



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 222561

Present:

CARPIO,\* J., Chairperson,  
PERALTA,  
PERLAS-BERNABE,  
CAGUIOA, and  
REYES, JR., JJ.

- versus -

JONATHAN TICA y EPANTO,  
Accused-Appellant.

Promulgated:

'30 AUG 2017

*[Handwritten signature]*

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DECISION

PERALTA, J.:

This is an appeal from the August 24, 2015 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-GR. CR-H.C. No. 01130-MIN, which affirmed with modifications the September 14, 2012 Decision<sup>2</sup> of the Regional Trial Court (RTC), Branch 17, Cagayan de Oro City.

*The Facts*

Accused-appellant Jonathan Tica y Epanto (*Tica*) was indicted for Murder defined and penalized under Article 248 of the Revised Penal Code (RPC). The accusatory portion of the Information dated July 29, 2008 alleged:

\* Acting Chief Justice per Special Order No. 2475 dated August 29, 2017.

<sup>1</sup> Penned by Associate Justice Oscar V. Badelles, with Associate Justices Romulo V. Borja and Pablito A. Perez, concurring; *rollo*, pp. 3-11; *CA rollo*, pp. 60-68.

<sup>2</sup> Penned by Presiding Judge Florencia D. Sealana-Abbu; records, pp. 254-261; *CA rollo*, pp. 31-38.

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That on July 27, 2008, at about 4:30 o'clock in the afternoon, at Zone 4, Sarat, Baybay, Agusan, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, armed with a knife, which he was then conveniently provided of, with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault and stab one Eduardo Intia y Dalagan, hitting the 4<sup>th</sup> intercostal space, left anterior axillary, thereby inflicting a fatal wound on the victim which was the direct and immediate cause of his death.<sup>3</sup>

In his arraignment, Tica pleaded "Not Guilty" to the offense charged in the Information.<sup>4</sup> He admitted killing Eduardo Intia (*Intia*), but put up the justifying circumstance of self-defense; hence, reverse trial ensued while he was under detention.

The prosecution presented Eliza Sabanal (*Sabanal*) and Emelita Bagajo (*Bagajo*), while Tica, Pablo Daig (*Daig*), and Edgardo Florig (*Florig*) testified for the defense.

Version of the Prosecution:

On July 27, 2008, around 4:30 p.m., Sabanal and Bagajo, together with Marina Opeso and Nora Panisan, were talking near the seashore. They saw Intia sitting while facing the seashore. Later, they noticed Tica passed by, holding a knife and proceeding towards Intia. When he went near him, the latter tried to stand up and run away, but he fell down to the sea face up. He was immediately stabbed about six times while Tica was on top of him. Many people approached and watched the incident. After that, Tica went home, while Intia was brought to the hospital, where he was declared dead on arrival. Subsequently, Tica was arrested by the *barangay tanods* and was brought to Puerto police station.

Version of the Defense:

Around 8:30 p.m. on July 26, 2008, Intia dropped by the house of Tica and looked at the shells that the latter got from the sea. Tica agreed to sell them to Intia's friend so that he could have money to buy food for his children. However, Intia did not return to give the proceeds of the seashells. When they met later, Tica confronted him. He got mad and boxed Intia. When Tica went back to his house, Intia followed him. With a hammer and a stone, Intia shouted Tica's name, told him to come down the house, and

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<sup>3</sup> Records, p. 3.

<sup>4</sup> *Id.* at 22.

challenged him to a fight. Tica went downstairs, but her mother pacified them. As a result, he went back inside while Intia left.

The day after, Tica was at the seashore washing his slippers when he saw Intia running towards him to attack. Upon seeing that Intia brought with him a long-necked bottle with broken edges, Tica tried to evade by swimming towards the sea. Intia chased him and was able to catch the back collar of his t-shirt. They submerged themselves in the seawater while grappling with each other. Intia pulled Tica's hair and pushed him down to drown him. On his part, Tica held Intia's feet until he reached the latter's left waistline and held his knife, which he used to stab him on his left breast. As a result, Intia released Tica, who, upon standing up, again stabbed him. Thereafter, Tica went home, changed his clothes, and went to the police station together with Florig, who is his godfather, a neighbor, and the Chief of barangay police. Florig went to the seashore after somebody told him that there was a commotion in the area. When he went to Tica's house, the latter approached and told him that he was going to surrender and requested to be accompanied at the Puerto police station.

On September 14, 2012, the RTC convicted Tica of the crime charged. The dispositive portion of the Decision states:

WHEREFORE, premises considered, the Court finds accused JONATHAN TICA Y EPANTO guilty of the crime of MURDER punished under Art. 248 of the Revised Penal Code and is hereby meted the penalty of Reclusion Perpetua and to indemnify the heirs of the victim in the amount of Fifty Thousand Pesos. No subsidiary imprisonment.

SO ORDERED.<sup>5</sup>

In concluding that the requisites of self-defense were not met to justify the killing of Intia, the RTC ratiocinated:

The Court finds the testimony of the accused to be incredible taking into account the circumstances attendant thereto. If indeed the victim had a knife tucked in his waistline, he could have made use of it instead of the broken bottle just to ensure the death of the accused if ever. He could have stabbed the accused instead of drowning him first.

The accused demonstrated in Court during his testimony on direct examination as to their relative height and position at the time he was allegedly pushed down by the victim in order to be drowned. He admitted to be taller by three (3) inches than the victim as he stands 5 ft. and 4 inches. x x x. The Court cannot imagined (sic) why it was the victim who was pushing him down to the bottom of the sea when the

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<sup>5</sup> *Id.* at 261; CA rollo, p. 38.

accused is taller than him. He even admitted that he is bigger in built and younger than the victim. x x x. There were also inconsistencies noted by the Court particularly on how he was able to get the knife allegedly from the waistline of the victim and the fact that he was not able to fight back when the victim was allegedly in the act of drowning him. x x x

Granting *arguendo* that the aggression emanated from the victim, yet there was no reasonable necessity to stab the victim several times. The Medical Certificate showed that the victim sustained a [stab wound] at the “4<sup>th</sup> intercostal space, left anterior Axillary”, which means that the injury was at the left side of the breast. The location of the fatal wound indicated that the victim was lying faced (sic) up. This will buttressed (sic) the testimony of the eyewitnesses that the accused was on top of the victim.

The prior incident of July 26, 2008 at 8:30 PM triggered the incident of July 27, 2008. Admitted by the accused was that he got angry when the victim failed to account to him the proceeds of the seashells that the accused needed much. He even admitted to have punched the victim out of anger. x x x. This circumstance led the accused to premeditate and clung (sic) to his desire to avenge.<sup>6</sup>

On the appeal, the CA ruled that Tica failed to discharge the burden of proving his plea of self-defense by credible, clear, and convincing evidence. It agreed with the RTC that his testimony is too incredible since it was not only uncorroborated by separate competent evidence but also extremely doubtful in itself. Moreover, the number and seriousness of the stab wounds of Intia indicated Tica's determined effort to kill him. Lastly, no evidence of improper motives on the part of Sabanal and Bagajo was found for them to falsely testify against the accused. While the judgment of conviction was sustained, the award of damages was modified. The *fallo* of the August 24, 2015 Decision reads:

**WHEREFORE**, the appeal is **DENIED**. The Decision dated September 14, 2012 of the Regional Trial Court (RTC) of Cagayan de Oro City, Branch 17 in Criminal Case No. 2008-472 convicting accused-appellant Jonathan Tica y Epanto of Murder is **AFFIRMED** with **MODIFICATIONS**. Accused-appellant is ordered to indemnify the heirs of the late Eduardo Intia the sum of PhP 75,000.00 as civil indemnity, PhP 50,000.00 as moral damages, PhP 30,000.00 as exemplary damages, and interest on all damages at the rate of six percent (6%) per annum from the finality of judgment until fully paid.

SO ORDERED.<sup>7</sup>



<sup>6</sup> *Id.* at 259-260; *id.* at 36-37. (Citations omitted)

<sup>7</sup> *Rollo*, p. 10; *CA rollo*, p. 67. (Emphasis on the original)

Now before Us, both the People and the accused-appellant manifested that they would dispense with the filing of a Supplemental Brief so as to avoid repetition of the issues and arguments already discussed in their respective briefs filed before the CA.<sup>8</sup>

The Court resolves to dismiss the appeal for failure to sufficiently show reversible error in the judgment of conviction to warrant the exercise of Our appellate jurisdiction.

Considering that self-defense is an affirmative allegation and totally exonerates the accused from any criminal liability, it is well settled that when it is invoked, the burden of evidence shifts to the accused to prove it by credible, clear and convincing evidence.<sup>9</sup> The accused claiming self-defense must rely on the strength of his own evidence and not on the weakness of the prosecution.<sup>10</sup> Self-defense cannot be justifiably appreciated when uncorroborated by independent and competent evidence or when it is extremely doubtful by itself.<sup>11</sup>

The essential elements of self-defense are the following: (1) unlawful aggression<sup>12</sup> on the part of the victim, (2) reasonable necessity of the means employed to prevent or repel such aggression, and (3) lack of sufficient provocation on the part of the person defending himself.<sup>13</sup> To invoke self-defense successfully, there must have been an unlawful and unprovoked attack that endangered the life of the accused, who was then forced to inflict severe wounds upon the assailant by employing reasonable means to resist the attack.<sup>14</sup>

While all three elements must concur, self-defense relies first and foremost on proof of unlawful aggression on the part of the victim. If no unlawful aggression is proved, no self-defense may be successfully pleaded.<sup>15</sup> Unlawful aggression is a *conditio sine qua non* for upholding the

<sup>8</sup> Rollo, pp. 19-21, 28-29.

<sup>9</sup> *People v. Bugarin*, G.R. No. 224900, March 15, 2017; *Dela Cruz v. People, et al.*, 747 Phil. 376, 385 (2014); *Belbis, Jr., et al. v. People*, 698 Phil. 706, 719 (2012); and *People v. Duavis*, 678 Phil. 166, 174 (2011).

<sup>10</sup> *People v. Bugarin, supra*; *Dela Cruz v. People, et al., supra*; *Belbis, Jr., et al. v. People, supra*; and *People v. Duavis, supra*, at 175.

<sup>11</sup> *People v. Bugarin, supra* note 9, and *Belbis, Jr., et al. v. People, supra* note 9.

<sup>12</sup> "Unlawful aggression x x x presupposes actual, sudden, unexpected or imminent danger – not merely threatening and intimidating action. There is aggression, only when the one attacked faces real and immediate threat to his life. The peril sought to be avoided must be imminent and actual, not merely speculative." (*Dela Cruz v. People, et al.*, 747 Phil. 376, 385 [2014]).

<sup>13</sup> *People v. Bugarin, supra* note 9; *Dela Cruz v. People, et al., supra* note 9, at 384; *Belbis, Jr., et al. v. People, supra* note 9, at 719-720, and *People v. Duavis, supra* note 9.

<sup>14</sup> *Dela Cruz v. People, et al., supra* note 9, at 384 and *Belbis, Jr., et al. v. People, supra* note 9, at 720.

<sup>15</sup> *People v. Bugarin, supra* note 9, and *People v. Duavis, supra* note 9.

justifying circumstance of self-defense; if there is nothing to prevent or repel, the other two requisites of self-defense will have no basis.<sup>16</sup>

What actually transpired in the present case is not an act of self-defense but an act of retaliation on the part of Tica. These two concepts are not the same. In retaliation, the aggression that was begun by the injured party already ceased when the accused attacked him, while in self-defense the aggression still existed when the aggressor was injured by the accused.<sup>17</sup> “When an unlawful aggression that has begun no longer exists, the one who resorts to self-defense has no right to kill or even wound the former aggressor. To be sure, when the present victim no longer persisted in his purpose or action to the extent that the object of his attack was no longer in peril, there was no more unlawful aggression that would warrant legal self-defense on the part of the offender.”<sup>18</sup> Undoubtedly, Tica went beyond the call of self-preservation when he proceeded to inflict excessive, atrocious and fatal injuries to Intia, even when the allegedly unlawful aggression had already ceased the night before.

Even assuming that the unlawful aggression emanated from Intia, the means employed by Tica was not reasonably commensurate to the nature and extent of the alleged attack that he sought to prevent. The means employed by the person invoking self-defense contemplates a rational equivalence between the means of attack and the defense.<sup>19</sup> It must be commensurate to the nature and the extent of the attack sought to be averted, and must be rationally necessary to prevent or repel an unlawful aggression.<sup>20</sup> In this case, Intia was unarmed when he allegedly attacked Tica.<sup>21</sup> Considering that Tica is taller, had a bigger body built, and younger than Intia,<sup>22</sup> he could have simply engaged him in a fistfight. Instead, using his own knife,<sup>23</sup> Tica chose to fatally stab Intia about six times, which caused the victim's eventual death. We have held in the past that the nature and

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<sup>16</sup> *Dela Cruz v. People, et al., supra* note 9, at 393.

<sup>17</sup> *Belbis, Jr., et al. v. People, supra* note 9, at 721.

<sup>18</sup> *Dela Cruz v. People, et al., supra* note 9, at 386.

<sup>19</sup> *Id.* at 391.

<sup>20</sup> *Belbis, Jr., et al. v. People, supra* note 9, at 722.

<sup>21</sup> Tica admitted that the long-necked bottle with broken edges was not used by Intia in stabbing him (TSN, October 12, 2009, p. 17). Likewise, Daig attested that it was thrown away when Intia and Tica were grappling with each other (TSN, August 4, 2009, p. 25).

<sup>22</sup> TSN, September 15, 2009, p. 19; TSN, October 12, 2009, pp. 8, 22-23; TSN, August 2, 2011, pp. 5, 8, 19.

<sup>23</sup> While Tica claimed that the knife he used to kill belonged to Intia (TSN, October 12, 2009, pp. 4-5; TSN, May 25, 2010, p. 14), his own witness, Daig, testified that Tica brought with him a knife that was tucked at his side (TSN, August 4, 2009, pp. 27-28). Sabanal and Bagajo also declared that the knife was owned by Tica (TSN, May 2, 2011, p. 11; TSN, June 7, 2011, pp. 8-9; TSN, August 2, 2011, pp. 3-4).

number of wounds are constantly and unremittingly considered important *indicia* which disprove a plea of self-defense.<sup>24</sup>

The prescribed penalty for Murder under Article 248 of the RPC is *reclusion perpetua* to death. There being no aggravating or mitigating circumstance in the commission of the offense (except for evident premeditation which was used to qualify the killing), the proper penalty to be imposed is *reclusion perpetua*, together with the accessory penalty provided by law.

Moreover, consistent with *People v. Jugueta*,<sup>25</sup> Tica is ordered to pay the heirs of Eduardo Intia ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages. An interest at the rate of six percent (6%) *per annum* shall be imposed on all damages awarded from the date of the finality of this judgment until fully paid.<sup>26</sup>

**WHEREFORE**, premises considered, the August 24, 2015 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 01130-MIN, finding accused-appellant Jonathan Tica y Epanto guilty beyond reasonable doubt of the crime of Murder, is hereby **AFFIRMED with MODIFICATIONS**. He is sentenced to suffer the penalty of *reclusion perpetua*, with all the accessory penalties provided by law, and **ORDERED to PAY** the heirs of Eduardo Intia ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages. All of the monetary awards shall incur an interest rate of six percent (6%) *per annum* from the finality of this judgment until fully paid.

**SO ORDERED.**



**DIOSDADO M. PERALTA**  
Associate Justice

<sup>24</sup> *Dela Cruz v. People, et al.*, *supra* note 9, at 393.

<sup>25</sup> G.R. No. 202124, April 5, 2016, 788 SCRA 331. See *People v. Raytos*, G.R. No. 225623, June 7, 2017; *People v. Tuardon*, G.R. No. 225644, March 1, 2017; *People v. Vergara*, G.R. No. 197365, February 15, 2017; *Ramos v. People*, G.R. Nos. 218466 & 221425, January 23, 2017; and *People v. Dayaday*, G.R. No. 213224, January 16, 2017.

<sup>26</sup> See Bangko Sentral ng Pilipinas Circular No. 799, Series of 2013, effective July 1, 2013, in *Nacar v. Gallery Frames, et al.*, 716 Phil. 267 (2013).

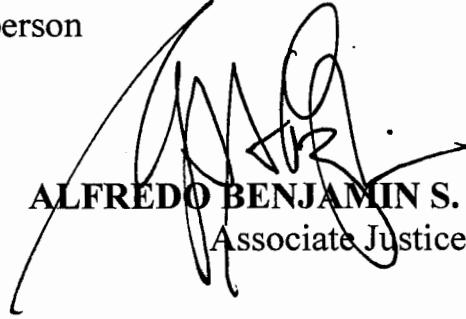
**WE CONCUR:**



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson



**ESTELA M. PERLAS-BERNABE**  
Associate Justice



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice



**ANDRES B. REYES, JR.**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, 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.



**ANTONIO T. CARPIO**  
Acting Chief Justice