

## SECOND DIVISION

[ CA-G.R. CR No. 34677, May 30, 2014 ]

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.  
NESTOR SANTOS Y HALILI, ACCUSED-APPELLANT.**

### DECISION

**GAERLAN, S.H., J.:**

Before this Court is an appeal from the 11 February 2011 Decision<sup>[1]</sup> of Branch 78 of the Regional Trial Court of Morong, Rizal for Criminal Case No. 00-4098-M, wherein the accused-appellant was found guilty beyond reasonable doubt for the crime of Frustrated Homicide defined and penalized under Article 249 in relation to Article 6 of the Revised Penal Code.

The accusatory portion of the Information<sup>[2]</sup> charging Nestor Santos y Halili reads:

“That on or about the 10th day of May 2000, in the Municipality of Teresa, Province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and while being armed with a bladed weapon, did then and there willfully, unlawfully and feloniously attack, assault and stab with said bladed weapon one Basilio Balajadia y Sta. Catalina, thereby inflicting upon him a stab wound directly on the stomach, which could ordinarily cause his death, thus, performing all the acts of execution which would have produced the crime of homicide as a consequence, but nevertheless, did not produce it by reason of causes independent of the will, that is, due to the timely and able medical attendance rendered to said Basilio S.C. Balajadia which prevented his death.

CONTRARY TO LAW.”

During the arraignment on 2 August 2000<sup>[3]</sup>, accused-appellant, assisted by counsel, entered a plea of *not guilty* to the crime charged.

Trial on the merits ensued. The prosecution offered the testimonies of the following witnesses: (1) Basilio Balajadia, private complainant; (2) Dr. Angel Daquigan<sup>[4]</sup>, physician who attended to private complainant who also issued the medical certificate submitted before the trial court; (3) Eliza Balajadia<sup>[5]</sup>, wife of private complainant.

The prosecution formally offered<sup>[6]</sup> as documentary evidence the following: (1) Medical Certificate<sup>[7]</sup>; (2) Photographs of the accused-appellant attached to his personal bail<sup>[8]</sup>; and (3) *Malayang Sinumpaang Salaysay* ni Eliza Balajadia<sup>[9]</sup>.

Thus, on 11 February 2011, the trial court promulgated the challenged Decision. The dispositive portion of which reads:

**"WHEREFORE**, the Court in finding the accused **NESTOR SANTOS Y HALILI** guilty of the crime of Frustrated Homicide without any aggravating and mitigating circumstances, sentences said accused to suffer an indeterminate prison term of one (1) year and one (1) day of prison correccional, as minimum, to eight (8) years and 1 day of prison mayor medium, as maximum. He is also ordered to pay Basilio Balajadia the amount of P25,000.00 as temperate damages and P40,000.00 as moral damages.

**SO ORDERED."**

On the other hand, the defense presented its lone witness herein accused-appellant Nestor Santos y Halili. Notably, no other evidence of any kind was offered by the defense.

### **THE FACTS**<sup>[10]</sup>

On 10 May 2000, complaining witness Basilio Balajadia and some members of his family were preparing for the birthday celebration of his niece. While cooking "biko", Basilio heard a revving tricycle parked along the street, which was just outside his residential premises.

While inside his yard in Calumpang, Sto. Kristo, Teresa, Rizal, Basilio asked the owner, herein accused, to stop revving his tricycle because his eldest daughter was sick and his wife has just given birth to their youngest child.

Herein accused got mad and entered the yard of Basilio with a knife measuring about a foot in length and by two (2) inches in width. Accused stabbed Basilio and the latter testified that he incurred wounds which left a scar between his ribs, another one which was below his navel, and on his left arm.

Basilio was initially brought to Morong General Hospital which is also known as Rizal Hospital. Thereafter, he was transferred to Queen Mary Hospital in Cardona, Rizal and confined therein for a week. Upon discharge, he returned once to the said hospital for a follow-up. Basilio claimed that his family incurred about P70,000.00 for his hospitalization.

At the time he testified in court, Basilio has not yet resumed working as a tricycle driver since he was still not feeling well. According to Basilio, he could still feel some pain due to the injuries he sustained. At that time, Basilio was earning an average daily income of P150.00.

During his cross-examination, Basilio testified that his parents and some visitors were with him at his residence at the time the incident took place. He has not yet joined those who were already engaged in a drinking spree since he was still cooking "biko". Basilio added, however, that after he was stabbed by the accused, he went inside his house, got a bolo and threw the same to herein accused.

Eliza Balajadia, the wife of complaining witness Basilio corroborated the latter's testimony. She further testified that after Basilio uttered "lumabas ang matapang", accused entered their premises and stabbed Basilio.

Since then, and for a period of one year, Basilio was unable to drive his tricycle and earn a living.

The prosecution also presented Dr. Angel Daquigan, the general surgeon who attended to Basilio on 10 May 2000 at about 11:50 in the evening. He testified that on the said date, he also issued a Medical Certificate to Basilio which states that:

"This is to certify that Mr. Basilio Balajadia was seen and treated by the undersigned on May 10, 2000 because of stab wound.

Diagnosis: Hemoperiteum Secondary to Liver Laceration Anterior Lobe Segment 5 Secondary to stab wound, "Epigastric Area" (6cm)

Treatment : Explore-lap; Repair of liver laceration Evacuation of Hematoma

This certification is being issued upon the request of Mr. Balajadia for whatever purpose it may serve.

SGD. ANGEL DAQUIGAN,  
M.D. Attending Physician  
License No. 60639"

Dr. Daquigan explained in layman's term the above findings as follows:

A: When he was admitted, there is an indication explore, when we open (sic) the wound of the patient there was a blood. We noted blood about 400 cc in the peritoneum that is in the abdominal area. We also noted liver laceration and that is (sic) the source of blood. Your, Honor, there is still one, that is still injury sustain (sic) in the left arm.

Q: What kind of injury did this patient sustained (sic)?

A: Incized (sic) wound about 4cm.

Q: Are you in in (sic) a position to tell this Court, (sic) what kind of instrument did cause of (sic) the injury sustained by this patient?

A: It might be a sharp object, sir.

Q: So, do you find the nature of the injuries to the claim that the witness was stab (sic)?

A: Probably, sir.

The physician added that Basilio incurred frontal injury which if not attended early, would have been fatal.

**VERSION OF THE DEFENSE**