

SECOND DIVISION

[G.R. No. 151978, July 14, 2004]

**ARTURO ROMERA, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

D E C I S I O N

QUISUMBING, J.:

For review on *certiorari* is the Decision^[1] dated January 11, 2002 of the Court of Appeals, in CA-G.R. CR. No. 23753, affirming the August 16, 1999 Order^[2] of the Regional Trial Court of Cagayan de Oro City, Branch 24, in Criminal Case No. 98-1089. The RTC convicted petitioner Arturo Romera of frustrated homicide and sentenced him to imprisonment ranging from one (1) year, eight (8) months and twenty (20) days of *prision correccional* as minimum to six (6) years and one (1) day of *prision mayor* as maximum. He was also ordered to pay private offended party ₱19,361.15 as actual damages and ₱10,000 as attorney's fee.

The Information against petitioner reads:

On October 4, 1998, at about 7:00 o'clock in the evening, at Sitio Puntod, Barangay Balagnan, Balingasag, Misamis Oriental, within the jurisdiction of the Honorable Court, the above-named accused, with intent to kill, did, then and there, willfully, unlawfully, and feloniously attack, assault, and stab one Roy Mangaya-ay with the use of a bolo, thus, inflicting a mortal wound on the abdomen of the latter; accused thereby performed all the acts of execution which would have produced the felony of Homicide which was not produced because of the timely and effective medical attendance administered on the said victim.

CONTRARY TO and in violation of Article 249, in relation with Article 6 of the Revised Penal Code.^[3]

When arraigned, petitioner pleaded not guilty and trial thereafter ensued.

The facts, as summarized by the Court of Appeals and borne by the records, are as follows:

In the afternoon of October 4, 1998, petitioner Arturo Romera was with the victim, Roy Mangaya-ay, and five other men namely, Eligario "Beboy" Acenas, Dennis "Bobong" Mangaya-ay, Ric Mangaya-ay, Bebing Zulueta and Franklin General. They were all headed for Biasong to play volleyball. When they reached Biasong, it was raining, so they decided to while away time at the house of Ciriaca Capil. Franklin General hung a string made of cigarette foil on Bebing Zulueta's pants and said, "There's a monkey among us." Everybody laughed except Roy Mangaya-ay, who got angry and chided Franklin General to stop lest he make enemies. Bebing Zulueta

also got angry and pointed a finger at Franklin General and said, "Even if you are stronger and older, if you will be hit by my fist, you will crawl." Petitioner then stood up and warned everyone, "You all watch out in Balaguan." He pulled Franklin General to join him and said, "Let's go, there are many boastful people here." Thereafter, petitioner and Franklin left the group.

At six o'clock in the evening, Roy and his companions arrived in Balaguan. On their way home, they passed by the house of one Antonio Mangaya-ay. In said house, which is about one kilometer away from petitioner's own, they saw petitioner already carrying a bolo waiting for them.

Suddenly, raising the bolo with his right hand, petitioner uttered, "Here are the brave ones." Roy and his companions ran away but Roy slipped on the muddy ground. Petitioner approached Roy and said, "Come here, brave one." He held Roy up by the collar and stabbed him in the stomach. Roy fell unconscious. When he woke up, he found himself at the provincial hospital where he underwent surgery and stayed for more than three weeks.

After the stabbing incident, petitioner voluntarily surrendered to a certain Tibo Ramoso of the Citizen's Armed Force Geographical Unit (CAFGU). Ramoso accompanied petitioner to the Balingasay police station.

For his part, petitioner testified on what happened as follows:

Petitioner and his family were having dinner in their house at around seven o'clock in the evening. Thereafter, they went to bed. While lying in bed, they heard Roy call petitioner and his wife, asking if they had beer and a fighter for sale. He did not answer Roy because he knew that Roy was already drunk. Roy asked for petitioner but when the latter's wife told him that petitioner was already asleep, he told her to wake her husband up. Petitioner went down the house and asked who was at the door. Just as he opened the door for Roy, Roy thrust his bolo at him. He successfully parried the bolo and asked Roy what it was all about. Roy answered he would kill petitioner. Petitioner tried to prevent Roy from entering, so he pushed the door shut. As Roy was hacking at the wall, petitioner's wife held the door to allow petitioner to exit in another door to face Roy. He hurled a stone at Roy, who dodged it. Roy rushed to him and hacked him, but he parried the blow. Petitioner grappled for the bolo and stabbed Roy in the stomach. Wounded, Roy begged petitioner for forgiveness. According to petitioner, he ceased harming Roy for fear he might kill him.

The trial court discounted petitioner's story of self-defense. It found that when petitioner got hold of the bolo, there was no more danger to his life. Petitioner was convicted of frustrated homicide. The dispositive part of its decision reads:

WHEREFORE, premises considered, judgment is hereby rendered, finding accused ARTURO ROMERA guilty beyond reasonable doubt as principal of the offense charged. Consequently, taking into consideration the mitigating circumstance of voluntary surrender and the provisions of the [I]ndeterminate Sentence Law, he is hereby sentenced to a penalty ranging from One (1) year Eight (8) months and Twenty (20) days of Prision Correccional as minimum to Six (6) years and one (1) day of Prision Mayor as maximum and to pay the private offended party as