



CERTIFIED TRUE COPY  
*Wilfredo V. Capitan*  
**WILFREDO V. CAPITAN**  
 Division Clerk of Court  
 Third Division  
 FEB 26 2016

Republic of the Philippines  
**Supreme Court**  
 Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,  
 Plaintiff -Appellee,

G.R. No. 218396

Present:

VELASCO, JR., J.,  
*Chairperson,*  
 PERALTA,  
 PEREZ,  
 MENDOZA, and  
 REYES, JJ.

- versus -

NESTOR ROXAS y CASTRO,<sup>1</sup>  
 Accused-Appellant.

Promulgated:

February 10, 2016

*Wilfredo V. Capitan*

X ----- X

DECISION

**PEREZ, J.:**

This case is a classic illustration of the time-honored principle in criminal law that while the prosecution has the burden of proving the guilt of the accused beyond reasonable doubt, the burden is shifted to the accused when he admits the commission of the crime but interposes self-defense to justify his act.

For review is the July 31, 2014 Decision<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05508 which affirmed *in toto* the February 13,

<sup>1</sup> A perusal of the trial court's records reveals that except for the dispositive portion of the RTC Decision, the accused-appellant's name is stated as Nestor Roxas y Castro. The name Nestor Roxas y Castor first appeared in the said portion which was apparently carried over when the case was elevated to the CA.

<sup>2</sup> *Rollo*, pp. 2-10; penned by CA Associate Justice Samuel H. Gaerlan and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Marlene Gonzales-Sison.

*RS*

2012 Decision<sup>3</sup> of the Regional Trial Court (RTC) of Pallocan West, Batangas City, Branch 3, convicting Nestor Roxas y Castro (accused-appellant) of the crime of murder and sentencing him to suffer the penalty of *reclusion perpetua*.

### *The Facts*

In an Information<sup>4</sup> dated November 27, 1995, Nestor Roxas y Castro was charged with the crime of murder committed as follows:

“That on or about October 25, 1995 at around 8:30 o’clock in the evening at Brgy. Dela Paz Proper, Batangas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, while armed with a knife, with intent to kill and with the qualifying circumstance of treachery or evident premeditation, did then and there, wilfully, unlawfully and feloniously attack, assault and stab with said deadly weapon, suddenly and without warning, one Severino Manalo y Atienza, while the latter was unarmed and completely defenseless, thereby hitting him at the different parts of his body, which directly caused the victim’s death.

CONTRARY TO LAW.”

A warrant of arrest was issued on December 7, 1995 for the arrest of the accused-appellant. Because the accused-appellant could not be apprehended by the police, the case was archived on February 10, 1997. It was only on September 18, 2010 that the accused-appellant was arrested by virtue of an alias warrant of arrest issued by the RTC. As a result, the case was revived.

Upon arraignment, the accused-appellant, duly assisted by counsel, pleaded not guilty to the crime charged.<sup>5</sup> After pre-trial was terminated, trial on the merits ensued.

Based on the testimonies of eyewitness Vicente Dimalibot (Vicente); Police Inspector Danilo Magtibay (P/Insp. Magtibay) and SPO4 Nelio Lopez (SPO4 Lopez), the police investigators in the case against accused-appellant; Serapio Manalo (Serapio), brother of the victim; and Dr. Ma. Josefina Arguelles (Dr. Arguelles), the physician who conducted the post mortem examination of the victim's cadaver, the facts as found by the trial court and established by the prosecution are as follows:

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<sup>3</sup> Records pp. 84-98; penned by Judge Ruben A. Galvez.

<sup>4</sup> Id. at 1.

<sup>5</sup> Id. at 18.

In the evening of October 25, 1995, Severino Manalo (Severino/victim) and Vicente were talking to each other in front of the house of Alfredo Asi (Alfredo). Then, Vicente saw the accused-appellant approach Severino from behind and suddenly stab the latter thrice with a white sharp bladed weapon. The three successive stab blows landed on Severino's back, his stomach and on his side. Vicente testified that Severino was caught off guard when he was stabbed by the accused-appellant as the victim was facing the former while they were talking. Immediately after Severino was stabbed, the accused-appellant fled from the place of the incident. For fear that he might also be attacked, Vicente scampered away to a safer distance until he reached his place where he called for help. Vicente, together with some people, returned to the crime scene where they found Severino sprawled on the ground already dead.

After receiving the report on the stabbing incident, P/Insp. Magtibay and SPO4 Lopez arrived at the crime scene and conducted an investigation. They took pictures of the crime scene and the body of the victim.<sup>6</sup> Vicente volunteered to the responding officers that he witnessed the accused-appellant stab the victim three times with a bladed weapon. Acting on this information, the police officers looked for the accused-appellant at his house as well as the residence of his relatives but he was nowhere to be found.<sup>7</sup>

Serapio testified that the victim was his brother and that he learned of his brother's death from Vicente. He witnessed the police investigators take pictures of the crime scene, make measurements of the cadaver and note the wounds inflicted on the body of the victim.<sup>8</sup> He admitted that he was the one who went to the police station to file the complaint against the accused-appellant.

Per the post mortem examination on the victim's cadaver performed by Dr. Arguelles, the cause of death was massive hemorrhage secondary to multiple stab wounds.<sup>9</sup> Dr. Arguelles also signed the victim's Certificate of Death which was formally offered in evidence by the prosecution in the trial court.<sup>10</sup>

The following is the defense's version of the incident:

For his part, the accused-appellant invoked self-defense. The accused-appellant recalled that at around 6:00 o'clock in the evening of October 25,

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<sup>6</sup> TSN, March 28, 2011, pp. 10-11; Testimony of SPO4 Nelio Lopez.

<sup>7</sup> Id. at 7.

<sup>8</sup> TSN, January 31, 2011, pp. 6-8; Testimony of Serapio Manalo.

<sup>9</sup> Records, p. 63.

<sup>10</sup> Id. at 66.

1995, he was on the road in front of his house located in Barangay Dela Paz Proper, Batangas City when Severino, Vicente and Alfredo arrived. Without warning, Severino punched the accused-appellant, hitting him on the lower eyelid portion.<sup>11</sup> In reaction, the accused-appellant uttered the following words to Severino: “*Huwag pare bakit mo ako sinuntok wala naman akong ginagawang masama sa iyo*” to which the latter replied: “*Ubusin ko kayong mag-anak.*”<sup>12</sup> The accused-appellant again asked Severino why he was behaving that way as he had done nothing wrong to him. Severino's answer was to pull a knife, and poke it at the accused-appellant. This prompted the accused-appellant to grab the knife and while they grappled for its possession, both Severino and the accused-appellant fell and rolled on the ground. It was only when he stood up that the accused-appellant noticed that he sustained stab wounds on his left hand and saw Severino lying on the ground.<sup>13</sup> The accused-appellant claimed that while all these were happening, Vicente and Alfredo were just looking and laughing at them as if they were drunk. Fearing retaliation from the family of Severino, the accused-appellant immediately proceeded to his sister's place in San Pascual, Batangas and later escaped to Bicol. The accused-appellant went into hiding for fifteen (15) years and was apprehended only on September 18, 2010.<sup>14</sup>

### *The RTC's Ruling*

After trial, the RTC convicted the accused-appellant. The dispositive portion of its decision reads:

**WHEREFORE**, after a careful and circumspect evaluation of the evidence on hand, the Court finds accused **NESTOR ROXAS Y CASTOR**<sup>15</sup> **GUILTY** beyond reasonable doubt of the crime of Murder and this Court hereby sentences herein accused to suffer the penalty of **RECLUSION PERPETUA**.

Accordingly, he is likewise ordered to pay the offended party the following amounts, to wit:

- (a) Php 50,000.00 Civil Indemnity to the heirs of the victim;
- (b) Php 50,000.00 Moral Damages; and
- (c) Php 30,000.00 Exemplary Damages

**SO ORDERED.**<sup>16</sup>

<sup>11</sup> TSN, August 2, 2011, p. 6; Testimony of Nestor Roxas y Castro.

<sup>12</sup> Id. at 5-6.

<sup>13</sup> Id. at 7.

<sup>14</sup> Id. at 15.

<sup>15</sup> Supra note 1.

<sup>16</sup> Records, p. 98.

The RTC gave full credence to the positive and categorical declaration of Vicente identifying the accused-appellant as the perpetrator of the crime. Similarly, the trial court believed that the testimonies of the other prosecution witnesses corroborated Vicente's declaration. On the other hand, the RTC rejected the accused-appellant's theory of self-defense for failure to show unlawful aggression on the part of the victim. Moreover, the trial court declared that the killing was attended by treachery as the attack made on the victim was sudden, unexpected and unforeseen.

### ***The CA's Ruling***

On appeal, the CA affirmed *in toto* the RTC Decision. The CA agreed with the trial court's finding that the absence of the essential element of unlawful aggression negates the accused-appellant's claim of self-defense. The CA also sustained the finding of treachery by the trial court. Further, the appellate court ruled that the accused-appellant's self-serving testimony must fail when weighed against the positive, straightforward and overwhelming evidence of the prosecution. The CA noted the flight of the accused-appellant from the place of the incident and construed the same as indicative of his guilt.

Hence, this appeal.

### ***The Issues***

The two issues to be resolved by this Court are: (1) whether the court *a quo* gravely erred in convicting the accused-appellant of murder despite his plea of self-defense; and (2) whether the court *a quo* gravely err in appreciating the qualifying circumstance of treachery.

### ***The Court's Ruling***

The Court affirms the conviction of the accused-appellant.

Basic is the rule that in every criminal case, the burden of proving the guilt of the accused falls upon the prosecution which has the duty of establishing all the essential elements of the crime.<sup>17</sup> However, in cases where the accused interposes the justifying circumstance of self-defense, this prosecutorial burden is shifted to the accused who himself must prove all the

<sup>17</sup>

*Sierra v. People*, 609 Phil. 446 (2009).

indispensable ingredients of such defense, to wit: (1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel it; and (3) lack of sufficient provocation on the part of the person defending himself.<sup>18</sup>

The presence or absence of these essential elements deals with factual matters which are best left to the discretion of the trial court to ascertain. As the Court has repeatedly emphasized in many cases, the trial court is in a better position to determine the credibility of witnesses having heard and observed firsthand their behavior and manner of testifying during trial.<sup>19</sup> Thus, the reviewing court is generally bound by the trial court's findings where no substantial reason exists that would justify a reversal of the assessments and conclusions drawn by the latter.<sup>20</sup>

Following a meticulous review of the records of the instant case, the Court sees no compelling reason to deviate from this well-settled rule. Confronted with two conflicting versions, the Court is convinced that the trial court was correct in giving great weight and respect to Vicente's testimony detailing who, when, where and how the crime was committed in this case. As such, the Court agrees with the trial court's ruling that there was no unlawful aggression on the part of the victim. This can be gleaned from Vicente's vivid narration of the stabbing incident during the direct-examination conducted by Prosecutor Bien Patulay, viz.:

XXXX

Q: Do you know a person name Severino Manalo?

A: Yes, sir.

Q: Do you know where is he now?

A: He is already dead, sir.

Q: Do you know the reason of his death?

A: Yes, sir.

Q: What was the cause of his death?

A: He was stabbed, sir.

Q: By whom?

A: By Nestor Roxas, sir.

Q: Is this Nestor Roxas present in court today?

A: Yes, sir.

Q: Can you kindly point to him?

<sup>18</sup> *People v. Herrera*, 422 Phil. 830, 850 (2001).

<sup>19</sup> *People v. Requiz*, 376 Phil. 750, 755 (1999).

<sup>20</sup> *People v. Resuma*, 570 Phil. 313, 322-323 (2008).

A: There he is, sir. (Witness pointing to a person seated on the bench for the accused and when asked his name identified himself as Nestor Roxas).

Q: You said that Severino Manalo was stabbed by Nestor Roxas, do you recall when was that?

A: October 25, 1995, sir.

Q: Why do you know that Nestor Roxas stabbed Severino Manalo on October 25, 1995?

A: Because we were talking with each other in front of the house of Alfredo Asi, sir.

Q: To whom were you talking to?

A: To Severino Manalo, sir.

Q: On October 25, 1995, do you remember where you were?

A: In front of the house of Alfredo Asi, sir.

xxxx

Q: While you were talking to this Severino Manalo in front of the house of Alfredo Asi, what happened?

A: I noticed Nestor Roxas approach[ed] Severino Manalo and suddenly st[a]bbed him, sir.

Q: What was the position of Severino Manalo in relation to Nestor Roxas when he was suddenly st[a]bbed by Nestor Roxas?

A: We were talking with each other and he was standing, sir.

xxxx

Q: Who was he facing when he was talking to you?

A: He was facing me, sir.

Q: How about Nestor Roxas, where did he come from?

A: As what I saw, he came from the back, sir.

Q: Whose back?

A: At the back of Severino Manalo, sir.

Q: And you said also that you saw him stab[bed] Severino Manalo?

A: Yes, sir.

Q: What weapon did he use in stabbing Severino Manalo?

A: What I saw is a white sharp weapon, sir.

Q: Do you know how many stab blows was done by Nestor Roxas on the body of Severino Manalo?

A: Yes, sir.

Q: How many?

A: Three, sir.



Q: Did you see at first where Severino was hit by the first stab blow?

A: Yes, sir.

Q: In what part of the body was he hit?

A: The first was at the back, the second was at the stomach and the third was on his side, sir.

Q: Between the first and the second blow, did you recall the interval?

A: Yes, sir.

Q: What was the interval?

A: I cannot recall because what I saw, it was delivered in succession, sir.

Q: When Severino Manalo was stabbed by Nestor Roxas, do you know if this Severino Manalo was aware that he was about to be stabbed by Nestor Roxas?

A: No, sir.

Q: Why?

A: Because he was facing me, sir.

xxxx.<sup>21</sup>

In sharp contrast, the accused-appellant fails to establish the requisites of self-defense. Only the accused-appellant himself testified regarding his allegation that the incident started with a sudden punch thrown at him by the victim. No other witnesses were presented by the defense to bolster their theory of self-defense. Aside from being uncorroborated, the trial court observed that the version of the accused-appellant is doubtful. This much can be gathered from the foregoing RTC Decision:

“Obviously, the Court is not convinced that accused had successfully pointed out the unlawful aggression effected by the victim when he claimed that he was suddenly boxed by Manalo when they met and that he even cautioned him and asked the reason why he did that to him, but a knife was poked by Manalo. Accused would have this Court to believe, that the aggression was initially committed by Manalo and that accused was under the belief that Manalo will stab him so he was forced to defend himself by grappling for the possession of the knife from Manalo and in course of it, he unintentionally stabbed him trice and that without knowing that Manalo was hit, accused left the place. To the mind of the court, this is not the kind of evidence that will substantiate the claim of self-defense. Accused failed to present any evidence that would at least give a semblance of truth to his narration of the incident. He claimed that he was also hit but he failed to show any medical certificate or other evidence that would prove that he indeed was injured. Moreover, the Court can see its way clear in saying that Manalo's action of pointing the knife to

<sup>21</sup> TSN, December 7, 2010, pp. 4-9; Testimony of Vicente Dimalibot.

him if true was at best, only an attempt to attack him and that the same does not pose a danger to accused's life."<sup>22</sup>

Consequently, weighed against the unshaken, straightforward and positive declaration of eyewitness Vicente that the victim was suddenly stabbed thrice without any provocation, the self-serving, uncorroborated and doubtful accused-appellant's claim of self-defense deserves no consideration.

After taking into account the location and the number of stab wounds sustained by the victim, the accused-appellant's claim of self-defense further crumbles. To reiterate, the first stab blow hit Severino's back jibing with Vicente's assertion that the former was stabbed from behind. Then, when the victim was totally caught by surprise with the initial attack, the second and third stab blows were delivered. Additionally, the number of wounds suffered by Severino invalidates the accused-appellant's allegation that he was only defending himself for the number of wounds inflicted are rather demonstrative of deliberate and criminal intent to end the life of the victim.<sup>23</sup>

Likewise weakening accused-appellant's contention that he acted in self-defense was his behavior immediately after the incident. In the case at bar, the accused-appellant himself admitted that upon seeing the victim lying on the ground, he boarded a jeep to go to his sister's place in San Pascual, Batangas before moving to Bicol where he hid from the authorities for several years. The accused-appellant's flight negates his plea of self-defense and indicates his guilt.<sup>24</sup>

Having settled that the accused-appellant is not entitled to the justifying circumstance of self-defense, the next issue to be resolved is whether treachery attended the commission of the crime.

Treachery exists when the offender commits any of the crimes against persons, employing means, methods or forms in its execution which tend directly and especially to ensure its execution, without risk to himself arising from any defense which the offended party might make.<sup>25</sup>

At this point, it bears to emphasize that the stabbing was not preceded by any argument between the victim and the accused-appellant. So, when the accused-appellant surreptitiously approached the victim from behind, the latter had no inkling nor reason to believe that his life was in danger.

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<sup>22</sup> Records, pp. 94-95.

<sup>23</sup> *People v. Pacantara*, 431 Phil. 496, 508 (2002).

<sup>24</sup> *People v. Pansensoy*, 437 Phil. 499 (2002).

<sup>25</sup> *People v. Torres, Sr.*, 671 Phil. 482, 491 (2011).

On account of the fact that Severino was just casually conversing with Vicente at that time, his defenses were down. Naturally, Severino was too stunned by the suddenness of the first stab blow at his back. As a result, the victim could no longer recover from the initial attack and the other two stab blows inflicted made it more difficult for Severino to defend himself or retaliate. This is precisely the essence of treachery wherein the attack must be deliberate and without warning, done in a swift and unexpected manner, affording the hapless, unarmed and unsuspecting victim no chance to resist or escape.<sup>26</sup> Further, the strategy employed by the accused-appellant in carrying out the attack guaranteed that he will not be exposed to any risk which may arise from the defense the victim might make.<sup>27</sup>

All told, the Court finds that the trial court and appellate courts committed no reversible error in appreciating the qualifying circumstance of treachery in the present case.

### ***Penalty and Pecuniary Liability***

Under Article 248 of the Revised Penal Code,<sup>28</sup> as amended, the penalty for the crime of murder qualified by treachery is *reclusion perpetua* to death. Since there were no aggravating or mitigating circumstances that attended the commission of the crime, the penalty of *reclusion perpetua* is imposed on the accused-appellant in accordance with Article 63, paragraph 2 of the same Code.<sup>29</sup> Therefore, the Court affirms the penalty imposed by the RTC and the CA.

With respect to the award of damages, while the Court sustains the grant of civil indemnity, moral damages and exemplary damages to the heirs of the victim by the trial and appellate courts, the Court finds it necessary to modify the amounts of civil indemnity and moral damages.

Prevailing jurisprudence pegs civil indemnity and moral damages in the amount of ₱75,000.00 each. As such, the civil indemnity and moral damages awarded by the RTC and the CA in the amount of ₱50,000.00 are

<sup>26</sup> *People v. Borreros*, 366 Phil. 360, 372-373 (1999).

<sup>27</sup> *People v. Estrada*, 654 Phil. 467 (2011).

<sup>28</sup> Art. 248. *Murder*. - Any person who, not falling within the provisions of Article 246 shall kill another, shall be guilty of murder and shall be punished by *reclusion perpetua*, to death if committed with any of the following attendant circumstances:

1. With treachery, xxxx.

<sup>29</sup> Art. 63. *Rules for the application of indivisible penalties*. - xxxx.

xxxx

2. When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

xxxx

both increased to ₱75,000.00. Civil indemnity and moral damages are automatically awarded to the victim's heirs in murder and homicide cases upon proof of the fact of death of the victim.<sup>30</sup>

The exemplary damages of ₱30,000.00 awarded by the RTC and CA is maintained as it conforms to the latest rulings of the Court. Given the presence of treachery which qualified the killing of the victim to murder, the award of exemplary damages is justified.

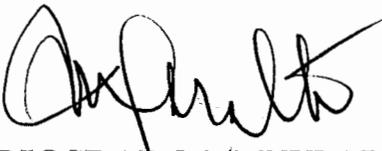
WHEREFORE, the Court of Appeals Decision dated July 31, 2014 in CA-G.R. CR-HC No. 05508, finding accused-appellant, Nestor Roxas y Castro, guilty beyond reasonable doubt of the crime of Murder, is hereby **AFFIRMED** with **MODIFICATIONS**. Accused-appellant is sentenced to suffer the penalty of *reclusion perpetua* and to pay the heirs of the victim, Severino Manalo, the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱30,000.00 as exemplary damages.

**SO ORDERED.**

  
**JOSE PORTUGAL PEREZ**  
 Associate Justice

**WE CONCUR:**

  
**PRESBITERO J. VELASCO, JR.**  
 Associate Justice  
 Chairperson

  
**DIOSDADO M. PERALTA**  
 Associate Justice

  
**JOSE C. MENDOZA**  
 Associate Justice

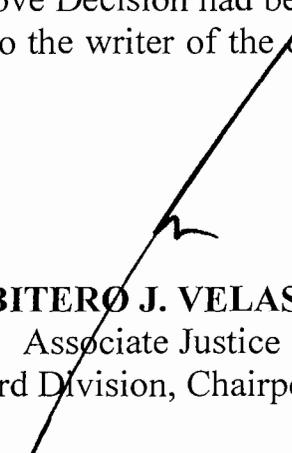
<sup>30</sup>

Supra note 24.

  
**BIENVENIDO L. REYES**  
 Associate Justice

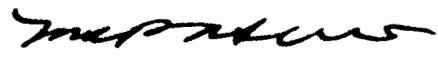
**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**PRESBITERO J. VELASCO, JR.**  
 Associate Justice  
 Third Division, Chairperson

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**MARIA LOURDES P. A. SERENO**  
 Chief Justice

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**WILFREDO V. LAPID**  
 Division Clerk of Court  
 Third Division  
 FEB 26 2016