



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

**ALBERTO ALMOJUELA y
VILLANUEVA,**
Petitioner,

G.R. No. 183202

Present:

CARPIO, J.,
Chairperson,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, JJ.

- versus -

Promulgated:

PEOPLE OF THE PHILIPPINES,
Respondent.

JUN 02 2014 *H.M. Cabalag Perfecto*

X-----X

DECISION

BRION, J.:

Before this Court is a petition for review on *certiorari*¹ under Rule 45, seeking the reversal of the Court of Appeals' (CA) decision² dated March 17, 2008 and resolution³ dated June 2, 2008 in CA-G.R. CR. No. 29268. These assailed rulings affirmed with modification the decision⁴ of the Regional Trial Court (RTC) of Manila, dated January 27, 2005 in Criminal Case No. 93-129891, finding petitioner Alberto Almojuela y Villanueva (*Almojuela*) guilty beyond reasonable doubt of the crime of homicide.

¹ *Rollo*, pp. 10-29.
² *Id.* at 68-84.
³ *Id.* at 90.
⁴ *Id.* at 50-57.

Ph

Factual Antecedents

This case stemmed from two informations for attempted homicide and homicide filed with the RTC of Manila, Branch 39, against accused Almojuela.⁵ The trial court dismissed the charge for attempted homicide for insufficiency of evidence.⁶ The information for homicide is quoted below:

That on or about November 21, 1993, in the City of Manila, Philippines, the said accused conspiring and confederating with one whose true name, identity and present whereabouts are (*sic*) still unknown and mutually helping each other, did then and there willfully, unlawfully, and feloniously with intent to kill, attack, assault and use personal violence upon one Ricardo Quejong y Bello by then and there stabbing him with a bladed weapon twice, hitting him on the left side of his back, thereby inflicting upon the latter mortal wounds which were the direct and immediate cause of his death thereafter.

Contrary to law.⁷

During arraignment, Almojuela entered a plea of “not guilty”. Pre-trial conference was conducted then trial on the merits followed.⁸ Two different versions of the facts surrounding the victim Ricardo Quejong’s (*Quejong*) death surfaced.

The Prosecution’s Version

Sanito Masula (*Masula*) narrated the prosecution’s account of the events which transpired on November 21, 1993, the crime’s date.⁹

At around 8:00 in the evening, Masula, Quejong, Jose Buenhijo Paz (*Paz*), along with some others, were on their way home from a party when they encountered Almojuela, who was having a drinking spree with his friends in front of his house.

Almojuela called on Paz and shouted, “*Matagal ka nang namumuro sa akin,*” to which, Paz replied, “*Ganoon ba? What do you want?*” Immediately, a fight ensued between the two. In the course of the fight, Almojuela stabbed Paz in his right arm, causing the latter to retreat. It was

⁵ Id. at 69.

⁶ Id. at 12.

⁷ Id. at 51.

⁸ Id. at 70.

⁹ Ibid.

at this point that Quejong joined in the fight and grappled with Almojuela to the ground. A certain Dale Abarquez (*Kagawad Abarquez*) at that point, came to pacify the parties. But the two men did not heed the kagawad's order and continued wrestling with each other. This prompted Kagawad Abarquez to hit Quejong twice in his back and to fire two warning shots in the air. On hearing the gunshots, Quejong and his group immediately ran away.¹⁰

Masula testified that he did not actually see Almojuela stab Quejong when they were grappling on the ground. However, he also said that he noticed blood on Quejong's back.¹¹ On Quejong's way home, their friends saw that he had stab wounds in his back. They immediately rushed him to the University of Santo Tomas Hospital where he died approximately two to three hours from admission.¹²

The Defense's Version

The evidence for the defense showed that on November 21, 1993, Almojuela was cooking *pulutan* for his drinking buddies Felicisimo Venezuela and Winfred Evangelista, when his daughter told him that smoke was entering their house. He checked the report and saw the group of Paz, Quejong, Masula, and others, smoking marijuana. Almojuela confronted the group, to which Paz responded by cursing him. Despite this response, Almojuela simply went inside his house and continued with his cooking.¹³

When Paz's group was already high on drugs, they called on Almojuela and challenged him to a fistfight, which he accepted. The fight only ended when Almojuela's neighbors came to pacify them. But as Almojuela was about to enter his house, Quejong pulled him, leading to another fight. They were grappling on the ground when Kagawad Abarquez arrived to intervene to stop the fight. No one heeded the kagawad; hence, he fired two warning shots in the air. The shots forced Quejong and his group to scamper away.¹⁴

At around 10:30 in the evening of the same day, policemen came to Almojuela's house. They did not find him because he hid at the *kamoteng kahoy* thicket near his house. He did not know though that Quejong sustained any serious injury since they only engaged in a fistfight; no

¹⁰ TSN, March 17, 1994, pp. 4-7.

¹¹ Id. at 7.

¹² Id. at 8-10.

¹³ TSN, August 12, 2000, pp. 4-5.

¹⁴ Id. at 6-8.

bladed weapon was used. He voluntarily surrendered himself, however, when he learned from Kagawad Abarquez that Quejong had died from stab wounds. He surrendered to SPO1 Danilo Vidad through the assistance of a certain SPO4 Soriano, the following day.¹⁵

The RTC's Ruling

In its decision dated January 27, 2005, the RTC found Almojuela guilty beyond reasonable doubt of homicide, and sentenced him to suffer the indeterminate penalty of six (6) years and one (1) day as minimum, to fourteen (14) years, eight (8) months and one (1) day as maximum. It also ordered him to pay the following indemnities to the heirs of Quejong: ₱50,000.00 as civil indemnity; ₱50,000.00 as moral damages; ₱832,000.00 for loss of earning capacity; ₱35,000.00 for funeral expenses; and ₱10,000.00 for litigation expenses.

The RTC gave great weight to Masula's testimony. Although Masula did not actually see Almojuela use a knife on Quejong, strong evidence still existed to support his conviction.

Only three persons were actually involved in the fight – Almojuela, Quejong and Paz. Since only Almojuela was armed with a knife and in fact he wounded Paz in his right arm, it was reasonable to conclude that he also stabbed Quejong.¹⁶ The RTC noted that Paz could not have stabbed Quejong as he himself was wounded.

The RTC did not give credence to the testimony of Winfred Evangelista that Almojuela never held a bladed weapon during the fight. This statement was inconsistent with his earlier claim that Almojuela tried to take a knife away from Quejong's hand. The RTC concluded that Evangelista lied in open court.¹⁷

The CA's Ruling

The CA affirmed Almojuela's conviction but reduced the RTC's imposed penalty to six (6) years and eight (8) months of *prision mayor* as minimum, to twelve (12) years and one (1) day of *reclusion temporal* as maximum.¹⁸

¹⁵ Id. at 8-11.

¹⁶ *Rollo*, p. 53.

¹⁷ Id. at 54.

¹⁸ Id. at 83-84.

The CA appreciated the mitigating circumstance of voluntary surrender; and noted that, although Almojuela hid when policemen first visited him in his home, he still voluntarily surrendered to the authorities the day after the incident.¹⁹

The CA also gave evidentiary weight to the attendant circumstantial evidence. It noted that the pieces of circumstantial evidence, taken together, form an unbroken chain leading to the reasonable conclusion that Almojuela committed the crime charged. The CA reasoned out:

As established by the testimonies, it is apparent that only Jose Buenhijo Paz, victim Ricardo Quejong and accused ALMOJUELA were involved in the brawl and of the three of them it was accused ALMOJUELA who was likely to have stabbed the victim. He was the one who had the motive since he held a grudge against Jose Buenhijo Paz and he was the one who confronted the group of the victim. It was accused ALMOJUELA and the victim Ricardo Quejong who wrestled with each other, thus only accused ALMOJUELA could have inflicted the fatal injury to the (*sic*) Ricardo Quejong. It was also highly unlikely that Jose Buenhijo Paz had inflicted the injury since he himself was injured by the knife that stabbed the victim Ricardo Quejong. It was in fact Jose Buenhijo Paz who was being aided by the victim Ricardo Quejong against the assault of accused ALMOJUELA.²⁰

The Petition

In his Rule 45 petition before us, Almojuela imputes error on the CA for finding that the prosecution's evidence was sufficient to prove his guilt beyond reasonable doubt.

He maintains that the circumstantial evidence is not strong enough to identify him as the crime's perpetrator. Even assuming that he did stab Quejong, he submits that the CA failed to appreciate the mitigating circumstance of incomplete self-defense. Paz and Quejong ganged up on him, forcing him to repel their unlawful aggression with a bladed weapon.²¹

On the other hand, respondent People of the Philippines, through the Office of the Solicitor General (*OSG*), argues that only questions of law may be reviewed in a Rule 45 petition, and that the findings of fact by the

¹⁹ Id. at 83.

²⁰ Id. at 80.

²¹ Id. at 19-25.

trial court, if affirmed by the CA, are generally conclusive and binding on the Supreme Court.

The OSG also maintains that the circumstantial evidence is sufficient to support Almojuela's conviction. Also, the mitigating circumstance of incomplete self-defense should not be appreciated since it was Almojuela who started the unlawful aggression.²²

The Court's Ruling

We **DENY** the petition.

Circumstantial evidence as basis for conviction

We find it clear, based on the records and the evidence adduced by both parties, that **no direct evidence** points to Almojuela as the one who stabbed Quejong in the night of November 21, 1993.

Lest this statement be misunderstood, a finding of guilt is still possible despite the absence of direct evidence. Conviction based on circumstantial evidence may result if sufficient circumstances, proven and taken together, create an unbroken chain leading to the reasonable conclusion that the accused, to the exclusion of all others, was the author of the crime.²³

Circumstantial evidence may be characterized as that evidence that proves a fact or series of facts from which the facts in issue may be established by inference.²⁴ Under the Revised Rules on Evidence, a conviction based on circumstantial evidence may be sustained if the following requisites are all present:

- a. There is more than one circumstance;
- b. The facts from which the inferences are derived are proven; and

²² Id. at 103-109.

²³ *People v. Vda. de Quijano*, G.R. No. 102045, March 17, 1993, 220 SCRA 66, 73.

²⁴ Id. at 72.

- c. The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.²⁵

In *People v. Galvez*,²⁶ we laid down the basic guidelines that judges must observe when faced with merely circumstantial evidence in deciding criminal cases. The probative value of such circumstantial evidence must be distilled using the following:

- a. Circumstantial evidence should be acted upon with caution;
- b. All the essential facts must be consistent with the hypothesis of guilt;
- c. The facts must exclude every other theory but that of the guilt of the accused; and
- d. The facts must establish with certainty the guilt of the accused so as to convince beyond reasonable doubt that the accused was the perpetrator of the offense. The peculiarity of circumstantial evidence is that the series of events pointing to the commission of a felony is appreciated not singly but collectively. The guilt of the accused cannot be deduced from scrutinizing just one (1) particular piece of evidence. They are like puzzle pieces which when put together reveal a convincing picture pointing to the conclusion that the accused is the author of the crime.²⁷

In the present case, the RTC and the CA relied on the following circumstances in concluding that Almojuela was the perpetrator of the crime:

1. Almojuela orally provoked Paz when the latter and his group passed by Almojuela's house;
2. A fight ensued between them and Almojuela wounded Paz's right arm with a knife;
3. The wounded Paz retreated and Quejong next fought with Almojuela;
4. During Quejong and Almojuela's fight, they grappled and wrestled with each other on the ground;

²⁵ RULES OF COURT, Rule 133, Section 4.

²⁶ G.R. No. 157221, 548 Phil. 436 (2007).

²⁷ Id. at 460-461, citing *People v. Monje*, G.R. No. 146689, 438 Phil. 716 (2002).

5. Quejong and Almojuela were only pacified when Kagawad Abarquez came and fired two gunshots in the air;
6. Masula did not see Almojuela stab Quejong but he saw blood in Quejong's back during the fight;
7. Quejong's group scampered away after the gunshots. On Quejong's way home, one of his friends noticed that he had stab wounds in his back;
8. Quejong was immediately rushed to the hospital where he expired a few hours after; and
9. Almojuela hid when policemen came to his home to investigate.

The nine circumstances, **individually**, are not sufficient to support Almojuela's conviction. But **taken together**, they constitute an unbroken chain leading to the reasonable conclusion that Almojuela is guilty of the crime of homicide.

First, Almojuela was the one who **provoked Paz and his group to a fight**. His unlawful aggression was the starting cause of the events which led to Quejong's death.

Second, Masula categorically testified that **only Almojuela was armed with a knife** during the fight. In fact, he hit Paz in his right arm, forcing the latter to retreat.

Third, **only three persons actually were involved in the fight**: Almojuela, Paz and Quejong. Paz was wounded, forcing him to retreat. This fact renders it improbable that Paz was the one who stabbed Quejong. Thus, Almojuela alone was the perpetrator.

Fourth, although Masula admitted that he did not actually see Almojuela stab Quejong, he testified that **he saw blood on Quejong's back during his fight with Almojuela**.

Fifth, after Quejong and his group scurried away from the scene, his friend noticed that he had stab wounds in his back. **Almojuela did not present any evidence that Quejong figured in any other fight with**

another person after the fight with Almojuela. In fact, Quejong was immediately rushed to the hospital.

Sixth, Almojuela hid in the *kamoteng kahoy* thicket near his house when policemen visited him for investigation. We have repeatedly held that **flight is an indication of guilt**. The flight of an accused, in the absence of a credible explanation, is a circumstance from which guilt may be inferred. An innocent person will normally grasp the first available opportunity to defend himself and assert his innocence.²⁸

These proven circumstances lead to the reasonable conclusion that Almojuela stabbed Quejong during their fight, causing the latter's subsequent death.

***The mitigating circumstances of
incomplete self-defense and
voluntary surrender***

Almojuela argues that even if he did stab Quejong, the mitigating circumstance of incomplete self-defense should be appreciated in his favor. An incomplete self-defense is appreciated when:

- a. there is unlawful aggression on the part of the victim;
- b. the means employed to prevent or repel the unlawful aggression is not reasonably necessary; and
- c. there is lack of provocation on the part of the person defending himself.

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.**²⁹ This mitigating circumstance is inapplicable in the present case because the unlawful aggression did not start from the victim Quejong but from Almojuela. The prosecution proved that it was Almojuela who first challenged Paz and his group to a fight. Almojuela came prepared to fight and was in fact armed with a bladed weapon.

²⁸ *People v. Diaz*, G.R. No. 133737, 443 Phil. 67, 89 (2003), citing *People v. Del Mundo*, G.R. No. 138929, 418 Phil. 740 (2001).

²⁹ *People v. Dolorido*, G.R. No. 191721, January 12, 2011, 639 SCRA 496, 503.

Moreover, the third element is also absent since there is no lack of sufficient provocation on Almojuela's part as shown by his confrontational stance right from the start.

We affirm, however, the CA's ruling that the mitigating circumstance of voluntary surrender should be appreciated in favor of Almojuela. For voluntary surrender to apply, the following requisites must concur:

- a. the offender had not been actually arrested;
- b. the offender surrendered himself to a person in authority or the latter's agent; and
- c. the surrender was voluntary.

The essence of voluntary surrender is spontaneity and the intent of the accused to submit himself to the authorities either because he acknowledged his guilt or he wished to save the authorities the trouble and expense that may be incurred for his search and capture.³⁰

Although Almojuela hid when policemen first visited him in his home, it was also duly proven that soon after he learned of Quejong's death, Almojuela voluntarily gave himself up to a certain SPO4 Soriano who then turned him over to SPO1 Danilo Vidad of the Western Police District.³¹ Under these facts, all the elements of the mitigating circumstance of voluntary surrender are present in this case.

The awarded indemnities

We note that the RTC awarded ₱35,000.00 as funeral expenses to the heirs of Quejong; this amount was affirmed by the CA. However, since no documentary evidence was presented to support this claim, it cannot be awarded. Nonetheless, an award of ₱25,000.00 as temperate damages in homicide or murder cases is proper when no evidence of the said expenses is presented during trial. Under Article 2224 of the Civil Code, temperate damages may be recovered since it cannot be denied that the heirs of the victim suffered pecuniary loss, though the exact amount was not proven.³²

³⁰ *De Vera v. De Vera*, G.R. No. 172832, April 7, 2009, 584 SCRA 506, 515.

³¹ *Rollo*, pp. 82-83.

³² *Licyayo v. People*, G.R. No. 169425, 571 Phil. 310, 329 (2008).

We also delete the award of litigation expenses for lack of actual proof. We additionally impose a 6% interest on all the monetary awards for damages to be reckoned from the date of finality of this decision until fully paid.

As a final note, the general rule is that factual findings of the trial court, especially when affirmed by the CA, deserve great weight and respect.³³ These factual findings should not be disturbed on appeal, unless these are facts of weight and substance that were overlooked or misinterpreted and that would materially affect the disposition of the case.³⁴

We have carefully scrutinized the records and we find no reason to deviate from the RTC and CA's findings. We see no indication that the trial court, whose findings the CA affirmed - overlooked, misunderstood or misapplied the surrounding facts and circumstances of the case. Thus, we defer to the trial court on the findings of facts as it was in the best position to assess and determine the credibility of the witnesses presented by both parties.³⁵

WHEREFORE, premises considered, we hereby **DENY** the petition and **AFFIRM** the March 17, 2008 decision and June 2, 2008 resolution of the Court of Appeals in CA-G.R. CR. No. 29268 with the following **MODIFICATIONS**: (a) the awarded funeral and litigation expenses are deleted; (b) the petitioner is ordered to pay the victim's heirs ₱25,000.00 as temperate damages in lieu of actual damages; and (c) he is further ordered to pay the victim's heirs interest on all damages awarded at the legal rate of six percent (6%) *per annum* from the date of finality of this judgment until fully paid.³⁶

SO ORDERED.


ARTURO D. BRION
Associate Justice

³³ *People v. Estrada*, G.R. No. 178318, January 15, 2010, 610 SCRA 222, 231.

³⁴ *Bautista v. Castillo Mercado*, G.R. No. 174405, 585 Phil. 389, 398 (2008).

³⁵ *People v. Estrada*, *supra* note 33.

³⁶ Bangko Sentral ng Pilipinas Monetary Board Circular No. 799, series of 2013, effective July 1, 2013; *Dario Nacar v. Gallery Frames and/or Felipe Bordey, Jr.*, G.R. No. 189871, August 13, 2013, 703 SCRA 439.

WE CONCUR:



ANTONIO T. CARPIO

Associate Justice

Chairperson



MARIANO C. DEL CASTILLO

Associate Justice



JOSE PORTUGAL PEREZ

Associate Justice



ESTELA M. PERLAS-BERNABE
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.



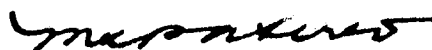
ANTONIO T. CARPIO

Associate Justice

Chairperson, Second 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