Republic of the Philippines
Supreme Court
Baguio City

FIRST DIVISION

SERGIO SOMBOL,
                    Petitioner,

                    - versus -

PEOPLE OF THE PHILIPPINES
                    Respondents.

G. R. No. 194564

Present:

SERENO, *CJ*, Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, *JJ*.

Promulgated:

APR 1 0 2013

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DECISION

SERENO, *CJ*:

Before this Court is a Rule 45 Petition for Review[1] assailing the Decision[2] and Resolution[3] of the Court of Appeals, Cebu City (CA) in CA-G.R. CR No. 00530.

The Facts

In an Information dated 7 November 2000, accused Sergio Sombol (Sombol) was charged with the crime of homicide, as follows:

That on or about the 2nd day of August, 2000 at around 5:30 o'clock in the afternoon, more or less, at Barangay Catmon, Municipality of St. Bernard, Province of Southern Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, did then and there willfully, unlawfully and feloniously, attack,

[1] *Rollo*, pp. 5-25; Petition dated 24 November 2010.
[2] Id. at 27-35; CA Decision dated 25 July 2008, penned by Associate Justice Franchito N. Diamante and concurred in by Associate Justices Priscilla Baltazar-Padilla and Edgardo L. delos Santos.
[3] Id. at 41-44; CA Resolution dated 20 October 2010, penned by Associate Justice Edgardo L. delos Santos and concurred in by Associate Justices Pampio A. Abarintos and Agnes Reyes-Carpio.

assault and stab one Rogelio Arcibal, with the use of a sharp-pointed bolo known as "sundang" which the accused had provided himself for such purpose, thereby inflicting upon the latter the following injuries:

> Findings: Stab wound 3 cm. (R) upper quadrant with omental Herniation, penetrating peritoneal cavity, perforating the ileum # 7, incising the mesentery with massive bleeding.

which cause[d] the death of the said victim, to the damage and prejudice of his heirs and of social order.

CONTRARY TO LAW.[4]

The evidence for the prosecution showed that on 2 August 2000, about 5:30 in the afternoon, Primo Bungcaras was at a waiting shed with Richard Alcala, Manuel Bacus and Wendel Tanquezon.[5] A few minutes later, they were joined by the victim, Rogelio Arcibal (Arcibal); and soon, by the accused, Sombol.[6]

Sombol tapped the right shoulder of Arcibal and said, "*Unsa Gee ika-17?*" (What Gee the seventeenth?).[7] The former then pulled out a sharp pointed weapon and stabbed Arcibal in the stomach. The victim staggered, leaned, and sat on a chair at the waiting shed. Sombol was about to attack Arcibal again, but was prevented by the timely intervention of Wendel Tanquezon.[8]

After the incident, Arcibal was brought to the hospital, but he succumbed to his wounds and died soon afterwards.[9]

On the other hand, the defense presented as witnesses Fortunato Polo (Polo) and the accused himself.

Polo testified that on 2 August 2000, Primo Bungcaras, Richard Alcala, Wendel Tanquezon and Tanquezon's brother were drinking at a waiting shed.[10] Arcibal then arrived, followed shortly by Sombol.

Sombol tapped Arcibal on the shoulder and said "*Unsa to ika-17?*" (What was that the seventeenth?) After confirming in a low voice what Sombol said, Arcibal stood up, picked up a soldering iron, and walked towards the former. According to Polo's testimony, Arcibal did not do

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[4] Id. at 45-46; RTC Decision dated 24 August 2006.
[5] Id. at 46.
[6] Id.
[7] Id. at 47.
[8] Id.
[9] Id.
[10] Id. at 48.

anything with the soldering iron, but Sombol pulled out a knife and stabbed the victim.[11]

Sombol testified to the same facts, but he further alleged that he had been attacked by Arcibal with a soldering iron, and that the former stabbed the victim in self-defense.[12]

After trial, the Regional Trial Court (RTC) of San Juan, Southern Leyte, found Sombol guilty beyond reasonable doubt of the crime of homicide. The lower court ruled that he had not acted in self-defense. Relying on the testimony of defense witness Polo, the RTC found that "Sergio Sombol pulled out a knife from his waist and stabbed Rogelio Arcibal on the stomach despite the fact that the later did nothing with the soldering iron."[13] As unlawful aggression had not been proven, the trial court refused to give credence to Sombol's plea of self-defense. It then disposed of the case as follows:

> Hence, the Court finds accused Sergio Sombol guilty beyond reasonable doubt as principal of the crime of Homicide, defined and penalized by Article 249 of the Revised Penal Code, and, applying the Indeterminate Sentence Law, sentences him to suffer the penalty of imprisonment from Eight (8) Years and One (1) Day of Prision Mayor, as minimum, to Fourteen (14) Years and Eight (8) Months of Reclusion Temporal, as maximum, with all the accessory penalties attached by law.
>
> Accused Sergio Sombol is hereby directed to indemnify the heirs/family of Rogelio Arcibal in the amount of Php 50,000.00 by way of civil indemnity and Php 50,632.24 as actual damages, and to pay the costs.
>
> **SO ORDERED.**[14]

On appeal, the CA reviewed the records and found no unlawful aggression on the victim's part. As unlawful aggression is a *sine qua non* requirement for appreciating the plea of self-defense, the CA ruled that "absent unlawful aggression, there is no self-defense to speak of."[15] Thus, it affirmed the trial court's finding of guilt, but reduced the amount of actual damages from ₱50,632.24 to ₱40,870.74, as it was the latter amount that was substantiated by the prosecution.[16] The *fallo* of the CA's decision reads:

> **WHEREFORE**, premises considered, the assailed Decision rendered by the Regional Trial Court – Branch 26 in Southern Leyte is hereby **AFFIRMED WITH MODIFICATION by reducing the award**

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[11] Id.
[12] Id. at 49.
[13] Id. at 50.
[14] Id. at 52.
[15] Id. at 32.
[16] Id. at 33-34.

of actual damages from ₱50,632.34 to ₱40,870.74. The other aspects of the *fallo* of the assailed decision stand.

SO ORDERED.[17]

The accused moved for a reconsideration,[18] but his motion was denied by the CA.[19] He then filed the instant Petition for Review[20] before this Court.

THE ISSUES

Sombol raises two issues in support of the instant petition:

1. The RTC violated the constitutional requirement that a decision should state clearly and distinctly the facts and the law on which it is based;

2. The RTC erred in failing to appreciate the justifying circumstance of self-defense in his favor.

THE COURT'S RULING

We deny the instant petition and affirm the trial court's finding of guilt.

I.
The RTC Decision adequately stated the facts and law on which it was based.

The accused argues that the RTC decision violated Section 14, Article VIII of the Constitution;[21] and Section 2, Rule 120 of the Rules of Court.[22]

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[17] Id. at 34.
[18] Id. at 36-39; Motion for Reconsideration dated 22 August 2008.
[19] Id. at 41-44; Resolution dated 20 October 2010.
[20] Id. at 5-25; Petition dated 24 November 2010.
[21] Sec 14. No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based. x x x.
[22] Sec. 2. *Contents of the judgment.* – If the judgment is of conviction, it shall state (1) the legal qualification of the offense constituted by the acts committed by the accused and the aggravating or mitigating circumstances which attended its commission; (2) the participation of the accused in the offense, whether as principal, accomplice, or accessory; (3) the penalty imposed upon the accused; and (4) the civil liability or damages caused by his wrongful act or omission to be recovered from the accused by the offended party, if there is any, unless the enforcement of the civil liability by a separate civil action has been reserved or waived.
In case the judgment is of acquittal, it shall state whether the evidence of the prosecution absolutely failed to prove the guilt of the accused or merely failed to prove his guilt beyond reasonable doubt. In either case, the judgment shall determine if the act or omission from which the civil liability might arise did not exist.

We disagree.

A reading of the RTC decision clearly shows that the trial court clearly and distinctly stated the facts and the law on which it was based. It summarized the contents of the testimonies of the witnesses for both the prosecution and the defense;[23] concluded that the positive testimonies of the prosecution witnesses were to be believed over Sombol's statement, which contradicted that of his own defense witness;[24] and ruled that, in the absence of the element of unlawful aggression, the justifying circumstance of self-defense may not be appreciated in the accused's favor.[25]

Hence, there is no merit in the accused's argument that the trial court's decision failed to comply with the formal requirements of the Constitution and the Rules of Court.

II.
The RTC correctly disregarded the
accused's plea of self-defense.

The accused further argues that he should be acquitted from the charge of homicide, as he only acted in lawful self-defense.

The elements of self-defense are set forth in Article 11, par. 1 of the Revised Penal Code:

> Art. 11. *Justifying circumstances.* – The following do not incur any criminal liability:
>
> 1. Anyone who acts in defense of his person or rights, provided that the following circumstances concur:
>   *First.* Unlawful aggression;
>   *Second.* Reasonable necessity of the means employed to prevent or repel it;
>   *Third.* Lack of sufficient provocation on the part of the person defending himself.

For the first element of unlawful aggression to be present, jurisprudence dictates that there must be "an actual physical assault, or at least a threat to inflict real imminent injury, upon a person … It presupposes actual, sudden, unexpected or imminent danger — not merely threatening and intimidating action. It is present only when the one attacked faces real and immediate threat to one's life."[26]

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[23] *Rollo*, pp. 46-49; RTC Decision dated 24 August 2006.
[24] Id. at 50-51.
[25] Id. at 51.
[26] *People v. Gabrino*, G.R. No. 189981, 9 March 2011, 645 SCRA 187-201.

Applying this test to the instant case, we find that Sombol failed to prove the attendance of unlawful aggression.

While he testified to the effect that Arcibal attacked him with a soldering iron,[27] this self-serving testimony was belied by the testimonies of two prosecution witnesses who never mentioned any attack;[28] and by the testimony of Polo, his own defense witness, who categorically stated that Arcibal did nothing with the soldering iron.[29]

As Sombol failed to prove the existence of unlawful aggression, his plea of self-defense necessarily fails. Unlawful aggression is a *conditio sine qua non* for self-defense to be appreciated.[30] Without unlawful aggression, the accused has nothing to prevent or repel, and there is then no basis for appreciating the other two requisites.[31]

As Sombol has admitted to having inflicted the fatal injury upon the victim[32] and has failed to prove the justifying circumstance of self-defense, we rule that the RTC correctly found him guilty of the crime of homicide, and that the CA committed no reversible error in affirming the trial court's decision.

WHEREFORE, premises considered, the instant appeal is hereby **DENIED**. The challenged Decision and Resolution of the Court of Appeals, Cebu City in CA-G.R. CR No. 00530 dated 25 July 2008 and 20 October 2010, respectively, are hereby **AFFIRMED**.

SO ORDERED.

MARIA LOURDES P. A. SERENO
Chief Justice

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[27] *Rollo*, p. 49; RTC Decision dated 24 August 2006.
[28] Id. at 46-47.
[29] Id. at 48.
[30] *People v. Agacer*, G.R. No. 177751, 14 December 2011, 662 SCRA 461.
[31] *Colinares v. People*, G.R. No. 182748, 13 December 2011, 662 SCRA 266.
[32] *Rollo*, p. 49; RTC Decision dated 24 August 2006.

WE CONCUR:

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

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