

FIRST DIVISION

[CA-G.R. CR-HC No. 05496, June 02, 2014]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PAUL DURAN, JR. Y MIRABUENO, ACCUSED-APPELLANT.

D E C I S I O N

BARRIOS, M. M., J.:

This is an appeal from the Decision dated 22 February 2012 of the Regional Trial Court, Branch 88, Cavite City, convicting accused-appellant for Murder. The decretal part reads:

"x x x

WHEREFORE, this Court finds accused Paul Duran, Jr. y Mirabueno guilty beyond reasonable doubt of the crime of Murder and is hereby sentenced to suffer the penalty of reclusion perpetua.

Accused is further ordered to indemnify the legal heirs of victim Gilbert Grimaldo y Nera in the amount of One Hundred Thousand Pesos (P100,000.00) as moral damages and Fifty Thousand Pesos (P50,000.00) as exemplary damages.

Accused is hereby credited in full for the entire period of his detention at the Cavite City District Jail.

SO ORDERED.

x x x"

THE FACTS

The Information filed before the trial court charged accused-appellant with the crime of Murder committed as follows:

"xxx

That on or about the 9th day of January, 2009, in the Municipality of Rosario, Cavite, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, using an unlicensed firearm, employing treachery and nocturnity, did, then and there, willfully, unlawfully and feloniously shoot GILBERT GRIMALDO Y NERA on the back of his head and thereafter as the victim lay helpless and wounded on the ground with abuse of superior strength shot him another three times, inflicting upon the latter multiple gunshot wounds which cause his instantaneous death, to the damage and prejudice of the latter's heirs."

CONTRARY TO LAW.”

When arraigned, accused-appellant pleaded “NOT GUILTY”.

Only the eyewitness Beverly Cabrera Quilana testified in court. The testimony of the other prosecution witnesses, namely: Berly L. Grimaldo as well as Dr. Jocelyn Dignos, were dispensed with on account of the parties' admissions and stipulations.

Beverly Cabrera Quilana testified that on 09 January 2009 at around 1:48 in the morning, she was sleeping at the ground floor of her house at Ligdong 3, Rosario, Cavite when she was awakened by the call of somebody uttering “*Ninang*”. It was her godson, Gilbert Grimaldo, the victim. While rushing to the door she asked him “Why”, and Grimaldo responded: “*Ninang tulungan ninyo ako may kumukursunada sa akin sa labas.*” When she opened the door, Beverly saw accused-appellant Paul Duran approaching from behind and shoot Grimaldo about 2 ½ feet away with a .38 caliber gun. Grimaldo was hit on the nape and fell face down on the ground. She screamed, as accused-appellant momentarily move away, and then again shot the hapless Grimaldo three (3) more times at his back and head. Then, accused-appellant ran away.

In his defense, accused-appellant admitted shooting Grimaldo, but invoked self-defense. He narrated that on the night of the incident, he was on his way to buy fish in Paranaque when two (2) unidentified persons blocked his way. One of them was the victim whom he later came to know as Grimaldo. Grimaldo poked a gun at him and said that he only needed his money. Grimaldo wanted to get the money from his belt bag, but then, accused-appellant grappled for the possession of the gun. In the course of the struggle, the gun fired and hit Grimaldo's nape. Accused-appellant was able to wrest Grimaldo's gun and pointed the gun at the latter. However, Grimaldo stepped back and tried to attack him, so he pulled the trigger and shot Grimaldo three (3) times. As Grimaldo turned around, he shot him once more at the back, and Grimaldo fell to the ground. Thereafter, he left the scene taking with him the gun and the pails that he was carrying.

As heretofore said, the trial court rendered the assailed Decision convicting accused-appellant for the crime of Murder. In this appeal, accused-appellant raise this lone assignment of error:

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THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT FOR THE CRIME CHARGED WHEN HIS GUILT WAS NOT PROVEN BEYOND REASONABLE DOUBT.

OUR RULING

The appeal has no merit.

In his plea for acquittal, accused-appellant interposes lawful self-defense. He submits that there was unlawful aggression on the part of Grimaldo and his companion when they poked a gun at him and tried to rob him of the money intended to buy fish that he will later peddle.

This, however, does not convince Us.