

SECOND DIVISION

[G.R. No. 135619, January 15, 2004]

**ADONIS ARADILLOS AND ALBINO GALABO, PETITIONERS, VS.
COURT OF APPEALS AND THE PEOPLE OF THE PHILIPPINES,
REPRESENTED BY THE OFFICE OF THE SOLICITOR GENERAL,
RESPONDENTS.**

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

For review is the decision dated February 12, 1998 of the Court of Appeals in CA-G.R. CR No. 17316,^[1] affirming the conviction of petitioners Adonis Aradillos and Albino Galabo of the crime of Frustrated Homicide, with modification as to the penalty and the award of actual and moral damages.

An Information was filed before the Regional Trial Court (Branch 10) of Davao City, charging petitioners Aradillos and Galabo with the crime of Frustrated Murder, committed as follows:

That on or about February 3, 1992, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused, armed with an ax and piece of wood, conspiring, confederating together and helping one another, with intent to kill and taking advantage of their superior strength, willfully, unlawfully and feloniously attacked, assaulted and hacked with said ax and struck with said piece of wood, one Gloria Alviola thereby inflicting upon the latter the following injuries, to wit:

COMPOUND FRACTURE, (R) AND (L) FRONTAL AREA 2° TO HACKING
WOUND GCS 15 RLS 1

which injuries would cause the death of the said Gloria Alviola, thus performing all the acts of execution which should have produced the crime of Murder as a consequence, but, nevertheless did not produce it by reason of causes independent of his will, that is, by the timely arrival and intervention of complainant's brother-in-laws and the able medical assistance rendered to the said Gloria Alviola which prevented her death.

CONTRARY TO LAW.^[2]

Petitioners pleaded not guilty to the charge^[3] and thereafter, trial on the merits ensued.

The prosecution and the defense differ in their versions of the incident.

The gist of the prosecution evidence is as follows:

At around 5:45 in the afternoon of February 3, 1992, Gloria rebuked herein petitioners Aradillos and Galabo when she saw them in the act of cutting the bamboo bridge located on the property of her husband. Thereupon, petitioners chased her and they caught up with her near the house. Galabo then hit her several times with a piece of wood and his carpentry bag causing her to fall down. While Gloria was staggering face down, Aradillos hacked her twice with a carpentry ax, hitting her on the right side of the head and on the forehead. She asked for help from the Visto family, her neighbors, who brought her to the clinic of Dr. Alvarez in Matina, Davao. After Dr. Alvarez gave her first aid treatment, Gloria was advised to go to Davao Medical Center where she was confined in the ICU for four days.^[4]

At the time Gloria reproached petitioners, she was within her bamboo-fenced yard, about ten meters away from them. Her house is located five to six meters away from the place where she was standing. Her children, Rosalito^[5] and Rodilyn, and her sister-in-law, Rosa, were also within the premises. Petitioners cut their way through her closed bamboo gate and they overtook her while she was running towards her house. After she was injured, her children brought her to the Visto family's house which is located 200 meters away. Meanwhile, Rosa ran to the Alsa Masa detachment to report the incident. Gloria's four brothers-in-law, namely: Roberto, Modesto, Efren and Nilo, and her sister-in-law, Miguela were also within the premises but were not able to help her because they were nervous.^[6]

On the other hand, petitioners invoke self-defense, contending that the victim's injuries on the head were the result of the struggle for the possession of the ax between her and petitioner Aradillos. Petitioners, who are both carpenters, recounted that on their way home from work in the afternoon of February 3, 1992, they stopped by the wooden bridge where they usually pass because of an uprooted "idyok" tree that obstructed their passage. Petitioner Galabo started cutting off the roots of the tree with his carpentry ax. But upon seeing them, Gloria who had been drinking "tuba" with her brothers-in-law, shouted invectives at them and threw stones at Galabo. When Galabo was hit on his left rib, he ran for cover at a nearby coconut tree. Petitioner Aradillos took over the cutting of the tree. Gloria continued throwing stones. Then, she approached Aradillos and grabbed the ax from him. While the two grappled for its possession, Gloria's brothers-in-law were throwing stones at Galabo. In the course of the struggle between Aradillos and Gloria, the ax hit the latter. Seeing that Gloria was injured, Aradillos ran away, followed by Galabo. Aradillos passed by his house, left the ax there, then, went directly to the purok leader, Benjamin Autida, to whom he surrendered.^[7]

The trial court believed the prosecution's account, finding that the nature of the injuries sustained by Gloria could not have been caused during the struggle between her and petitioner Aradillos. Thus, the trial court convicted petitioners of the crime of Frustrated Homicide and sentenced them, as follows:

WHEREFORE, finding the guilt of the two (2) accused, Adonis Aradillos and Albino Galabo, proven beyond reasonable doubt of Frustrated Homicide and finding in their favor the provisions of Art. 250 of the Revised Penal Code, they are hereby sentenced to an imprisonment of ONE (1) YEAR each and pay the costs.

For the civil liability, they are ordered to pay jointly and severally, the sum of P10,000.00 for medical expenses and moral damages, of the victim.

SO ORDERED.^[8]

On appeal, in sustaining the trial court's findings, the Court of Appeals noted that it is "unnatural and contrary to ordinary human experience for a woman, alone and unarmed, to run towards the two male appellants and grapple for the possession of an axe."^[9] The appellate court modified the penalty imposed on petitioners and the damages awarded in favor of the victim,^[10] as follows:

ACCORDINGLY, the judgment of conviction is hereby *AFFIRMED* with the following modifications:

- 1) The accused appellants are sentenced to suffer an imprisonment ranging from two (2) years, four (4) months and one (1) day of prision correccional as minimum, to eight (8) years and one (1) day of prision mayor as maximum; and
- 2) They are ordered to pay the victim jointly and severally, the sum of P1,664.00 for medical expenses as actual damages, and P6,000.00 as moral damages.

SO ORDERED.^[11]

In their petition for review on certiorari, petitioners claim that the Court of Appeals' affirmance of their conviction with modification is not in accordance with law, the applicable decisions of this Court and the evidence on record.

It is settled that an appeal in a criminal case throws the whole case wide open for review^[12] and it becomes the duty of the Court to correct such errors as may be found in the judgment appealed from, whether they are assigned as errors or not.
^[13]

At the outset, the Court notes that while the memoranda of the parties and their appeal briefs focused on petitioners' claim of self-defense, their evidence is actually rooted on the testimony of petitioner Aradillos that the ax accidentally hit Gloria during the struggle for its possession between them, thus:

Q Before the wounding incident happened, what were you doing?

A I was looking at Albino Galabo who was cutting the roots of the "idyok".

Q Where was that "idyok" located at that time while you were watching Albino Galabo cutting it?

A The "idyok" was along the bridge where it was fallen and which Albino cut.

. . .

Q And while Galabo was cutting the "idyok", what happened next?

A He was stoned by Gloria Alviola.

. . .

Q What else transpired aside from the stoning incident?

A She shouted: "Mga бага mo ug nawong. Mga squatter mo. Mga gagmay ra ba mo ug lawas." (You are shameless. You are squatters. you have small bodies.)

Q How did you come to know that Gloria Alviola threw stones at Albino Galabo?

A Because I saw her.

. . .

Q Let us go back to the stoning incident. You said Gloria threw stones at Galabo while Galabo was cutting the "idyok" and Gloria at the same time uttered those words you just have quoted, what happened to Galabo, if any, in result of the stoning of Gloria?

A Galabo was hit at his right rib cage.

Q And what happened to Galabo?

A He was in pain.

Q What else did he do, if any?

A I got the axe which Galabo used in cutting the "idyok" to continue cutting the said "idyok", but Gloria continuously threw stones to us and then she grabbed the axe from my hands.

. . .

Q I will further clarify, Your Honor. How did it happen that Gloria, the one you said threw stones at Galabo was able to wrestle with you for the possession of the axe?

A She rushed at me.

Q After rushing at you, what did Gloria do?

A She grappled with me for the possession of the axe.

Q In relation to the wooden bridge, in what particular spot or area were you grappling for possession of the axe?

A At the edge of the bridge.

Q Can you demonstrate to the Honorable Court how the grappling for possession of the axe happened between you and Gloria?

A (Witness demonstrated that he placed his right hand at the lower portion of the handle of the axe; that Gloria's right hand was holding the middle portion; and that his left hand was holding the upper portion; and that Gloria's other hand was on top of his hand.)^[14] (Emphasis supplied)

On cross-examination, Aradillos further demonstrated how Gloria sustained her injuries:

Q Now, with that kind of illustration, Mr. Aradillos, how did Gloria sustain the injuries because you said that it was in the course of grapping (sic)? Will you please demonstrate to the Court how the injuries of Gloria Alviola was inflicted?

A (Witness makes a demonstration)

...

ASST. CITY PROS. CALIZO:

We would like to make of record that in his earlier demonstration Gloria was holding the middle portion and the upper portion of the axe. Was that the position of the axe during that time?

A Yes. Sometimes it swung like this - the blade sometimes faced me; sometimes it faced her.

Q How did she sustain the wound?

A **She was accidentally injured because of the force of the grappling.**

...

Q At that time you pushed the axe, was that the position of your hands?

A No ma'am. **Because of the swinging, I was able to push it accidentally towards Gloria.**^[15] (Emphasis Ours)

Accident and self-defense are two incompatible defenses. Accident presupposes lack of intention, while self-defense assumes voluntariness, but induced only by necessity.^[16]

In view of the above-quoted assertions of petitioner Aradillos before the trial court,