



Republic of the Philippines
 Supreme Court
 Manila

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 WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division

JUL 31 2017

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 219848

Present:

VELASCO, JR., J.,
 Chairperson,

BERSAMIN,
 REYES,
 MARTIRES*, and
 TIJAM, JJ.

- versus -

GODOFREDO MACARAIG y
 GONZALES,

Accused-Appellant.

Promulgated:

June 7, 2017

X-----X

DECISION

TIJAM, J.:

Challenged in this appeal is the November 20, 2014 Decision¹ promulgated by the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 06484, which affirmed the October 16, 2013 Decision² of the Regional Trial Court (RTC) of Calabanga, Camarines Sur, Branch 63, in Criminal Case No. 11-1623, finding accused-appellant Godofredo Macaraig y Gonzales (accused-appellant Macaraig) guilty of the crime of Murder, sentencing him to suffer the penalty of *reclusion perpetua*, and ordering him to pay the heirs of Joven Celeste (Joven) the amount of Php75,000 as civil indemnity, Php50,000 as

* Designated as additional Member as per Raffle dated March 15, 2017.

¹Penned by Associate Justice Romeo F. Barza and concurred in by Associate Justices Hakim S. Abdulwahid and Ramon A. Cruz; *Rollo*, pp. 2-13.

²Penned by Judge Pedro M. Redona, *CA rollo*, pp. 76-87.

moral damages, PhP16,750 as actual damages, and PhP30,000 as exemplary damages.

Accused-appellant Macaraig was charged under the following Information:

That on the 31st day of May 2011 in Brgy. Salvacion, Baybay, Municipality of Calabanga, Province of Camarines Sur, Philippines, within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, while armed with a bladed instrument, did then and there, willfully, unlawfully and feloniously assault, attack and stab one JOVEN CELESTE y MALANYAON, and with treachery hitting the latter on the vital parts of his body, thereby inflicting upon him stab wound (*sic*) which caused his death, to the damage and prejudice of the heirs of the victim.

ACTS CONTRARY TO LAW.³

Upon arraignment, accused-appellant pleaded not guilty.

The Version of the Prosecution

The prosecution presented the following witnesses: Francis Losano (Losano), Herson Heles (Heles), Corazon Celeste (Celeste) and Dr. Daniel Tan (Dr. Tan).

The events, as put forward by the prosecution, were summarized by the Office of the Solicitor General (OSG) in its brief⁴ as follows:

On 31 May 2011, at around 12:00 in the morning, Francis Losano (Francis), together with the victim Joven Celeste (Joven), and three other friends were at the basketball court of their barangay attending a dance party as it was the last day of the Sta. Cruzan.

At around one o'clock in the morning, Francis and Joven both decided to go home. On his way home, Francis saw appellant following Joven. Then he saw appellant approach Joven from the back, place his left arm over his shoulder and suddenly stabbed Joven.

After stabbing Joven, appellant saw Francis and ran after him. Sensing his life was in danger, Francis went inside his house, got a bolo and flashlight. He went back out but saw appellant ran away upon seeing him. Francis pursued appellant and caught up with him. Conscious of the possibility that appellant was armed, Francis maintained his distance. Francis asked him why he stabbed Joven, but appellant did not answer. Francis shouted for help. A friend heard his shouts and heeded his call. Appellant, on the other hand, escaped into the rice field.

Joven, despite the stab wounds, managed to get home and was able

³ Id. at 12.

⁴ Id. at 92-103.

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to seek help from his parents Julio and Corazon. Herson Heles (Herson), cousin of the victim, saw Julio carrying his son outside their house. Together, they boarded Joven in a tricycle and brought him to Poblacion where they boarded an ambulance which brought them to Bicol Medical Center. On their way to the hospital, Herson asked Joven about the identity of his assailant. Joven categorically told him it was appellant. Joven however expired and was declared dead on arrival at the hospital,

The search for appellant lasted until morning. Appellant was later found in a place somewhere near the Trade School in Sta. Cruz, Ratay.

Dr. Daniel Tan testified that Joven suffered one stab wound which he described as 8 cm. x 3 cm. midepigastric area, extending to the left upper quadrant, penetrating the liver, abdominal aorta, small intestine, with non-clotted blood pooled in the peritoneal cavity. The kind of instrument used in inflicting the wound, according to the doctor, was a pointed sharp edged instrument such as a knife or bolo.

The Version of the Defense

The defense presented as its sole witness, the accused-appellant. His version of the facts, as set forth in his brief⁵, is as follows:

Accused GODOFREDO MACARAIG was a resident of Paolbo, Calabanga, Camarines Sur. On May 29, 2011, he was invited by his friend, Jeffrey Crobalde (hereafter referred to as "Crobalde"), to visit the latter's place in Sogod, Calabanga.

In the evening of May 30, 2011, Joven was throwing stones in the window of Crobalde's house. When Macaraig told Joven to stop throwing stones, the latter left the place.

At around 3:00 o'clock in the morning of May 31, 2011, after a dinking (*sic*) spree at the basketball court in Barangay Salvacion-Baybay, he was about to go to the house of Crobalde when two (2) unidentified men followed him and another man was waiting for him. One of the men tried to stab him with a *balisong* but it was the latter's companion who was hit. When he noticed that one of them was carrying a bolo, he ran away.

The RTC Ruling

On October 16, 2013, the RTC rendered judgment, finding accused-appellant guilty of the crime of murder, sentencing him to suffer the penalty of *reclusion perpetua*, and ordering him to pay the heirs of Joven Celeste (Joven) the amounts of PhP75,000 as civil indemnity and PhP50,000 as moral damages, PhP16,750 as actual damages and PhP30,000 as exemplary damages.

⁵ Id. at 60-73.



The CA Ruling

Seeing merit on the RTC ruling, the CA, in its November 20, 2014 Decision, affirmed the RTC decision in its entirety.

The Ruling of this Court

Accused-appellant prays for the reversal of the judgment of conviction arguing that the lower courts erred in convicting him of murder and in not considering his theory of self-defense.

The appeal fails.

After a review of the records, the Court sustains the conviction of the accused-appellant for murder.

Self-defense, when invoked as a justifying circumstance, implies the admission by the accused that he committed the criminal act. Generally, the burden lies upon the prosecution to prove the guilt of the accused beyond reasonable doubt rather than upon the accused that he was in fact innocent. When the accused, however, admits killing the victim, it is incumbent upon him to prove any claimed justifying circumstance by clear and convincing evidence. Well-settled is the rule that in criminal cases, self-defense shifts the burden of proof from the prosecution to the defense.⁶

To invoke self-defense, in order to escape criminal liability, it is incumbent upon the accused to prove by clear and convincing evidence the concurrence of the following requisites under the second paragraph of Article 11 of the RPC, viz.: (1) unlawful aggression; (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.

Of all the burdens the accused-appellant carried, the most important of all is the element of unlawful aggression. Unlawful aggression is an actual physical assault, or at least a threat to inflict real imminent injury, upon a person. The element of unlawful aggression must be proven first in order for self-defense to be successfully pleaded. There can be no self-defense, whether complete or incomplete, unless the victim had committed unlawful aggression against the person who resorted to self-defense.⁷

We do not see the credibility of accused-appellant's theory of self-defense. Suffice it to state that his version of what transpired, specifically that the victim and his companions mauled him, is vague, and too implausible to merit any weight. At the outset, accused-appellant was

⁶ *People v. Cristina Samson*, G.R. No. 214883, September 2, 2015.

⁷ *Rodolfo Guevarra and Joey Guevarra v. People*, G.R. No. 170462, February 5, 2014.

uncertain as to who were the men who assaulted him and whether the victim was one of those men who allegedly attempted to stab him. Further, accused-appellant claims that it was not him but the victim's companion who ended up stabbing him since accused-appellant was able to evade the blows. Evidently, without a clear showing that the victim attacked or tried to attack accused-appellant, We find that unlawful aggression cannot be deemed to have occurred. On this note, We completely agree with the appellate court's observation, to wit:

In his lone testimony, Macaraig tried to establish self-defense by testifying that on the said date and time of the incident in this case, he was alone when he left the Santa Cruzan celebration. He was, however, followed by two unidentified men, while another unidentified man was waiting for him. One of the two men poked something at him, held him in the shoulder and boxed him. He was able to evade the blow. After which another person, armed with *balisong*, tried to stab him but as he was able to evade the blow again, another person got stabbed.

It is well to note that by invoking self-defense, the accused-appellant, in effect, admitted to the commission of the acts for which he was charged, albeit under circumstances that, if proven, would have exculpated him. With this admission, the burden of proof shifted to the accused-appellant to show that the killing was attended by the following circumstances: (1) unlawful aggression on the part of the victims; (2) reasonable necessity of the means employed to prevent or repel such aggression; and (3) lack of sufficient provocation on the part of the persons resorting to self-defense. **"In this case, however, the accused-appellant stated that it was not him who stabbed the victim, but the victim's companion or somebody else. From this observation alone, the trial court correctly struck down accused-appellant's (plea) self-defense.** As correctly stated by the State in its Comment, this assertion negates accused-appellant's defense.

That said, **the presence of the elements of self-defense need not be discussed as there is no self-defense to speak of in the first place.** Furthermore, a plea of self-defense cannot be justifiably appreciated in favor of the accused where it is not only corroborated by independent and competent evidence **but is also extremely doubtful by itself.**⁸ (Emphasis supplied).

Contrary to the accused-appellant's claim of self-defense, We find that the prosecution sufficiently established accused-appellant's culpability. The testimonies of Losano and Dr. Tan, as well as the victim's dying declaration, undoubtedly support the version set forth by the prosecution that the accused-appellant went behind and collared Joven and then suddenly proceeded to stab him with a knife.

It bears to note that the wounds on the victim's body, particularly on the abdomen area, match the prosecution's narration of events. Moreover,

⁸ *Rollo*, pp. 10-11.



Joven's statement prior to his death, naming accused-appellant as the assailant who stabbed him, proves accused-appellant's guilt of the crime charged.

While witnesses in general can only testify to facts derived from their own perception, a report in open court of a dying person's declaration is recognized as an exception to the rule against hearsay if it is "made under the consciousness of an impending death that is the subject of inquiry in the case." It is considered as "evidence of the highest order and is entitled to utmost credence since no person aware of his impending death would make a careless and false accusation."⁹

The Rules of Court states that a dying declaration is admissible as evidence if the following circumstances are present: "(a) it concerns the cause and the surrounding circumstances of the declarant's death; (b) it is made when death appears to be imminent and the declarant is under a consciousness of impending death; (c) the declarant would have been competent to testify had he or she survived; and (d) the dying declaration is offered in a case in which the subject of inquiry involves the declarant's death."¹⁰

Heles related to the trial court Joven's *ante mortem* statement, as follows:

Q: You said you were going to bring "kapid" or Joven Celeste to the BMC, and then what happened while bringing him to the BMC, if any?

A: While we were inside the ambulance while we were traveling. I was asking him who stabbed him and when we were already in Magarao, he was speaking in a low voice, so I leaned towards him and he said it was Godo Macaraig who stabbed him and he was already very weak.

Q: What did you observe from Mr. Joven Celeste when he told you that it is Godo Macaraig?

A: From what I observed, that was his last word.

Q: And then what happened next if any?

A: When we reached BMC, he was already dead.¹¹

All the above requisites are present in this case. When Joven told Heles who stabbed him, he was then being brought to the Bicol Medical Center. Further, the fatal quality and extent of the injuries Joven suffered underscored the imminence of his death, as his condition was so serious that he was pronounced dead upon arrival in the hospital. There is no showing

⁹ *People v. Jay Mandy Maglian y Reyes*, G.R. No. 189834, March 30, 2011.

¹⁰ *Id.*

¹¹ See RTC Decision citing TSN, May 2, 2012, p. 6, *CA rollo*, p. 85.

that Joven would have been disqualified to testify had he survived. Lastly, his declaration was offered in a murder case where he is the victim.

Having established accused-appellant's act of killing Joven, We shall now determine the propriety of his conviction for the crime of murder.

From the evidence and as found by the trial court and affirmed by the appellate court, the facts sufficiently prove that treachery was employed by accused-appellant when he stabbed Joven.

It was candidly narrated by witness Losano that accused-appellant followed Joven from behind, suddenly approached him, put his left arm over Joven's shoulder and proceeded to stab him using his right hand. Such circumstances showed that accused-appellant employed a method which tended directly and specifically to insure the execution of his dastardly act without any risk to himself arising from whatever defense which the victim might make. Verily, the attack on Joven was so swift and unexpected, affording the hapless, unarmed and unsuspecting victim no opportunity to resist or defend himself. As testified to by Losano:

Q: . Alright after you saw Joven heading home, what happened next after that if any?

A: There was a person behind him who was following him.

Q: . Alright you said that there was a person following him. What happened next after that if any?

A: He was stabbed ma'am in front.

Q: He was stabbed by whom?

A: Godo ma'am.

Q: . What is the complete name of Godo?

A: Godofredo Macaraig.

Q: How did Godo stabbed (sic) Joven Celeste?

A: **He was behind him and then when he got near, he put his left arm on Joven's shoulders and then he stab (sic) Joven using his right arm.**¹² (Emphasis supplied)

In sum, the prosecution was able to establish the accused-appellant's guilt of the crime charged beyond reasonable doubt.

As to the imposable penalties, the Court affirms the penalty of *reclusion perpetua* imposed upon the accused-appellant. Under Article 248 of the Revised Penal Code, as amended, the crime of murder qualified by treachery is penalized with *reclusion perpetua* to death. The lower courts were correct in imposing the penalty of *reclusion perpetua* in the absence of any aggravating and mitigating circumstances that attended the commission

¹² See *Rollo*, p. 9.

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of the crime.¹³ We affirm the award of civil indemnity and actual damages, but the award of the other damages should be modified, in accordance with the prevailing jurisprudence.¹⁴ As such, we increase the award of moral damages from PhP50,000 to PhP75,000, and exemplary damages from PhP30,000 to PhP75,000. The damages awarded shall earn interest at the legal rate of six percent (6%) per annum from the date of finality of this judgment until fully paid.

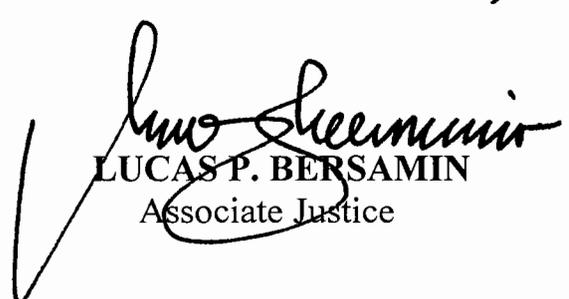
WHEREFORE, the appeal is **DISMISSED**. The Decision dated November 20, 2014 of the Court of Appeals in CA-G.R. CR-H.C. No. 06484 finding accused-appellant GODOFREDO MACARAIG y GONZALES **GUILTY** beyond reasonable doubt of the crime of Murder, defined and penalized under Article 248 of the Revised Penal Code, as amended, is hereby **AFFIRMED with MODIFICATION**, sentencing accused-appellant to suffer the penalty of *reclusion perpetua*, without eligibility for parole, and ordering him to pay the heirs of Joven Celeste the following amounts: (a) PhP75,000 as civil indemnity; (b) PhP75,000 as moral damages; (c) PhP16,750 as actual damages; and (d) PhP75,000 as exemplary damages. All damages awarded in this case shall earn interest at the legal rate of six percent (6%) per *annum* from the date of the finality of this Decision until fully paid.

SO ORDERED.


NOEL GIMENEZ TIJAM
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson


LUCAS P. BERSAMIN
Associate Justice


BIENVENIDO L. REYES
Associate Justice

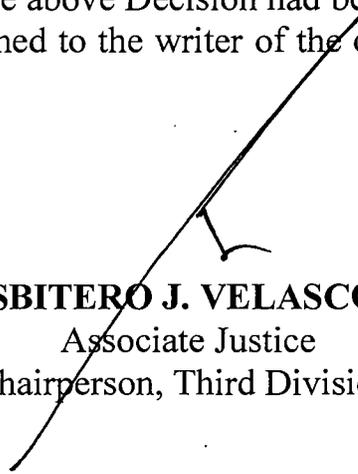
¹³ *People v. Samson Berk y Bayogan*, G.R. No. 204896, December 7, 2016.

¹⁴ *People v. Ireneo Jugueta*, G.R. No. 202124, April 5, 2016.

(On Leave)
SAMUEL R. MARTIRES
Associate Justice

ATTESTATION

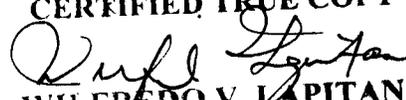
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


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

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. LAPITAN
Division Clerk of Court
Third Division

JUL 31 2017