

SECOND DIVISION

[G.R. No. 152358, February 05, 2004]

CONRADO CASITAS, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

D E C I S I O N

CALLEJO, SR., J.:

This is a petition for review on certiorari under Rule 45 of the Rules of Court, as amended, of the Decision^[1] of the Court of Appeals affirming on appeal the Decision^[2] of the Regional Trial Court of Albay, Branch 18, convicting petitioner Conrado Casitas of frustrated homicide.

The Case for the Respondent

As culled by the Office of the Solicitor General from its Brief and reiterated by the CA in its decision, the case for the respondent stemmed from the following facts:

Sometime in the evening of August 24, 1994, private complainant Romeo C. Boringot, along with his wife, Aida, and the other members of the family, were asleep at their house at Bonot, Tabaco, Albay (TSN, March 12, 1996, pp. 25-26).

Early in the morning the following day (August 25, 1994), about 1:00 o'clock A.M., Romeo was awakened by his wife, Aida, the latter having heard somebody shouting invectives at her husband, viz: "You ought to be killed, you devil." So Romeo stood up and peeped to see who was outside. He, however, did not see anyone (TSN, March 12, 1996, p. 26; TSN, April 29, 1996, pp. 14, 16-17).

Thus, Romeo took the flashlight, held it with his left hand, and flashed it in the direction of the copra pit to check any intruder. When he did not see anybody, he proceeded towards the road (TSN, March 12, 1996, pp. 27, 29).

Upon reaching the pathway leading to the road and upon passing by a coconut tree, he was suddenly hacked at the back with a bolo which was more than one (1) foot long. He looked back at his assailant and he recognized him to be appellant Conrado Casitas whom he knew since the 1970's and whose face he clearly saw as light from the moon illuminated the place. Appellant hacked him on the back a second time. Romeo tried to scamper but he was blocked by appellant. In fact, appellant hacked him again, this time hitting him on his left forearm. The blow caused him to drop the flashlight he was holding. While in the prone position, appellant went on hacking him, hitting him on different parts of

the body, including the ears and head. While hitting him, appellant was shouting invectives at him. Appellant also hit him with a guitar causing Romeo to sustain an injury on his forehead. All in all, he sustained eleven (11) wounds (TSN, March 12, 1996, pp. 25, 28-34; TSN, April 29, 1996, pp. 9, 12, 19-20; TSN, July 2, 1996, pp. 6-7).

Romeo's wife, Aida, rushed to where he was. Upon seeing his bloodied condition, Aida shouted for help. Some people came to their rescue. When somebody with a flashlight arrived, appellant fled (TSN, March 12, 1996, p. 32).

One of those who heard Aida's shout for help was Benhur Bonaobra, a laborer, who just came from his copra work at San Isidro, Tabaco, Albay. While going towards where the cry for help was coming from, he saw appellant by the road, fleeing away and carrying a bolo with him. Appellant was about fifteen (15) meters away from him. He also saw appellant trying to pick up his slippers but failing (sic) to take them with him in his haste to flee away. Benhur recognized appellant, having known the latter since childhood (TSN, March 12, 1996, pp. 5-7).

When Benhur arrived at the place of the incident, he saw Romeo lying down on one side, with blood running down his face, and being cradled by his wife, Aida, who was crying. He tried to lift the victim. When some people arrived, he asked that somebody procure a hammock in order to bring the victim to the hospital. When the hammock arrived, they brought him to the Cope Hospital at Buhian. Thereat, they were informed that the victim cannot be attended to, thus, he was brought to the Ziga Memorial District Hospital at Tabaco, Albay, where he was given preliminary medical attention. Thereafter, he was brought to the Albay Provincial Hospital at Legaspi City where he was given further medical assistance and he was treated by Dr. Dante Perez (TSN, March 12, 1996, pp. 7-9, 12; TSN, July 2, 1996, p. 4; pp. 3, 5, Record).

Dr. Perez enumerated and described the injuries sustained by private complainant in the following manner:

- a. These are the injuries sustained by this patient, sir. (Witness indicating in open Court, the scars on the victim. The scars are found on the left chest above the left nipple and also the injuries on the left face including the earlobe). The earlobe was transected sir. I made a repair of it. And just below the earlobe is an injury. And on the posterior arm of the patient is also a scar. Also, in the proximal left posterior lateral left and also on the left scapular area, at the back. And also at the right posterior thorax, and also at the right shoulder area. (Witness indicating) And in the proximal distal, third, right arm. (Witness pointing to the injuries to the radial nerve). The patient's radial nerve was transected. It was cut. The patient now have a permanent nerve injury, a wrist drop. There is already a paralysis of the wrist. And he also sustained a lacerated wound on his forehead.

PROSECUTOR VILLAMIN:

Q : So, there are eleven (11) injuries on the patient?

A : Yes, sir.

(TSN, July 2, 1996, pp. 6-7)^[3]

The Case for the Petitioner

The petitioner invoked self-defense. The CA summarized the evidence of the petitioner in the RTC, thus:

... In the early morning of August 25, 1995 at around 12:30 o'clock, while Conrado Casitas was walking strumming his guitar and singing, Benhur Bonaobra pelted him with stones, hitting his chest twice. Romeo Boringot suddenly appeared and hacked him with a bolo. Conrado was able to parry the first bolo attack with his guitar. When Romeo continued to attack him, accused pulled his bolo from his waist and they engaged in a duel. When Romeo fell down, Conrado run (sic) away and went on foot to the Ziga Memorial Hospital where he was treated by Dr. Magayanes. While being treated in the hospital, the police arrived and he surrendered himself including his bolo.

Felixberto Bo, a resident of Bonot, Tabaco, Albay, heard a shout for help at about 12:00 o'clock midnight on August 25, 1994 and being a Barangay Tanod he got down from his house and started to run towards the direction of the person shouting for help; that he met Conrado Casitas at the bridge and he asked Conrado what happened; that accused told him that Romeo Boringot waylaid him and that he left him (victim) on the ground; that Felixberto proceeded walking and saw Romeo Boringot by the roadside near a coconut tree and full of blood; that when he arrived, his compadre Reynaldo was already there; that Apolonio Bueza was also there; that Santos Bueza, a Kagawad member of the barrio and Benigno Boqueo also a member of the Barangay Council were also there including the wife of Romeo Boringot; that he was the one who took charge in having Romeo brought to the hospital (TSN, January 17, 1997, pp. 6-7; 11-13).^[4]

The trial court rejected petitioner's plea of self-defense and convicted him of frustrated homicide. On appeal to the CA, the petitioner asserted the following:

I.

THE TRIAL COURT GRAVELY ERRED IN NOT ACQUITTING THE ACCUSED-APPELLANT DESPITE THE EXISTENCE OF THE JUSTIFYING CIRCUMSTANCE OF SELF-DEFENSE.

II.

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF HOMICIDE ON THE BASIS OF THE WEAKNESS OF THE DEFENSE'S EVIDENCE.

III.

THE COURT A QUO ERRED IN NOT APPRECIATING THE MITIGATING CIRCUMSTANCE OF VOLUNTARY SURRENDER ON THE PART OF THE ACCUSED-APPELLANT.^[5]

The CA affirmed the decision of the RTC and dismissed the petitioner's appeal. He now asserts in this case that the RTC and the CA erred in not giving merit to his plea of self-defense. In the alternative, in case his conviction is affirmed, the mitigating circumstance of voluntary surrender should be appreciated in his favor.

Ruling of the Court

On the Petitioner's Plea of Self-Defense

The petitioner insists that he was merely singing and playing his guitar when Bonaobra threw stones at him and the victim suddenly attacked him with a bolo. He used his guitar to avoid being boloed by the victim, and in the process, the bolo hit his guitar. He had to use his own bolo to parry the victim's repeated thrusts. He sustained injuries when he defended himself and was treated by Dr. Ray Magayanes at the Ziga Memorial District Hospital. He gave no provocation to the sudden assault by Bonaobra and the victim.

The CA rejected petitioner's assertion, thus:

The appeal has no merit.

As correctly pointed out by the Solicitor General, the numerous blows inflicted by appellant resulting to the eleven (11) wounds suffered by the victim on vital areas of the body were clear manifestations of a deliberate, determined assault, with intent to kill the victim, ruling out the claim of self-defense.

If Conrado Casitas stabbed Romeo Boringot merely to defend himself, it certainly defies reason why he had to inflict eleven (11) wounds on the latter.

It may be that, after the first few blows, one who acts in self-defense might deal a few blows without changing the character of his defense, if this was done out of confusion or fear, but, after delivering several blows, to inflict a stab wound on the victim's throat as a coup de grace would negate any semblance of good faith and manifest a deliberate and wanton intention to kill.

The presence of several gunshot wounds on the body of the deceased is physical evidence which eloquently refutes a defense of self-defense.

Just as the presence and severity of a large number of wounds on the part of the victim disprove self-defense, so do they belie the claim of incomplete defense of a relative and indicate not the desire to defend one's relative but a determined effort to kill.