

FIRST DIVISION

[G.R. No. 180219, November 23, 2011]

VIRGILIO TALAMPAS Y MATIC, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

D E C I S I O N

BERSAMIN, J.:

By petition for review on *certiorari*, Virgilio Talampas y Matic (Talampas) seeks the review of the affirmance of his conviction for homicide (for the killing of the late Ernesto Matic y Masinloc) by the Court of Appeals (CA) through its decision promulgated on August 16, 2007.^[1]

The Regional Trial Court, Branch 25, in Biñan, Laguna (RTC) had rejected his pleas of self-defense and accident and had declared him guilty of the felony under the judgment rendered on June 22, 2004.^[2]

Antecedents

The information filed on November 17, 1995, to which Talampas pleaded *not guilty*, averred as follows:^[3]

That on or about July 5, 1995, in the Municipality of Biñan, Province of Laguna, Philippines and within the jurisdiction of this Honorable Court, accused VIRGILIO TALAMPAS, with intent to kill, while conveniently armed with a short firearm and without any justifiable cause, did then and there willfully, unlawfully and feloniously attack, assault and shoot one Ernesto Matic y Masinloc with the said firearm, thereby inflicting upon him gunshot wound at the back of his body which directly caused his instantaneous death, to the damage and prejudice of his surviving heirs.

CONTRARY TO LAW.

The State presented as witnesses Jose Sevillejo, Francisco Matic, Jerico Matic, Dr. Valentin Bernales, and Josephine Matic. The CA summarized their testimonies thuswise:^[4]

Prosecution witness Jose Sevillejo (Jose) who allegedly witnessed the incident in question, testified that on July 5, 1995 at about 7:00 o'clock in the evening, he together with Eduardo Matic (Eduardo) and Ernesto Matic (Ernesto) were in front of his house, along the road in Zona Siete

(7), Wawa, Malaban, Biñan, Laguna, repairing his tricycle when he noticed the appellant who was riding on a bicycle passed by and stopped. The latter alighted at about three (3) meters away from him, walked a few steps and brought out a short gun, a revolver, and poked the same to Eduardo and fired it hitting Eduardo who took refuge behind Ernesto. The appellant again fired his gun three (3) times, one shot hitting Ernesto at the right portion of his back causing him (Ernesto) to fall on the ground with his face down. Another shot hit Eduardo on his nape and fell down on his back (patihaya). Thereafter, the appellant ran away, while he (Jose) and his neighbors brought the victims to the hospital. On June 6, 1995, Jose executed a Sworn Statement at the Biñan Police Station.

Another witness, Francisco Matic, testified that prior to the death of his brother Ernesto who was then 44 years old, he (Ernesto) was driving a tricycle on a boundary system and earned P100.00 daily, although not on a regular basis because sometimes Ernesto played in a band for P100.00 per night.

Jerico Matic, eldest son of Ernesto, alleged that he loves his father and his death was so painful to him that he could not quantify his feelings in terms of money. The death of his father was a great loss to them as they would not be able to pursue their studies and that nobody would support them financially considering that the money being sent by their mother in the amount of P2,000.00 to P2,500.00 every three (3) months, would not be enough.

Dr. Valentin Bernales likewise, testified that he was the one who conducted the autopsy on the body of Ernesto and found one gunshot in the body located at the back of the costal area, right side, sixteen (16) centimeters from the spinal column. This shot was fatal as it involved the major organs such as the lungs, liver and the spinal column which caused Ernesto's death.

The last witness, Josephine Matic, wife of Ernesto, testified that her husband was laid to rest on July 18, 1995 and that his untimely death was so painful and that she could not provide her children with sustenance. She asked for the amount of P200,000.00 for her to be able to send her children to school.

On his part, Talampas interposed self-defense and accident. He insisted that his enemy had been Eduardo Matic (Eduardo), not victim Ernesto Matic (Ernesto); that Eduardo, who was then with Ernesto at the time of the incident, had had hit him with a monkey wrench, but he had parried the blow; that he and Eduardo had then grappled for the monkey wrench; that while they had grappled, he had notice that Eduardo had held a revolver; that he had thus struggled with Eduardo for control of the revolver, which had accidentally fired and hit Ernesto during their struggling with each other; that the revolver had again fired, hitting Eduardo in the thigh; that he had then seized the revolver and shot Eduardo in the head; and that he had then fled the scene when people had started swarming around.

Ruling of the RTC

On June 22, 2004, the RTC, giving credence to the testimony of eyewitness Jose Sevilla, found Talampas guilty beyond reasonable doubt of homicide,^[5] and disposed:

WHEREFORE, premises considered, the court finds the accused guilty beyond reasonable doubt of the crime of Homicide, with one mitigating circumstance of voluntary surrender, and hereby sentences him to suffer an indeterminate penalty of IMPRISONMENT ranging from TEN (10) years and One (1) day of prision mayor, as minimum, to FOURTEEN (14) years and EIGHT (8) months of reclusion temporal, as maximum. He is likewise ordered to pay the heirs of Ernesto Matic y Masinloc the following sums, to wit:

1. P50,000.00 – as and for death indemnity;
2. P50,000.00 – as and for moral damages;
3. P25,000.00 – as and for actual damages; and
4. P30,000.00 – as and for temperate damages.

Furnish Public Prosecutor Nofuente, Atty. Navarroza, the private complainant and accused with a copy of this decision.

SO ORDERED.^[6]

Ruling of the CA

Talampas appealed to the CA, contending that:

I

THE COURT A QUO GRAVELY ERRED IN FINDING THAT THE GUILT OF THE ACCUSED-APPELLANT FOR THE CRIME CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT.

II

THE COURT A QUO GRAVELY ERRED IN NOT FINDING THAT THE DEATH OF ERNESTO MATIC WAS MERELY ACCIDENTAL.

III

THE COURT A QUO GRAVELY ERRED IN NOT FINDING THAT THE ACCUSED-APPELLANT ACTED IN DEFENSE OF HIMSELF WHEN HE GRAPPLED WITH EDUARDO MATIC.

Still, the CA affirmed the conviction based on the RTC's factual and legal