

FIRST DIVISION

[CA-G.R. CR NO. 34948, March 10, 2015]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
REYNALDO VILLAMIN Y BANAL, ACCUSED-APPELLANT.**

DECISION

SORONGON, E. D., J.:

Before Us is an Appeal from the judgment^[1] of conviction rendered against Reynaldo Banal Villamin (accused-appellant) in Criminal Case No. 2008-235 by the Regional Trial Court (RTC) of Lucena City, Branch 55, finding him guilty beyond reasonable doubt of the crime of Homicide as defined and penalized under Article 249 of the Revised Penal Code.

Background of the Case

Accused-appellant was charged in an Information^[2] which reads:

“That on or about October 17, 2007, in Sitio Bicolan, Barangay Silangan Calutan, Municipality of Agdangan, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with an *unlicensed* short firearm of unknown caliber, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and shoot with said firearm one CRISPIN BANAL VILLAMIN, thereby inflicting upon the latter multiple gunshot wounds which were the direct and immediate cause of his death thereafter.

CONTRARY TO LAW”.

When arraigned on August 26, 2008, accused-appellant assisted by Atty. Melville Wendell Aureada-Laureles, his court appointed counsel *de oficio* for purposes of arraignment, entered a plea of not guilty to the charge.

During the pre-trial conference accused-appellant assisted by his counsel Atty. Rodel Ambas, invoked self-defense, hence, proceeded a reverse trial.

The Operative Facts

The trial court found:^[3]

Accused-appellant and his brother Crispin Banal Villamin (hereinafter referred to as Crispin) were neighbors. On October 17, 2007, at about 7:00 o'clock in the evening, accused-appellant was watching television in the living room of his house at Barangay Silangan Calutan, Agdangan, Quezon while his wife and children were preparing dinner at the dirty kitchen separate from their house. He then heard his

elder brother Crispin shout "*papatayin ko kayo*" outside his house. Crispin was allegedly holding a bolo in his right hand and a gun in his left hand. Accused-appellant then tried to stop him and asked him to go home because he was drunk, but Crispin refused and replied that he will kill them. Thus, accused-appellant hurriedly went to their bedroom and took his gun.

As Crispin continued to go near him, accused-appellant shot him four times with his .38 caliber *paltik* gun. He fired the first shot to Crispin in a distance of more or less three (3) meters. Yet, Crispin kept on approaching and threatening his wife and children, with his hands still holding up the *bolo* and the gun, so accused-appellant fired the second shot hitting the victim on the chest followed by the third and fourth shots until Crispin fell at the door of his house. Thereafter, accused-appellant went to Barangay Captain Toribio Arandia and informed him that he shot his brother. The Barangay Captain, however, did not advise the accused-appellant to surrender to the police station.

In May 2008, accused-appellant went to the police station to post bail. He claimed that he did not know of any reason why Crispin would get mad at him or harbor ill feeling against him.

During trial, SPO1 Martinez, a member of PNP Agdangan, testified that he was part of the investigating team that responded to the shooting incident on the evening of October 17, 2007 involving the accused-appellant and his brother. When he arrived at the crime scene he saw outside the house of accused-appellant a gun, a bolo and the lifeless body of Crispin. There was no blood-stain on the bolo. Both the bolo and the gun were not surrendered. He did not see the gun used by accused-appellant to kill Crispin. Accused-appellant surrendered to the police several months after the killing.

Dr. Felixberto Ilagan, Municipal Health Officer of Agdangan, Quezon conducted a post-mortem examination on the cadaver of Crispin at Funeraria Ester on October 17, 2007. He recorded four (4) gunshot wounds as follows: (a) gunshot wound on the left nipple; (b) another gunshot wound on the left nipple; (c) gunshot wound on the right nipple; and (d) gunshot wound at the back level of 8th thoracic vertebrae (1.5 cm at 3 o'clock position). He considered the three (3) gunshot wounds fatal because they were inflicted in the direction of the vital organs of the victim. He could not say whether the victim was intoxicated because he had no alcoholic breath.

P03 Alonzo, a police officer assigned at the Records Selection of Firearms and Explosives Office, Camp Crame, Quezon City testified that based on their records herein accused-appellant is not a licensed/registered firearm holder and that he has no pending application before October 17, 2007 in their office.

The Ruling of the Trial Court

As herein earlier mentioned, the trial court rendered a guilty^[4] verdict on the accused-appellant. The dispositive portion of the decision reads:

"WHEREFORE, judgment is rendered finding the accused Reynaldo Banal Villamin guilty of the crime of homicide with the aggravating circumstance of using an unlicensed firearm. The Court sentences the

accused Reynaldo Banal Villamin to suffer an indeterminate prison term of seven (7) years, 4 months and 1 day of Prison Mayor as minimum to 17 years, 4 months and 1 day of Reclusion Temporal as maximum. He is also directed to indemnify the heirs of Crispin Banal Villamin the sum of P50,000.00 as moral damages, plus P25,000.00 as temperate damages.

SO ORDERED.

This appeal is premised on the following assigned errors:

I.

THE HONORABLE TRIAL COURT GRAVELY ERRED IN SEEING THAT THE APPELLANT DID NOT ACT IN SELF-DEFENSE.

II.

THE HONORABLE TRIAL COURT CONSEQUENTLY ERRED IN CONVICTING THE APPELLANT.

Our Ruling

The petition is devoid of merit.

By pleading self-defense, an accused admits the killing, and thereby assumes the burden to establish his plea of self-defense by credible, clear and convincing evidence; otherwise, his conviction will follow from his admission of killing the victim. Self-defense cannot be justifiably appreciated when it is uncorroborated by independent and competent evidence or when it is extremely doubtful by itself. Indeed, the accused must discharge the burden of proof by relying on the strength of his own evidence, not on the weakness of the State's evidence, because the existence of self-defense is a separate issue from the existence of the crime, and establishing self-defense does not require or involve the negation of any of the elements of the offense itself.^[5]

To escape liability accordingly, the accused must show by sufficient, satisfactory and convincing evidence that: (a) the victim committed unlawful aggression amounting to an actual or imminent threat to the life and limb of the accused claiming self-defense; (b) there was reasonable necessity in the means employed to prevent or repel the unlawful aggression; and (c) there was lack of sufficient provocation on the part of the accused claiming self-defense or at least any provocation executed by the accused claiming self-defense was not the proximate and immediate cause of the victim's aggression.^[6]

The first requisite is indispensable. Unlawful aggression on the part of the victim is the primordial element of the justifying circumstance of self-defense. There can be no self-defense unless it is proven that there had been unlawful aggression on the part of the person injured or killed by the assailant. Consequently, if there is no unlawful aggression, there is nothing to prevent or repel.^[7] The test for the presence of unlawful aggression under the circumstances is whether the aggression from the victim put in real peril the life or personal safety of the person defending