



Republic of the Philippines  
**Supreme Court**  
 Manila

**FIRST DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
 Plaintiff-Appellee,

**G.R. No. 202847**

Present:

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

- versus -

**ANTERO GAMEZ y BALTAZAR,**  
 Accused-Appellant.

Promulgated:

**OCT 23 2013**

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**RESOLUTION**

**REYES, J.:**

For review<sup>1</sup> is the Decision<sup>2</sup> dated May 25, 2011 of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 00671 which affirmed the Judgment<sup>3</sup> dated May 9, 2006 of the Regional Trial Court (RTC) of Burauen, Leyte, Branch 15, convicting and sentencing accused-appellant Antero Gamez y Baltazar (accused-appellant) to *reclusion perpetua* for the crime of parricide.

<sup>1</sup> Pursuant to *People v. Mateo*, G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640, 653-658.

<sup>2</sup> Penned by Associate Justice Edgardo L. Delos Santos, with Associate Justices Ramon Paul L. Hernando and Victoria Isabel A. Paredes, concurring; *CA rollo*, pp. 73-81.

<sup>3</sup> Issued by Executive Judge Yolanda U. Dagandan; *id.* at 10-17.

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### The Facts

Accused-appellant was accused of killing his own father, Apolinario Gamez (Apolinario) through an Information articulating the following criminal charges, *viz*:

That on or about the 21<sup>st</sup> day of August, 2004, in the Municipality of Burauen, Province of Leyte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and with treachery, did then and there willfully, unlawfully and feloniously attack, assault, hack and wound one **APOLINARIO GAMEZ y AMORILLO**, his father, with the use of a long bladed weapon (sundang) and sickle (sarad) which the accused provided himself for the purpose, thereby hitting and inflicting upon Apolinario Gamez y Amorillo multiple hacking and incised wounds on the different parts of his body which were the direct and approximate cause of his death.

CONTRARY TO LAW.<sup>4</sup>

When arraigned, he entered a “Not Guilty” plea. He thereafter desired to amend his plea to “Guilty” during the pre-trial conference held on September 26, 2005 but the RTC denied the said plea bargaining. In view however of the accused-appellant’s invocation of self-defense, an inverted trial scheme ensued.<sup>5</sup>

Through the testimonies of the accused-appellant himself, Dr. Irene Astilla Dacut, his attending physician, and eyewitness Bienvenido Buhalog, the defense narrated the events that culminated into the encounter that claimed Apolinario’s life.<sup>6</sup>

The accused-appellant and 69-year old Apolinario had a less than ideal father and son relationship with the former claiming that the latter did not treat him well when he was a child. Their relationship got more strained when Apolinario meddled with the accused-appellant’s personal relationship with his wife. Apolinario apparently told the accused-appellant that his wife was being unfaithful. The unsolicited information irked the accused-appellant.

On August 21, 2004, the accused-appellant had a drinking spree in his house at *Barangay Gamay*, Burauen, Leyte, with his two brothers, Nicolas and Cornelio from 12 noon until 3:00 p.m. As he was about to go out of the

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<sup>4</sup> Id. at 10.

<sup>5</sup> Id. at 74.

<sup>6</sup> As culled from accused-appellant’s Brief filed before the CA, *id.* at 27-30; and from the narration of facts in the RTC Judgment dated May 9, 2006, *id.* at 12-13 and CA Decision dated May 25, 2011, *id.* at 74-75.

kitchen door, the accused-appellant saw Apolinario standing at the doorway with a long *bolo*. Apolinario appeared to be drunk.

To prevent any commotion, Nicolas held Apolinario but he was able to free himself from his son's grip. The accused-appellant then spoke to Apolinario: "*I think that you are looking for me and I believe it is since last night.*" An argument ensued between them. In order not to prolong the spat, the accused-appellant and his brothers took their father to his *nipa* hut about 500 meters away. But before the accused-appellant could leave, he got into another argument with Apolinario.

The accused-appellant then set out to the place where he gathered *tuba* while his brothers went back to his house. After gathering *tuba* and tethering his carabao, the accused-appellant proceeded home. He met Apolinario along a pathway. With no one to pacify them, they decided to resume their quarrel.

The accused-appellant first remarked: "*Father, what are the words that you uttered?*" to which Apolinario responded, "*It is better if one of us will perish.*" Apolinario then instantaneously hacked the accused-appellant with a long *bolo* hitting him twice on the head for which he sustained a 5-centimeter long and scalp-deep incised wound with fracture of the underlying bone and another 5-cm long incised wound on the frontal right portion of his head.

The accused-appellant fell to his knees as Apolinario delivered another blow which the former was able to parry by raising his left arm. The accused-appellant was wounded on the left 3<sup>rd</sup> interdigital space posterior to his palm.

The accused-appellant then held Apolinario's hands, grabbed the *bolo* and used the same to hack the latter several times, the count of which escaped the accused-appellant's consciousness as he was already dizzy. The accused-appellant thereafter left the scene and went home. His brother brought him to the hospital upon seeing that his head was teeming with blood. He was hospitalized for six (6) days before he was taken to the municipal hall by the police officers.

The rebuttal evidence for the prosecution, on the other hand, principally consisted of the testimony of Maura Anadia (Maura), Apolinario's daughter and the accused-appellant's sister. According to Maura, at around 4:30 p.m. of August 21, 2004, she was with her father at their house located at *Barangay Gamay, Burauen, Leyte* when his elder brother, the accused-appellant, arrived. He was carrying a long *bolo* and a scythe was tucked on his waist.

He approached her and said: “*Will you join the killing spree today including your child that you are carrying?*” before turning to Apolinario with this query: “*What are the stories that you were talking?*”

Frightened, Maura ran away and hid at a grassy portion near the house. She then saw her father flee but the accused-appellant gave him a chase. Apolinario was able to run for about 20 m before the accused-appellant was able to catch up.

The accused-appellant then hacked the unarmed Apolinario on the right side of his head using the *bolo*. Apolinario fell down and the accused-appellant finished him off by slashing his neck with the scythe. Maura thereafter left to report the incident to the police.

The autopsy conducted on Apolinario’s cadaver by Dr. Leonita Azores, MD,<sup>7</sup> showed that he sustained two (2) fatal wounds one of which almost decapitated his head while the other hit the parietal aspect thereof exposing the skin and connective tissue. Apolinario also obtained two (2) incised wounds on his neck and left forearm and two (2) lacerations on his fingers. He perished at the crime scene.<sup>8</sup>

### **Ruling of the RTC**

In its Judgment<sup>9</sup> dated May 9, 2006, the RTC found that both the prosecution and the defense deliberately withheld vital details of the incident. The prosecution did not reveal that the initial unlawful aggression was committed by Apolinario who, based on medical records, hacked the accused-appellant in the parietal area of his head. The defense, on the other hand, concealed that accused-appellant pursued the victim after the latter fled. These findings completed the sequence of the incident and revealed that the accused-appellant’s claim of self-defense is unmeritorious.

The RTC held that when accused-appellant hacked and killed Apolinario, the unlawful aggression which the latter initially perpetrated has already ceased because he has already ran away for 20 m. Hence, accused-appellant’s act was not self-defense but rather one of retaliation which, in turn, props up the conclusion that he intentionally killed his father. The decretal portion of the RTC decision thus reads:

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<sup>7</sup> His testimony was dispensed with on account of the admission by the defense of the authenticity and due execution of the medical certificate he issued for the victim, Apolinario Gamez; id. at 11.

<sup>8</sup> As culled from the appellee’s Brief filed before the CA, id. at 54-65; and from the narration of facts in the RTC Judgment dated May 9, 2006, id. at 12-13 and CA Decision dated May 25, 2011, id. at 76.

<sup>9</sup> Id. at 10-17.

**WHEREFORE**, premises considered[,] this Court finds the accused **ANTERO GAMEZ y Baltazar GUILTY BEYOND REASONABLE DOUBT** of the crime of Parricide penalized under Art. 246 of the Revised Penal Code and considering the presence of one (1) mitigating circumstance without any aggravating to offset it, hereby sentences him to suffer imprisonment of **RECLUSION PERPETUA**; to pay the Heirs of Apolinario Gamez Php50,000.00 as civil indemnity for his death and to pay the costs of this suit.

The accused who underwent preventive imprisonment since August 21, 2004 shall be credited with the full time during which he was deprived of his liberty if he agreed voluntarily and in writing to abide by the same disciplinary rules imposed upon convicted prisoners, otherwise[,] he will be [e]ntitled to only four-fifths (4/5) thereof.<sup>10</sup>

### **Ruling of the CA**

The CA adopted the RTC's findings and similarly concluded that the accused-appellant put up retaliation and not self-defense because the aggression proffered by the victim has already ended when the accused-appellant attacked him. From the time Apolinario ran away and was disarmed by the accused-appellant, the aggression originally heaved by the former has ceased. Hence, when the accused-appellant chased and hacked Apolinario several times, self-defense can no longer be invoked. The CA affirmed the conviction and sentence rendered by the RTC as well as the award of civil indemnity but an additional award of moral damages was granted for Apolinario's heirs. The CA Decision<sup>11</sup> dated May 25, 2011 disposed thus:

**WHEREFORE**, in view of the foregoing premises, the assailed May 9, 2006 Decision of the Regional Trial Court of Burauen, Leyte, Branch 15, in CRIM. CASE NO. Bn-05-03-4125, is hereby **AFFIRMED with modification**. Aside from the civil indemnity already awarded, the accused is also hereby directed to pay the heirs of Apolinario Gamez the amount of Php50,000.00 as moral damages in accordance with the recent jurisprudence.

No pronouncement as to cost.

**SO ORDERED.**<sup>12</sup>

The accused-appellant manifested before the Court that in the present review, he is adopting the arguments contained in his Brief filed before the CA whereby he argued that his guilt for the crime of parricide was not

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<sup>10</sup> Id. at 16-17.

<sup>11</sup> Id. at 73-81.

<sup>12</sup> Id. at 80-81.

proved beyond reasonable doubt and that the trial court erred in ruling that he failed to prove self-defense.

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

The Court affirms the accused-appellant's conviction.

The arguments proffered by the accused-appellant essentially attack the evaluation by the trial court of the testimony of the prosecution's principal witness, Maura, and its ruling that the same satisfactorily repudiate his claim of self-defense.

This Court has consistently adhered to the rule that the matter of assigning values to declarations on the witness stand is best and most competently performed by the trial judge, who had the unmatched opportunity to observe the witnesses and to assess their credibility by the various *indicia* available but not reflected on the record. Hence, the corollary principle that absent any showing that the trial court overlooked substantial facts and circumstances that would affect the final disposition of the case, appellate courts are bound to give due deference and respect to its evaluation of the credibility of an eyewitness and his testimony as well as its probative value amidst the rest of the other evidence on record.<sup>13</sup>

We see no compelling reason to depart from the foregoing tenets especially in view of the accused-appellant's failure to identify significant details, which if considered, will alter the outcome of the trial court's judgment and the affirmation accorded it by the CA. At any rate, an examination of the records at hand shows that the factual basis of accused-appellant's plea of self-defense cannot relieve him from criminal liability.

Self-defense, when invoked, as a justifying circumstance implies the admission by the accused that he committed the criminal act.<sup>14</sup> 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. However, if the accused admits killing the victim, but pleads self-defense, the burden of evidence is shifted to him to prove such defense by clear, satisfactory and convincing evidence that excludes any vestige of criminal aggression on his part.<sup>15</sup>

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<sup>13</sup> *People of the Philippines v. Ronald Credo aka "Ontog", Randy Credo and Rolando Credo y Buenaventura*, G.R. No. 197360, July 3, 2013.

<sup>14</sup> *People v. Maningding*, G.R. No. 195665, September 14, 2011, 657 SCRA 804, 813.

<sup>15</sup> *Simon A. Flores v. People of the Philippines*, G.R. No. 181354, February 27, 2013.

In order to escape criminal liability, it becomes 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 Revised Penal Code, *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.<sup>16</sup>

Unlawful aggression is a condition *sine qua non* for the justifying circumstance of self-defense. Without it, there can be no self-defense, whether complete or incomplete, that can validly be invoked.<sup>17</sup> “There is an unlawful aggression on the part of the victim when he puts in actual or imminent danger the life, limb, or right of the person invoking self-defense. There must be actual physical force or actual use of a weapon.”<sup>18</sup> It is present only when the one attacked faces real and immediate threat to one’s life. It must be continuous; otherwise, it does not constitute aggression warranting self-defense.<sup>19</sup>

Here, the accused-appellant, miserably failed to discharge his burden of proving that unlawful aggression justifying self-defense was present when he killed Apolinario.

The aggression initially staged by Apolinario was not of the continuous kind as it was no longer present when the accused-appellant injured Apolinario. As testified by the accused-appellant himself, he was able to grab the *bolo* from Apolinario. From that point on, the aggression initially staged by Apolinario ceased to exist and the perceived threat to the accused-appellant’s life was no longer attendant.

Hence, the accused-appellant was no longer acting in self-defense, when he, despite having already disarmed Apolinario, ran after the latter for about 20 m and then stabbed him. The accused-appellant’s claim of self-defense is further negated by the fatal incision on Apolinario’s neck that almost decapitated his head, a physical evidence which corroborates Maura’s testimony that after stabbing Apolinario with the *bolo*, the accused-appellant pulled out the scythe on his waist and used the same to slash Apolinario’s neck. The use of a weapon different from that seized from the victim and the nature of the injury inflicted show the accused-appellant’s determined resolve to kill Apolinario.

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<sup>16</sup> *People v. Concillado*, G.R. No. 181204, November 28, 2011, 661 SCRA 363, 379.

<sup>17</sup> *People v. Paycana, Jr.*, 574 Phil. 780, 787 (2008).

<sup>18</sup> *People v. Comillo, Jr.*, G.R. No. 186538, November 25, 2009, 605 SCRA 756, 772.

<sup>19</sup> *Simon A. Flores v. People of the Philippines*, *supra* note 15.

When unlawful aggression ceases, the defender no longer has any justification to kill or wound the original aggressor. The assailant is no longer acting in self-defense but in retaliation against the original aggressor. Retaliation is not the same as self-defense. 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>20</sup>

The CA was thus correct in upholding the findings and conclusions of the RTC, thus:

[A]lthough, it is supported by the medical report, that the [accused-appellant] was indeed initially attacked by the victim, the act of the [accused-appellant] of going after the victim, who was already **running away** from the [accused-appellant] after the latter has gained possession of the weapon, is anathema to the self-defense theory invoked by the [accused appellant].

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In the instant case, the trial court gave credence to the testimony of the prosecution witness that the victim tried to run away from the [accused-appellant] but the [accused-appellant] ran after him. When the [accused-appellant] was able to overtake the victim, the latter was hacked on the right side of his head. To finish him off, the [accused-appellant] slashed the victim's neck with the use of a scythe until the victim (his own father) died. Thus, *assuming arguendo* that the father was indeed the first aggressor, the aggression ceased the moment the [accused-appellant] disarmed him and the victim tried to run away from the [accused-appellant]. When the [accused-appellant] then continued to chase his 69 year-old father and hacked several times the already disarmed victim, self-defense can no longer be invoked.<sup>21</sup>

In fine, there is no justifiable cause exempting the accused-appellant from criminal liability and the courts *a quo* were correct in convicting him for parricide.

Parricide is committed when: (1) a person is killed; (2) the deceased is killed by the accused; and (3) the deceased is the father, mother, or child, whether legitimate or illegitimate, or a legitimate other ascendant or other descendant, or the legitimate spouse of the accused.<sup>22</sup> Here, it is an undisputed fact that Apolinario was the accused-appellant's father.

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<sup>20</sup> Id.

<sup>21</sup> CA *rollo*, pp. 79-80.

<sup>22</sup> *People v. Paycana, Jr.*, supra note 17, at 789.

Under Article 246 of the Revised Penal, the crime of parricide is punishable by *reclusion perpetua* to death. It must be noted that the declaration of the RTC in its Judgment dated May 9, 2006 on the presence of a mitigating circumstance is not supported by any allegation or evidence on record. Nonetheless, in view of Republic Act (R.A.) No. 9346<sup>23</sup> prohibiting the imposition of death penalty, the courts *a quo* correctly sentenced the accused-appellant to *reclusion perpetua*.<sup>24</sup>

It must be emphasized, however, that the accused-appellant shall not be eligible for parole pursuant to Section 3 of R.A. No. 9346 which states that “[p]ersons convicted of offenses **punished with *reclusion perpetua***, or whose sentences will be reduced to *reclusion perpetua*, by reason of this Act, **shall not be eligible for parole** under Act No. 4180, otherwise known as the Indeterminate Sentence Law, as amended.”<sup>25</sup>

The award of ₱50,000.00 as civil indemnity to the heirs of Apolinario is proper and in line with current jurisprudence.<sup>26</sup> Civil indemnity is mandatory upon proof of the fact of death of the victim and the culpability of the accused for such death.<sup>27</sup> The award of ₱50,000.00<sup>28</sup> as moral damages is likewise correct. Even in the absence of any allegation and proof of the heirs’ emotional suffering, it has been recognized that the loss of a loved one to a violent death brings emotional pain and anguish.<sup>29</sup>

The Court finds that an award of exemplary damages in the amount of ₱30,000.00<sup>30</sup> is in order considering that the qualifying circumstance of relationship is present in the crime of parricide.<sup>31</sup>

Lastly, in conformity with current policy, we impose on all the monetary awards for damages an interest at the legal rate of six percent (6%) *per annum* from the date of finality of this judgment until fully paid.<sup>32</sup>

**WHEREFORE**, premises considered, the Decision dated May 25, 2011 of the Court of Appeals in CA-G.R. CR-H.C. No. 00671 finding the accused-appellant, Antero Gamez y Baltazar, guilty beyond reasonable doubt of the crime of Parricide, is hereby **AFFIRMED WITH**

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<sup>23</sup> An Act Prohibiting the Imposition of Death Penalty in the Philippines.

<sup>24</sup> See *People v. Tibon*, G.R. No. 188320, June 29, 2010, 622 SCRA 510, 521.

<sup>25</sup> See *People v. Dejjillo*, G.R. No. 185005, December 10, 2012, 687 SCRA 537, 556, citing *People v. Tadah*, G.R. No. 186226, February 1, 2012, 664 SCRA 744, 747.

<sup>26</sup> *People v. Sales*, G.R. No. 177218, October 03, 2011, 658 SCRA 367, 381.

<sup>27</sup> *People v. Dela Cruz*, G.R. No. 187683, February 11, 2010, 612 SCRA 364, 374.

<sup>28</sup> *Supra* note 26.

<sup>29</sup> *Supra* note 24, at 522.

<sup>30</sup> *Supra* note 26.

<sup>31</sup> *Supra* note 24, at 523.

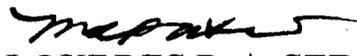
<sup>32</sup> *Supra* note 26.

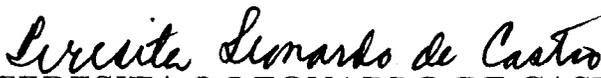
**MODIFICATIONS.** Antero Gamez y Baltazar is sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole and ordered to pay the heirs of the victim, Apolinario Gamez, the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages and ₱30,000.00 as exemplary damages. The award of damages shall earn legal interest at the rate of six percent (6%) *per annum* from the finality of this judgment until fully paid.

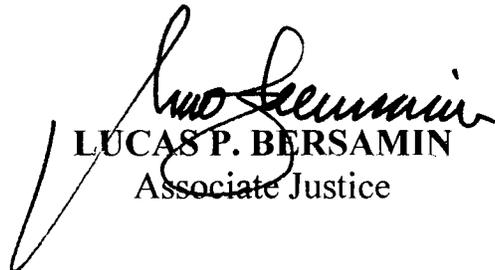
**SO ORDERED.**

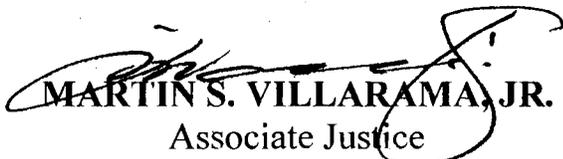
  
**BIENVENIDO L. REYES**  
Associate Justice

**WE CONCUR:**

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

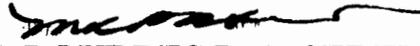
  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution 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