (Felipe), and Maricon Nicolas (Maricon).

The defense presented as witnesses appellant and his wife, Anabel Malicdem (Anabel). Essentially, the appellant invoked self-defense to justify his participation in the cause of death of Wilson S. Molina (Wilson).

After both parties presented their respective evidence, the RTC rendered its Decision on July 31, 2006 convicting the accused of the crime charged.

The RTC summarized the testimonies of Bernardo and Joel in open court as follows:

On the night of August 11, 2002, as it was their practice after dinner, they met with Wilson near the artesian well. At around 9:00 p.m., while they were seated on the septic tank, appellant arrived asking if they knew the whereabouts of his godson, Rogelio<sup>[6]</sup> Molina (Rogelio). They answered in the negative. They noticed that appellant was reeking of alcohol and was drunk. Appellant asked again for the whereabouts of Rogelio. As they stood to leave, appellant suddenly embraced Wilson and lunged a six-inch knife to the left part of his chest. When appellant moved to strike again, Wilson was able to deflect this blow which resulted to a cut on his right arm. Intending to help his friend, Bernardo was hit by the knife in his stomach. In the course of aiding Wilson, Joel boxed the appellant. During the brawl, Francisco Molina, Rogelio's father, arrived at the scene, but was stabbed in the stomach by appellant. Appellant then ran away. Afterwards, Joel brought Wilson aboard a police patrol car to the Region I Medical Center in Dagupan City where Wilson was declared dead on arrival.<sup>[7]</sup>

In her post-mortem report, Dr. Rivera, Municipal Health Officer of Mangaldan, Pangasinan, stated:

**FINDINGS:**

Abrasion, 1.2 x 0.5 cm, just above the eyebrow, lateral aspect, left.

Stabbed (sic) wound, 3 cm, wound directed laterally and downward, parasternal line, infraclavicular area, left.

Abrasion (Teeth impression mark), middle third, anterior aspect, upper arm, left.

Stabbed (sic) wound, 3.5 cm, wound directed upward and posteriorly, middle third, medioposterior aspect, forearm, right.

Abrasion, 0.5 x 0.8 cm, lateral aspect, knee, left.

Abrasion, 2 x 1 cm, knee, right.

**CAUSE OF DEATH:**

**CARDIORESPIRATORY ARREST SECONDARY TO HYPOVOLEMIC SHOCK DUE TO STAB WOUND.<sup>[8]</sup>**

The RTC gave a gist of the testimonies of appellant and Anabel as follows: Appellant and Anabel were in their house on the night of the incident. Appellant was looking after their children, aged four and seven, while Anabel was cooking dinner. When Anabel informed appellant that dinner was ready, he and Anabel went out to look for his godson, Rogelio. They went to the house of Rogelio's parents to look for the latter. They were informed, however, that Rogelio was not there. Rogelio's mother advised them to look outside.<sup>[9]</sup>

On their way home, the couple passed by the artesian well where Bernardo, Joel and Wilson were loitering. Appellant inquired from the three if they had seen Rogelio. Bernardo, allegedly, sarcastically replied "No, we have not seen him. Why do you look for him here, you have your eyes, you have your feet."<sup>[10]</sup> When appellant voiced out his observation that the three were drunk, he allegedly was struck by a bottle by Bernardo. Appellant tried to block the blow but the bottle still hit his right eyelid. A fistfight erupted between Bernardo and appellant, causing the bottle that Bernardo was holding to fall. Meanwhile, Joel and Wilson stationed themselves on different sides of the appellant. It was here that Anabel allegedly saw Wilson drawing a knife. She shouted a warning to her husband. Having issued her warning, Wilson boxed Anabel in the mouth and approached appellant. Appellant quickly grabbed a piece of bamboo and waited for Wilson to approach him. When Wilson was near enough, appellant grabbed hold of Wilson's arm and grappled with him for possession of the knife. While this was going on, Bernardo joined the melee and proceeded to repeatedly punch appellant. Appellant made a side-move causing Bernardo to be hit by the knife held by Wilson in the stomach. Still grappling for possession of the knife with Wilson, Francisco Molina, Rogelio's father, arrived and tried to pacify the combatants. Appellant hit Francisco on the cheek. Weak from the blows he had received, appellant fell to the ground. Anabel had to help him up so that they could go home. Bernardo followed and shouted: "I will kill you, I will make sure that I will have my revenge."<sup>[11]</sup>

On cross examination, appellant stated that after Bernardo was hit with the knife, there was a continued grappling for the knife. Finally, appellant was able to throw Wilson to the ground. He said that the knife did not fall to the ground but was held by Wilson. Unfortunately, when Wilson was thrown to the ground he fell on the knife he was still holding.<sup>[12]</sup>

The RTC, after observing inconsistencies in the testimonies of the appellant and his wife, found appellant guilty beyond reasonable doubt of the crime of murder and declared:

Undoubtedly, the prosecution was able to prove clearly and convincingly that [appellant] killed [Wilson] not in self defense. The sudden attack [on Wilson] by [appellant] without the former having [an] inkling of the evil act of [appellant] and opportunity to defend himself constitute the qualifying aggravating circumstance of treachery.

x x x x

WHEREFORE, premises considered, [appellant] MARCIAL MALICDEM his guilt having been proved beyond reasonable doubt of the felony of MURDER, is hereby convicted of the said felony and, there being no other aggravating nor mitigating circumstances, is sentenced to suffer the penalty of RECLUSION PERPETUA. In addition, he is ordered to pay P38,800 for actual damages, P50,000 for the death of Wilson Molina and another P50,000 as moral damages to the heirs of the victim.<sup>[13]</sup>

Appellant filed his notice of appeal on September 15, 2006. The same was given

due course.

The Court of Appeals affirmed with modification the July 31, 2006 decision of the RTC and disposed of the appeal in the following manner:

**WHEREFORE**, premises considered, the Decision of the Regional Trial Court of Dagupan City, Branch 42, promulgated on August 31, 2006, in Criminal Case No. 2002-0561-D finding [appellant] guilty beyond reasonable doubt of the crime of murder, and sentencing him to suffer the penalty of *reclusion perpetua* is hereby **AFFIRMED with MODIFICATION** in that aside from the damages awarded by the trial court, [appellant] is also directed to pay exemplary damages in the amount of P25,000.<sup>[14]</sup>

Petitioner's confinement was confirmed by the Bureau of Corrections on December 15, 2008.<sup>[15]</sup>

Hence, this appeal.<sup>[16]</sup> Both the appellee<sup>[17]</sup> and appellant<sup>[18]</sup> waived the filing of supplemental briefs and adopted the briefs they filed before the Court of Appeals.

Appellant made the following assignment of errors in his appeal:

#### ASSIGNMENT OF ERRORS

##### I

THE TRIAL COURT GRAVELY ERRED IN ITS INTERPRETATION OF FACTS.

##### II

THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE APPARENT INCREDIBLE TESTIMONIES OF THE PROSECUTION WITNESSES.

##### III

THE TRIAL COURT GRAVELY ERRED IN FINDING THAT THE GUILT OF THE [APPELLANT] FOR THE CRIME CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT.<sup>[19]</sup>

Appellant posits that the Court of Appeals misinterpreted the facts and circumstances of the case. He argues that minor inconsistencies and contradictions particularly in his and Anabel's testimonies did not affect their credibility as witnesses. He avers that the prosecution's version of the events was highly incredible since it was testified to that there was no grudge between the appellant and victim prior to the incident.

We affirm the April 21, 2008 Decision of the Court of Appeals with modification respecting the award of damages.

Time and again, this Court has stated that, in the absence of any clear showing that

the trial court overlooked or misconstrued cogent facts and circumstances which would alter a conviction, it generally defers to the trial court's evaluation of the credibility of witnesses especially if such findings are affirmed by the Court of Appeals.<sup>[20]</sup> This must be so since the trial courts are in a better position to decide the question of credibility, having heard the witnesses themselves and having observed firsthand their deportment and manner of testifying under grueling examination.<sup>[21]</sup>

In *People v. Clores*,<sup>[22]</sup> this Court had occasion to state that:

When it comes to the matter of credibility of a witness, settled are the guiding rules, some of which are that (1) the [a]ppellate court will not disturb the factual findings of the lower [c]ourt, 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 [t]rial [c]ourt 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.)

Given the factual circumstances of the present case, we see no need to depart from the foregoing rules. Appellant failed to present proof of any showing that the trial court overlooked, misconstrued or misapplied some fact or circumstance of weight and substance that would have affected the result of the case. Prosecution witnesses positively identified appellant to have stabbed the victim.

We agree that the death of Wilson at the hands of appellant was not occasioned by self-defense. For this Court to consider self-defense as a justifying circumstance, appellant has to prove the following essential elements: (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.<sup>[23]</sup> The Court has repeatedly stated that a person who invokes self-defense has the burden to prove all the aforesaid elements. The Court also considers unlawful aggression on the part of the victim as the most important of these elements. Thus, unlawful aggression must be proved first in order for self-defense to be successfully pleaded, whether complete or incomplete.<sup>[24]</sup>

As stated in *People v. Fontanilla*<sup>[25]</sup>:

Unlawful aggression is of two kinds: (a) actual or material unlawful aggression; and (b) imminent unlawful aggression. Actual or material unlawful aggression means an attack with physical force or with a weapon, an offensive act that positively determines the intent of the aggressor to cause the injury. Imminent unlawful aggression means an attack that is impending or at the point of happening; it must not consist