Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

FEDERICO SABAY,
Petitioner,

- versus -

PEOPLE OF THE PHILIPPINES,
Respondent.

G.R. No. 192150

Present:

CARPIO, *J., Chairperson,*
BRION,
DEL CASTILLO,
MENDOZA, and
LEONEN, *JJ.*

Promulgated:

OCT 0 1 2014

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DECISION

BRION, *J.*:

We review in this petition for review on *certiorari*[1] the decision[2] dated October 23, 2009 and the resolution[3] dated March 22, 2010 of the Court of Appeals *(CA)* in CA- G.R. CR No. 31532.

The CA affirmed the April 28, 2008 decision[4] of the Regional Trial Court (*RTC*) of Caloocan City, Branch 126, finding petitioner Federico Sabay guilty beyond reasonable doubt for two (2) counts of Slight Physical Injuries. The RTC decision in turn affirmed the Metropolitan Trial Court's (*MTC*) judgment.

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1 *Rollo*, pp. 32-52.

2 Id. at 8-25; penned by Associate Justice Marlene Gonzales-Sison, and concurred in by Associate Justice Andres B. Reyes, Jr. and Associate Justice Vicente S.E. Veloso.

3 Id. at 27-28.

4 Id. at 99-106; penned by Acting Presiding Judge Oscar P. Barrientos.

The Antecedent Facts

At around three o'clock to four o'clock in the afternoon of June 12, 2001, while the petitioner and his daughter Erlinda Sabay (*Erlinda*) were busy laying wood and water pipes in the yard of Godofredo Lopez (*Godofredo*), the latter confronted the petitioner about his (the petitioner's) alleged intrusion into Godofredo's property. A verbal altercation ensued between them.

In the course of the verbal exchange, Erlinda hit Godofredo on the head with a hard object. The petitioner joined in by throwing a stone at Godofredo's face, breaking the latter's eyeglasses. Godofredo claimed that as a result, he felt dizzy.[5] The petitioner and Erlinda then shouted at Godofredo and threatened to kill him.

Immediately thereafter, Jervie Lopez (*Jervie*) came and pacified the three. But in the course his efforts, he was hit in the hand with a bolo.[6] The neighbors intervened not long after and pacified the parties.

The Medico Legal Certificates[7] dated June 12, 2001 showed that Godofredo suffered a contusion on the left parietal area of his head and an abrasion in his left cheek, while Jervie sustained a wound in his right palm.

On June 13, 2001, Godofredo and Jervie filed a complaint against the petitioner before the *barangay*.[8] The parties agreed to settle the complaint based on the recommendation of the building inspector and reflected their agreement in their Kasunduang Pag-aayos[9] (*Kasunduan*) dated June 20, 2001. The *Kasunduan*, however, was not implemented because the building inspector failed to make the promised recommendation to resolve the boundary dispute between the parties.[10] Thus, the Office of the *Barangay* Captain issued a Certificate to File an Action.

The petitioner was accordingly charged before the MTC with the crime of Physical Injuries under two (2) Informations[11] that read:

Criminal Case No. 209934

> That on or about the 12th day of June 2001, in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without justifiable cause, did then and there willfully, unlawfully and feloniously hit with a bolo one JERVIE LOPEZ, thereby inflicting upon the latter physical injuries which required and will require medical attendance for not more than seven (7) days or incapacitated or will incapacitate said victim from performing his habitual work for the same period of time.

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5 CA *rollo*, p. 77.
6 Id.
7 Id. at 79 and 88.
8 Id. at 92
9 Id. at 84
10 Id. at 121.
11 Id. at 68-69.

CONTRARY TO LAW.

Criminal Case No. 209935

That on or about the 12th day of June 2001, in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without justifiable cause, did then and there willfully, unlawfully and feloniously hit with a bolo one GODOFREDO LOPEZ, thereby inflicting upon the latter physical injuries which required and will require medical attendance for not more than seven (7) days or incapacitated or will incapacitate said victim from performing his habitual work for the same period of time.

CONTRARY TO LAW.

The petitioner, together with his daughter Erlinda, was also charged with Light Threats[12] for allegedly uttering threatening words against the private complainant, Godofredo.

When arraigned, both accused pleaded not guilty to all the charges. Trial on the merits thereafter ensued.

At the trial, the prosecution presented the following eyewitnesses: Rodolfo Lata, Sr. y Dolping (*Rodolfo*) and Dina Perez y Alapaap (*Dina*) (who both testified on the details of the crime); Godofredo; Jervie; and Dr. Melissa Palugod (Godofredo's attending physician). The defense, on the other hand, presented the petitioner, Wilfredo Verdad and Caridad Sabay.

The petitioner denied the charge and claimed that he had simply acted in self-defense. He narrated that on the date of the incident while he was putting a monument on his lot, Godofredo suddenly hit him with an iron bar in his right hand, causing him injuries. Jesus Lopez (*Jessie*), Godofredo's son, went out of their house and with a .38 caliber gun, fired the gun at him. To defend himself, he got a stone and threw it at Godofredo.

The MTC's and the RTC's Rulings

In its decision, MTC believed the prosecution's version of the incident and found the petitioner guilty beyond reasonable doubt of two (2) counts of slight physical injuries. The MTC, however, dismissed the light threats charged, as this offense is deemed absorbed in the crime of slight physical injuries. Further, it absolved Erlinda for the crime of light threats as there was no allegation that she uttered threatening words against Godofredo.

The MTC rejected the petitioner's claim of self-defense for lack of clear, convincing and satisfactory supporting evidence. The MTC held that the petitioner failed to prove that there had been unlawful aggression by

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12 Article 285 of the Revised Penal Code.

Godofredo; he did not even present the medical certificate of his injury as evidence. The dispositive part of its decision reads:

> WHEREFORE, premises considered, accused Federico Sabay y Bactol is found guilty beyond reasonable doubt for two (2) counts of Slight Physical Injuries and is meted a penalty of imprisonment of Eleven (11) Days for each count as there is neither mitigating nor aggravating circumstance.
>
> SO ORDERED.

In due course, the petitioner appealed his judgment to the RTC, which fully affirmed the MTC's decision.

The petitioner sought recourse with the CA, arguing in this appeal that: (1) the MTC has no jurisdiction over the case in view of the prosecution's failure to offer the Certification to File an Action in evidence; and (2) the trial court erred in not sustaining his claim of self-defense.

The CA's Ruling

The CA rejected the petitioner's arguments and affirmed the RTC's decision. The CA held that even if there had been no formal offer of exhibit pursuant to Section 34, Rule 132 of the Rules on Evidence, the Certification to File an Action could still be admitted against the adverse party if, *first*, it has been duly identified by testimony duly recorded and, *second*, it has been incorporated into the records of the case. Noting that the Certification to File an Action was identified by the complainants and is attached to the records of the case, the CA ruled that an exception to Section 34, Rule 132 of the Rules on Evidence could be recognized.

The CA also dismissed the petitioner's plea of self-defense. The CA ruled that self-defense is essentially a factual matter that is best addressed by the trial court; in the absence of any showing that both the MTC and the RTC overlooked weighty and substantial facts or circumstances that could alter their conclusion, the appellate court saw no reason to disturb their factual ruling.

On March 22, 2010, the CA denied the petitioner's motion for reconsideration; hence, the present petition.

The Issues

On the basis of the same arguments raised before the CA, the petitioner questions: (1) the jurisdiction of the MTC over the criminal cases in view of the alleged inadmissibility of the Certification to File Action; and (2) the lower court's finding of guilt, its appreciation of the evidence and its rejection of the claim of self-defense.

The Court's Ruling

We find no reversible error committed by the CA and affirm the petitioner's conviction for two counts of slight physical injuries.

On the first issue, the petitioner contends that the lower courts erred in disregarding the existence of the *Kasunduan* executed by the parties before the *Lupon*. This existing settlement between the parties rendered the Certification to File an Action without factual and legal basis, and is hence null and void. The petitioner also contends that the CA erred in not holding that the MTC has no jurisdiction over the criminal cases in view of the non-compliance (*i.e.*, issuance of the Certification to File an Action despite the existence of an agreement) with conciliation procedures under Presidential Decree No. 1508.

We see no merit in these contentions.

The Office of the Barangay Captain Cannot be Precluded From Issuing a Certification to File an Action Where No Actual Settlement Was Reached; the Certification to File an Action Issued by The Office of The Barangay is Valid.

The present case was indisputably referred to the *Barangay Lupon* for conciliation prior to the institution of the criminal cases before the MTC. The parties in fact admitted that a meeting before the *Lupon* transpired between them, resulting in a *Kasunduan*.

Although they initially agreed to settle their case, the *Kasunduan* that embodied their agreement was never implemented; no actual settlement materialized as the building inspector failed to make his promised recommendation to settle the dispute. The *Barangay* Captain was thus compelled to issue a Certification to File an Action, *indicating that the disputing parties did not reach any settlement.*

The CA correctly observed and considered the situation: the settlement of the case was conditioned on the recommendation of the building inspector; with no recommendation, no resolution of the conflict likewise took place.

Furthermore, the *Barangay* Captain, as a public official, is presumed to act regularly in the performance of official duty.[13] In the absence of contrary evidence, this presumption prevails; his issuance of the disputed Certification to File an Action was regular and pursuant to law.[14] Thus, the *Barangay* Captain properly issued the Certification to File an Action.

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13 Section 3 (m), Rule 131 of the Rules on Evidence.

14 *Empaynado v. Court of Appeals*, G.R. No. 91606, December 17, 1991, 204 SCRA 870, 877.

Even granting that an irregularity had intervened in the *Barangay* Captain's issuance of the Certification to File and Action, we note that this irregularity is not a jurisdictional flaw that warrants the dismissal of the criminal cases before the MTC. As we held in *Diu v. Court of Appeals*:[15]

> Also, the conciliation procedure under Presidential Decree No. 1508 is not a jurisdictional requirement and non-compliance therewith cannot affect the jurisdiction which the lower courts had already acquired over the subject matter and private respondents as defendants therein.

Similarly, in *Garces v. Court of Appeals*,[16] we stated that:

> In fine, we have held in the past that prior recourse to the conciliation procedure required under P.D. 1508 is not a jurisdictional requirement, non-compliance with which would deprive a court of its jurisdiction either over the subject matter or over the person of the defendant.

Thus, the MTC has jurisdiction to try and hear the petitioner's case; the claimed irregularity in conciliation procedure, particularly in the issuance of the Certification to File an Action, did not deprive the court of its jurisdiction. If at all, the irregularity merely affected the parties' cause of action.[17]

The petitioner next contends that even if there was a valid Certification to File an Action, the lower courts still erred in admitting the Certificate into evidence as the prosecution did not formally offer it as required by the Rules on Evidence. He emphasizes that in *Fideldia v. Sps. Mulato*,[18] the Court held that a formal offer is necessary because judges are required to base their findings solely upon evidence offered by the parties. In the absence of a formal offer, the Certification is not admissible pursuant to Section 412 of Republic Act No. 7160, and cannot be considered by the court.

We do not find this argument sufficiently persuasive.

The Certification to File an Action is Admissible.

Section 34 of Rule 132 of our Rules on Evidence provides that the court cannot consider any evidence that has not been formally offered.[19] Formal offer means that the offering party shall inform the court of the purpose of introducing its exhibits into evidence, to assist the court in ruling on their admissibility in case the adverse party objects.[20] Without a formal

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15 G.R. No. 115213, December 19, 1995, 251 SCRA 472, 478-479.
16 245 Phil. 450, 455 (1988).
17 *San Miguel Village School v. Pundogar*, 255 Phil. 689, 693-695 (1989).
18 586 Phil. 7, 15 (2008).
19 Section 34 of Rule 132 of the Rules of Court states: "Sec. 34. The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified."
20 *Star Two (SPV-AMC), Inc. v. Ko*, G.R. No. 185454, March 23, 2011, 646 SCRA 371, 375-376.

offer of evidence, courts cannot take notice of this evidence even if this has been previously marked and identified.

This rule, however, admits of an exception. The Court, in the appropriate cases, has relaxed the formal-offer rule and allowed evidence not formally offered to be admitted.

The cases of *People v. Napat-a*,[21] *People v. Mate*,[22] and *The Heirs of Romana Saves, et al. v. The Heirs of Escolastico Saves, et al.*,[23] to cite a few, enumerated the requirements so that evidence, not previously offered, can be admitted, namely: ***first***, the evidence must have been duly identified by testimony duly recorded and, ***second***, the evidence must have been incorporated in the records of the case.

In the present case, we find that the requisites for the relaxation of the formal-offer rule are present. As the lower courts correctly observed, Godofredo identified the Certification to File an Action during his cross-examination, to wit: [24]

> Q: And I'm referring to you this Certification from the Office of the Brgy. docketed as 181-01, is this the one you are referring to?
>
> A: This is with respect to the hitting of my head.
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> Atty. Bihag: **At this juncture, your Honor, we would like to request that this particular certification referring to the case 181-01 entitled Mr. Godofredo Lopez, Mr. Jervie Lopez versus Mr. Federico Sabay and Mrs. Erlinda Castro, be marked as Exh. "1" for the defense.** [TSN, Godofredo Lopez, page 119; emphasis ours.]

Although the Certification was not formally offered in evidence, it was marked as Exhibit "1" and attached to the records of the case.[25] Significantly, the petitioner never objected to Godofredo's testimony, particularly with the identification and marking of the Certification. In these lights, the Court sees no reason why the Certification should not be admitted.

The Claim of Self-Defense

On the claim of self-defense, we recognize that the factual findings and conclusions of the RTC, especially when affirmed by the CA as in this

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21 258-A Phil. 994 (1989).
22 191 Phil. 72 (1981).
23 G.R. No. 152866, October 6, 2010, 632 SCRA 236.
24 *CA rollo*, TSN, p. 119.
25 Id.

case, are entitled to great weight and respect and are deemed final and conclusive on this Court when supported by the evidence on record.[26]

In the absence of any indication that the trial and the appellate courts overlooked facts or circumstances that would result in a different ruling in this case, we will not disturb their factual findings.[27]

We thus uphold the rulings of the RTC and the CA which found the elements of the crime of slight physical injuries fully established during the trial. The RTC and the CA correctly rejected the petitioner's claim of self-defense because he did not substantiate it with clear and convincing proof.

Self-defense as a justifying circumstance under Article 11 of the Revised Penal Code, as amended, implies the admission by the accused that he committed the acts that would have been criminal in character had it not been for the presence of circumstances whose legal consequences negate the commission of a crime.[28] The plea of self-defense in order to exculpate the accused must be duly proven. The most basic rule is that no self-defense can be recognized until unlawful aggression is established.[29]

Since the accused alleges self-defense, he carries the burden of evidence to prove that he satisfied the elements required by law;[30] he who alleges must prove. By admitting the commission of the act charged and pleading avoidance based on the law, he must rely on the strength of his own evidence to prove that the facts that the legal avoidance requires are present; the weakness of the prosecution's evidence is immaterial after he admitted the commission of the act charged.[31]

In this case, the petitioner admitted the acts attributed to him, and only pleads that he acted in self-defense. His case essentially rests on the existence of unlawful aggression – that Godofredo hit him with an iron bar on his right hand.

As the RTC and the CA pointed out, the petitioner failed to substantiate his claimed self-defense because he did not even present any medical certificate as supporting evidence, notwithstanding his claim that he consulted a doctor. Nor did he ever present the doctor he allegedly consulted.

His contention, too, that he was attacked by Godofredo and was shot with a .38 caliber gun by Jessie was refuted by the prosecution eyewitnesses

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26 *Maxwell Heavy Equipment Corporation v. Yu*, G.R. No. 179395, December 15, 2010, 638 SCRA 653, 658.

27 *Ilagan-Mendoza v. Urcia*, 574 Phil. 90, 101 (2008).

28 *People of the Philippines v. Gonzales*, G.R. No. 195534, June 13, 2012, 672 SCRA 590, 595-596.

29 *The People of the Philippine Islands v. Apolinario*, 58 Phil. 586 (1933).

30 *Supra* note 28.

31 *People of the Philippines v. Mediado*, G.R. No. 169871, February 2, 2011, 641 SCRA 366, 370-371.

– Rodolfo and Dina – who both testified that it was the petitioner who had attacked Godofredo.

The prosecution eyewitnesses' testimonies were supported by the medico legal certificates showing that Godofredo sustained a contusion on the left parietal area of his head and an abrasion on his left cheek. These medico legal findings are consistent with Godofredo's claim that the petitioner hit him and inflicted physical injuries.

In sum, we are fully satisfied that the petitioner is guilty beyond reasonable doubt of two (2) counts of slight physical injuries, as the lower courts found. His claim of self-defense fails for lack of supporting evidence; he failed to present any evidence of unlawful aggression and cannot thus be said to have hit Godofredo as a measure to defend himself.

WHEREFORE, premises considered, we **DENY** the appeal and **AFFIRM** the decision dated October 23, 2009 and the resolution dated March 22, 2010 of the Court of Appeals in CA- G.R. CR No. 31532.

SO ORDERED.

ARTURO D. BRION
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

MARIANO C. DEL CASTILLO
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

MARVIC M.V.F. LEONEN
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