



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

RODOLFO BELBIS, JR. y  
COMPETENTE and ALBERTO  
BRUCALES,

Petitioners,

- versus -

PEOPLE OF THE  
PHILIPPINES,

Respondent.

G.R. No. 181052

Present:

VELASCO, JR., J., *Chairperson*,  
PERALTA,  
ABAD,  
PEREZ,\* and  
MENDOZA, JJ.

Promulgated:

14 November 2012

*Alfonso Peralta*

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DECISION

PERALTA, J.:

This is a Petition for Review on *Certiorari*<sup>1</sup> under Rule 45, dated February 22, 2008, of Rodolfo Belbis, Jr. and Alberto Brucales that seeks to reverse and set aside the Decision<sup>2</sup> of the Court of Appeals (CA), dated August 17, 2007, and its Resolution dated January 4, 2008, affirming with modification the Decision<sup>3</sup> dated December 23, 2004 of the Regional Trial Court (RTC), Tabaco City, Albay, Branch 17, finding petitioners guilty beyond reasonable doubt of the crime of Homicide.

\* Designated Acting Member, per Special Order No. 1299 dated August 28, 2012.

<sup>1</sup> *Rollo*, pp. 10-86.

<sup>2</sup> Penned by Associate Justice Marlene Gonzales-Sison, with Associate Justices Juan Q. Enriquez, Jr. and Vicente S.E. Veloso concurring.

<sup>3</sup> Penned by Judge Virginia G. Almonte; records, pp. 392-414.

*AV*

The factual antecedents follow.

Jose Bahillo (Jose), the victim, was a Barangay Tanod of Sitio Bano, Barangay Naga, Tiwi, Albay. Around 9:00 p.m. of December 9, 1997, Jose left his house and proceeded to the area assigned to him. Later on, around 10:00 p.m., Veronica Dacir (Veronica), Jose's live-in partner, heard Jose shouting and calling her name and went to where Jose was and saw blood at his back and shorts. It was there that Jose told Veronica that he was held by Boboy (petitioner Alberto Brucales), while Paul (petitioner Rodolfo Belbis, Jr.) stabbed him. Jose was taken to St. Claire Medical Clinic at Tiwi, Albay, about four kilometers from Barangay Naga where he was initially attended by Dr. Bernardo Corral (Dr. Corral). Jose was later referred to Ziga Memorial District Hospital at Tabaco, Albay and, thereafter, was referred to Albay Provincial Hospital on December 10, 1997 at 2:00 a.m. He was confined therein for six (6) days. Dr. Sancho Reduta (Dr. Reduta), his attending physician, issued a medical certificate, which stated the following wounds found on Jose's body: (1) stab wound, 3 cm., lumbar area, right; (2) stab wound, 3 cm., lumbar area, left; (3) stab wound, 3 cm., left buttock, medial aspect; and (4) stab wound, 3 cm., left buttock, lateral aspect. He was also found positive for alcoholic breath, his blood level was monitored and was given I.V. (intravenous) fluids and antibiotics. He was finally discharged on December 15 1997. Dr. Reduta issued Jose prescriptions and instructed the latter to go back to the hospital after the medicines prescribed are consumed. Jose remained bedridden and should have returned to the hospital on December 22, 1997, but failed to do so due to financial constraints. During that time, the wounds of Jose were not yet fully healed.

Veronica brought Jose back to St. Claire Medical Clinic on January 1, 1998, because the latter was complaining of urinary retention and pains in his left and right lumbar regions. Dr. Corral suspected that Jose had septicemia; thus, he was given I.V. fluids, antibiotics and diuretics, and a

catheter was used to relieve Jose of urinary retention. Upon Jose's request, he was discharged on January 3, 1998. He was brought back to the same hospital on January 7, 1998 and was diagnosed by Dr. Corral as having advanced Pyelonephritis, his kidney was inflamed and with pus formation and scarring. Around 10:30 a.m. on January 8, 1998, SPO1 Lerma Bataller of the Philippine National Police-Tiwi went to the hospital to secure Jose's ante-mortem statement. Later, in the afternoon of the same day, Jose was brought to the clinic of Dr. Marilou Compuesto upon the advice of Dr. Corral where he underwent ultrasound scanning. It was found that Jose's kidney had acute inflammation due to infection. He was returned to St. Claire Medical Clinic and was advised to go to Manila. However, Jose died at 10:00 p.m. of the same day.

Dr. Corral issued a Death Certificate which shows the following:

- a) Immediate cause – Uremia, secondary to renal shutdown
- b) Antecedent cause – Septicemia, renal inflammatory disease.

Dr. Wilson Moll Lee, Medical Officer III of the National Bureau of Investigation (NBI) of Naga City, Region V, conducted an autopsy on the victim's cadaver on January 14, 1998 and issued Autopsy Report No. BRO No. 98-02, which indicated multiple organ failure as the cause of the victim's death. Thus, petitioners were charged with the crime of homicide. The Information reads:

That on or about the 9<sup>th</sup> day of December 1997, at about 10:30 o'clock in the evening, more or less, at Barangay Naga, Municipality of Tiwi, Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, conspiring, confederating and helping one another, did then and there willfully, unlawfully, and feloniously assault, attack, and stab JOSE BAHILLO, thereby inflicting upon the latter stab wounds which caused his death on January 8, 1998, to the damage and prejudice of the latter's heirs.

CONTRARY TO LAW.

On February 17, 1999, petitioners entered a plea of not guilty. Thereafter, trial on the merits ensued.

The prosecution presented documentary evidence as well as the testimonies of Dr. Marilou Compuesto, Dr. Sancho Reduta, Dr. Bernardo Corral, Dr. Wilson Moll Lee, SPO1 Lerma Bataller and Calixto Dacullo.

Petitioners claimed that they are entitled to the justifying circumstance of self-defense. Through the testimonies of petitioners, Dr. Olga Bausa and Dr. Edwin Lino Romano, their version of the incident is as follows:

Around 10:00 p.m. of December 9, 1997, petitioners were outside a store in Naga, Tiwi, Albay, engaged in a conversation with other people when Jose went to them and told them to go home. While on their way home, they heard Jose's whistle go off as the latter was following them. Petitioner Rodolfo asked Jose what is the matter and the latter replied, "What about?" Suddenly, Jose thrust a nightstick on petitioner Rodolfo, but the latter was able to evade it. Afterwards, Jose held the nightstick horizontally with both hands and tried to hit petitioner Rodolfo's forehead. Petitioner Rodolfo held the nightstick which was in reality, a bolo sheathed on a scabbard. Jose pulled the bolo inside and the wooden scabbard was detached from it, thus, the blade thereof injured his left hand. Petitioner Rodolfo kept holding the wooden scabbard and when Jose thrust the bolo to petitioner Rodolfo, the latter parried it with the wooden scabbard he was holding. Petitioner Rodolfo managed to take the bolo away from Jose and, thereafter, the latter embraced petitioner Rodolfo while trying to get the bolo back. Petitioner Rodolfo held the bolo with his right hand and swung it away from Jose. Thereafter, Jose pushed petitioner Rodolfo causing the bolo to slip from the latter's hand. Jose tried to pick the bolo up, but petitioner Rodolfo was able to hold it first, thus, Jose stepped back. During

that commotion, petitioner Alberto was only watching and told Jose and petitioner Rodolfo to stop fighting.

Thereafter, petitioner Alberto accompanied petitioner Rodolfo to the latter's house because he suffered a hand injury. Petitioner Rodolfo was then brought to Tabaco General Hospital before he was referred to Albay Provincial Hospital. Dr. Reduta sutured the top layer of his wound and the following day, he went back to Tabaco General Hospital where he was operated on his left hand injury by Dr. Romano.

Petitioner Rodolfo brought the bolo used in the incident with him in his house and reported the matter to the police station of Tiwi and surrendered the same bolo to the police authorities.

The RTC convicted the petitioners of the crime charged against them, but appreciated the mitigating circumstance of incomplete self-defense. The dispositive portion of the decision follows:

WHEREFORE, premises considered, the accused Rodolfo Belbis, Jr. and Alberto Brucales are found guilty beyond reasonable doubt for the death of Jose Bahillo. Considering the privileged mitigating circumstance of incomplete self-defense in their favor, and applying the Indeterminate Sentence Law, they are hereby sentenced to suffer the indeterminate penalty of four (4) years and two (2) months of *prision correccional* as minimum to eight (8) years and one (1) day of *prision mayor* as maximum, and to pay the heirs of Jose Bahillo the amounts of ₱50,000.00 as civil indemnity and ₱50,000.00 as moral damages.

Costs against the accused.

SO ORDERED.<sup>4</sup>

After the denial of their motion for reconsideration, the petitioners elevated the case to the CA. However, the latter denied their appeal and affirmed the RTC decision with modification that there was no mitigating circumstance of incomplete self-defense. The decretal portion of the decision reads:

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<sup>4</sup> Records, p. 414.

WHEREFORE, the decision dated 23 December 2004 of the Regional Trial Court of Tabaco City, Albay, Branch 17 is hereby AFFIRMED with MODIFICATION as to the penalty imposed. Accused-appellants Rodolfo C. Belbis, Jr. and Alberto Brucales are sentenced to suffer the indeterminate sentence of six (6) years and one (1) day of *prision mayor* as minimum to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal* as maximum.

*Costs de oficio.*

SO ORDERED.<sup>5</sup>

Petitioners' motion for reconsideration was denied. Hence, the present petition.

Raised are the following issues:

I

WHETHER OR NOT THE COURT OF APPEALS ERRED IN FINDING THAT THE STATEMENTS MADE BY THE VICTIM TO VERONICA DACIR, ONE MONTH PRIOR TO THE VICTIM'S DEATH. CONSTITUTES A DYING DECLARATION WITHIN THE CONTEMPLATION OF SECTION 37, RULE 130 OF THE RULES OF COURT?

II

WHETHER OR NOT THE COURT OF APPEALS ERRED IN RULING THAT PETITIONERS-APPELLANTS ARE NOT ENTITLED TO THE JUSTIFYING CIRCUMSTANCE OF SELF-DEFENSE AND THE MITIGATING CIRCUMSTANCE OF INCOMPLETE SELF-DEFENSE?

III

WHETHER OR NOT THE COURT OF APPEALS ERRED IN RULING THAT THE STAB WOUNDS WERE THE PROXIMATE CAUSE OF THE VICTIM'S DEATH?

IV

WHETHER OR NOT THE COURT OF APPEALS ERRED IN RULING THAT THE MITIGATING CIRCUMSTANCE OF VOLUNTARY SURRENDER IS NOT PRESENT IN THE CASE AT BAR?<sup>6</sup>

The petition lacks merit.

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<sup>5</sup> *Rollo*, p. 81.

<sup>6</sup> *Id.* at 11-12.

In a criminal case, factual findings of the trial court are generally accorded great weight and respect on appeal, especially when such findings are supported by substantial evidence on record.<sup>7</sup> This rule, however, is not without exceptions, one of which is when there is a conflict between the factual findings of the Court of Appeals and the trial court which necessitates a review of such factual findings.<sup>8</sup>

Petitioners claim that there is discrepancy in the findings of the RTC and the CA. According to them, the RTC never mentioned about a dying declaration which the CA discussed in its decision. They then argue that the CA erred in ruling that the statements made by the victim in the presence of witnesses Veronica Dacir right after being stabbed, and SPO1 Lerma Bataller before he died, are dying declarations within the contemplation of the law as the victim still lived for one month after the said dying declaration was made.

A dying declaration is a statement made by the victim of homicide, referring to the material facts which concern the cause and circumstances of the killing and which is uttered under a fixed belief that death is impending and is certain to follow immediately, or in a very short time, without an opportunity of retraction and in the absence of all hopes of recovery. In other words, it is a statement made by a person after a mortal wound has been inflicted, under a belief that death is certain, stating the facts concerning the cause and circumstances surrounding his/her death.<sup>9</sup>

As an exception to the hearsay rule, the requisites for its admissibility are as follows: (1) the declaration is made by the deceased under the consciousness of his impending death; (2) the deceased was at the time competent as a witness; (3) the declaration concerns the cause and

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<sup>7</sup> *People v. Narca*, 341 Phil. 696, 713-714 (1997).

<sup>8</sup> *Co v. Court of Appeals*, August 11, 1995, 247 SCRA 195, 200.

<sup>9</sup> *People v. Cerilla*, G.R. No. 177147, November 28, 2007, 539 SCRA 251, 261-262, citing R.J. Francisco, Evidence Rules 128-134, 3rd ed., 1996, p. 257.

surrounding circumstances of the declarant's death; and (4) the declaration is offered in a criminal case wherein the declarant's death is the subject of inquiry.<sup>10</sup>

The fact that the victim was stabbed on December 9, 1997 and died only on January 8, 1998 does not prove that the victim made the statement or declaration under the consciousness of an impending death. The rule is that, in order to make a dying declaration admissible, a fixed belief in inevitable and imminent death must be entered by the declarant. It is the belief in impending death and not the rapid succession of death in point of fact that renders the dying declaration admissible. It is not necessary that the approaching death be presaged by the personal feelings of the deceased. The test is whether the declarant has abandoned all hopes of survival and looked on death as certainly impending.<sup>11</sup> As such, the CA incorrectly ruled that there were dying declarations.

The CA should have admitted the statement made by the victim to Veronica Dacir right after he was stabbed as part of the *res gestae* and not a dying declaration. Section 42 of Rule 130 of the Rules of Court, reads as follows:

Sec. 42. *Part of the res gestae.* - Statements made by a person while a startling occurrence is taking place or immediately prior or subsequent thereto with respect to the circumstances thereof, may be given in evidence as part of the *res gestae*. So also, statements accompanying an equivocal act material to the issue, and giving it a legal significance, may be received as part of the *res gestae*.

All that is required for the admissibility of a given statement as part of the *res gestae*, is that it be made under the influence of a startling event witnessed by the person who made the declaration before he had time to

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<sup>10</sup> *People v. Hernandez*, G.R. Nos. 67690-91, January 21, 1992, 205 SCRA 213, 220-221; *People v. Israel*, G.R. No. 97027, March 11, 1994, 231 SCRA 155, 161-162; *People v. Apa-ap, Jr.*, G.R. No. 110993, August 17, 1994, 235 SCRA 468, 473; *People v. Pama*, G.R. Nos. 90297-98, December 11, 1992, 216 SCRA 385, 403.

<sup>11</sup> *People v. Cerilla*, *supra* note 6, at 263, citing *People v. Almeda*, 209 Phil. 393, 398 (1983); See also *People v. Devaras*, 147 Phil. 664, 673 (1971).

think and make up a story, or to concoct or contrive a falsehood, or to fabricate an account, and without any undue influence in obtaining it, aside from referring to the event in question or its immediate attending circumstances. In sum, there are three requisites to admit evidence as part of the *res gestae*: (1) that the principal act, the *res gestae*, be a startling occurrence; (2) the statements were made before the declarant had the time to contrive or devise a falsehood; and (3) that the statements must concern the occurrence in question and its immediate attending circumstances.<sup>12</sup>

It goes without saying that the element of spontaneity is critical. The following factors are then considered in determining whether statements offered in evidence as part of the *res gestae* have been made spontaneously, *viz.*, (1) the time that lapsed between the occurrence of the act or transaction and the making of the statement; (2) the place where the statement was made; (3) the condition of the declarant when he made the statement; (4) the presence or absence of intervening events between the occurrence and the statement relative thereto; and (5) the nature and circumstances of the statement itself.<sup>13</sup>

Clearly, the statement made by the victim identifying his assailants was made immediately after a startling occurrence which is his being stabbed, precluding any chance to concoct a lie. As shown in the testimony of Veronica:

Q     What time did you sleep that night?

x x x x

A     I was not able to sleep that night because I already heard my husband.

Q     What did you hear?

A     He was shouting.

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<sup>12</sup> *People v. Sanchez*, G.R. No. 74740, August 28, 1992, 213 SCRA 70, 79; See also *People v. Taneo*, G.R. No. 87236, February 8, 1993, 218 SCRA 494, 506; *Anciro v. People*, G.R. No. 107819, December 17, 1993, 228 SCRA 629, 642.

<sup>13</sup> *Francisco* 315-317.

Q What was he shouting?

A He was calling my name, "Bonic."

Q How did you come to know that it was the voice of your live-in partner?

A Because upon hearing his call "Bonic," I went to the side of the road and I saw him on the road walking towards our house.

Q More or less what time was that?

A 10:00 p.m.

Q What did you do?

A I approached him.

Q What particular place did you approach him?

A Near the store of Susan Galica.

Q What happened when you approached him?

A I asked him what happened.

Q What was the answer?

A He said that he was stabbed by Paul.

Q What else?

A: He was held by Boboy.

x x x x

Q What did you observe from Jose Bahillo your live-in partner before you brought him to the hospital?

A He was bloody and he was weak.

Q Could you tell us where did you see the blood?

A At his back and on his shorts.<sup>14</sup>

Be that as it may, the CA need have discussed in its decision the presence of a dying declaration or a statement as part of the *res gestae*, because petitioner Rodolfo admitted stabbing the victim but insists that he had done the deed to defend himself. It is settled that when an accused admits killing the victim but invokes self-defense to escape criminal liability, the accused assumes the burden to establish his plea by credible, clear and convincing evidence; otherwise, conviction would follow from his admission that he killed the victim.<sup>15</sup> Self-defense cannot be justifiably appreciated when uncorroborated by independent and competent evidence or

<sup>14</sup> TSN, April 25, 2001, pp. 6-10.

<sup>15</sup> *People v. Tagana*, G.R. No. 133027, March 4, 2004, 424 SCRA 620, 634; 468 Phil. 784, 800 (2004).

when it is extremely doubtful by itself.<sup>16</sup> Indeed, in invoking self-defense, the burden of evidence is shifted and the accused claiming self-defense must rely on the strength of his own evidence and not on the weakness of the prosecution.<sup>17</sup>

The essential requisites of self-defense are the following: (1) unlawful aggression 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 resorting to self-defense.<sup>18</sup> Verily, 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>19</sup>

Petitioners argue that the unlawful aggression that was started by the victim continued even if petitioner Rodolfo was already in possession of the bladed weapon used in the victim's stabbing. Petitioner Alberto narrated the event as follows:

Q: What happened?

A: Rodolfo Belbis Jr. was able to fend off or parry the blow.

Q: Then what happened again?

A: The next action of Jose Bahillo was to hold the wood horizontally and push it towards Rodolfo Belbis, Jr. and Rodolfo Belbis, Jr. was able to get hold of it.

Q: Then what happened after Rodolfo Belbis, Jr. was able to get hold of this stick?

A: The piece of wood was detached. The one Rodolfo Belbis, Jr. was holding was the scabbard, while the one with the sharp instrument was held by Jose Bahillo.

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<sup>16</sup> *Marzonía v. People*, G.R. No. 153794, June 26, 2006, 492 SCRA 627, 634.

<sup>17</sup> *People v. Tagana*, *supra* note 15.

<sup>18</sup> *People v. Silvano*, G.R. No. 125923, January 31, 2001, 350 SCRA 650, 657; 403 Phil. 598, 606 (2001); *People v. Plazo*, G.R. No. 120547, January 29, 2001, 350 SCRA 433, 442-443; *Roca v. Court of Appeals*, G.R. No. 114917, January 29, 2001, 350 SCRA 414, 422.

<sup>19</sup> *People v. Sarmiento*, G.R. No. 126145, April 30, 2001, 357 SCRA 447, 457; 409 Phil. 515, 528 (2001).

Q: Then what happened after this?

A: Jose Bahillo embraced Rodolfo Belbis, Jr.

Q: Then?

A: Wanting to get hold of that sharp instrument.

Q: Then what did Rodolfo Belbis, Jr. do when Jose Bahillo embraced him and tried to wrest the sharp instrument from him?

A: While this Jose Bahillo was embracing this Rodolfo Belbis, Jr., Rodolfo Belbis, Jr. was moving his hands while holding the sharp instrument, holding it away and thrusting it towards the back of Jose Bahillo, near the waistline at the back.

Q: Then what happened when you saw this?

A: When Jose Bahillo was not able to get hold of that sharp instrument, this Jose Bahillo pushed the body of Rodolfo Belbis, Jr. away from him and Rodolfo Belbis, Jr. fell down.

Q: Then what happened to the sharp instrument which Rodolfo Belbis, Jr. was holding when Rodolfo Belbis, Jr. fell down?

A: That sharp instrument got loose from his hand but it was situated just near him.

Q: Who are you referring as "him?"

A: Rodolfo Belbis, Jr.

Q: Then after this sharp instrument was loosened from the hand of Rodolfo Belbis, Jr. after he fell down, would you kindly inform this Court what happened next?

A: At that point, this Jose Bahillo again tried to get the sharp instrument but Rodolfo Belbis, Jr. was faster and he got hold of that instrument and [thrust] it towards Jose Bahillo.<sup>20</sup>

From the above testimony, it is apparent that the unlawful aggression on the part of the victim ceased when petitioner Rodolfo was able to get hold of the bladed weapon. Although there was still some struggle involved between the victim and petitioner Rodolfo, there is no doubt that the latter, who was in possession of the same weapon, already became the unlawful 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>21</sup> Such an aggression can also be surmised on the four stab wounds sustained by the victim on his back. It is

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<sup>20</sup> TSN, February 19, 2004, pp. 9-12.

<sup>21</sup> *People v. Vicente*, 452 Phil. 986, 998 (2003).

hard to believe based on the location of the stab wounds, all at the back portion of the body (right lumbar area, left lumbar area, left buttock, medial aspect and left buttock, lateral aspect), that petitioner Rodolfo was defending himself. It would have been different if the wounds inflicted were located in the front portion of the victim's body. The CA is, therefore, correct in agreeing with the observation of the RTC when it found that:

x x x The Court is not convinced on how Bahillo sustained the four stab wounds as narrated by Belbis. If it is true that Bahillo embraced him when he was able to wrest possession of the bolo, trying to get it back; that he held it away from his reach and swung it at Bahillo's back; that he felt the blade touch the body, the nature of the wounds inflicted would be different. It would be a laceration, slash or abrasion since it was the sharp blade that hit the back and not the pointed end of the bolo. **The location and nature of the injuries which were stab wounds clearly showed that they were not caused by swinging thrust. They were caused by direct thrust. It was the pointed end of the bolo that caused the injuries which hit the same spot – the lumbar area and the buttock.**<sup>22</sup>

The means employed by a person claiming self-defense 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>23</sup> In the present case, four stab wounds that are the product of direct thrusting of the bladed weapon are not necessary to prevent what the petitioners claim to be the continuous unlawful aggression from the victim as the latter was already without any weapon. In connection therewith, having established that there was no unlawful aggression on the part of the victim when he was stabbed, petitioners cannot avail of the mitigating circumstance of incomplete self-defense.

Anent the contention of petitioners that the CA failed to consider the testimony of the doctor who performed the autopsy in its entirety, the same is without any merit. What really needs to be proven in a case when the victim dies is the proximate cause of his death. Proximate cause has been

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<sup>22</sup> *Rollo*, p. 74. (Emphasis supplied)

<sup>23</sup> See *People v. Escarlos*, 457 Phil. 580, 598 (2003).

defined as "that cause, which, in natural and continuous sequence, unbroken by any efficient intervening cause, produces the injury, and without which the result would not have occurred."<sup>24</sup> The autopsy report indicated that the cause of the victim's death is multiple organ failure. According to Dr. Wilson Moll Lee, the doctor who conducted the autopsy, the kidneys suffered the most serious damage. Although he admitted that autopsy alone cannot show the real culprit, he stated that by having a long standing infection caused by an open wound, it can be surmised that multiple organ failure was secondary to a long standing infection secondary to stab wound which the victim allegedly sustained.<sup>25</sup> What is important is that the other doctors who attended to the wounds sustained by the victim, specially those on the left and right lumbar area, opined that they affected the kidneys and that the wounds were deep enough to have caused trauma on both kidneys. On that point, the Office of the Solicitor General (OSG), in its Comment,<sup>26</sup> is correct in stating the following:

9.3.1 Petitioners-appellants contend that the Court of Appeals failed to consider the testimony of Dr. Lee for the defense. Dr. Lee opines on cross-examination that the stab wounds sustained by Bahillo are not the cause of his death because he lived for quite sometime and that there was no direct injury on his vital organs. There was, however, a qualification to Dr. Lee's statement on cross-examination. He opines that he could only connect the stab wounds with the infection and death of Bahillo if he has knowledge of the past medical records of the patient. Petitioners-appellants' reliance of the said statement of Dr. Lee is misplaced because the doctor only examined the cadaver of Bahillo. This explains why he has no direct knowledge of Bahillo's medical records. The opinions of the other doctors who testified for the prosecution and who examined Bahillo while *he was still alive* are more conclusive than those of Dr. Lee. They had direct knowledge of the causal relation between the stab wounds, the kidney failure and the death of Bahillo.<sup>27</sup>

Thus, it can be concluded that without the stab wounds, the victim could not have been afflicted with an infection which later on caused

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<sup>24</sup> *People v. Villacorta*, G.R. No. 186412, September 7, 2011, 657 SCRA 270, 279, citing *Calimutan v. People*, 517 Phil. 272, 284 (2006).

<sup>25</sup> *Rollo*, p. 78.

<sup>26</sup> *Id.* at 94-111.

<sup>27</sup> *Id.* at 106. (Italics supplied)

multiple organ failure that caused his death. The offender is criminally liable for the death of the victim if his delictual act caused, accelerated or contributed to the death of the victim.<sup>28</sup>

As to the claim of petitioners that they are entitled to the mitigating circumstance of voluntary surrender, the same does not deserve merit. For voluntary surrender to be appreciated, the following requisites should be present: (1) the offender has not been actually arrested; (2) the offender surrendered himself to a person in authority or the latter's agent; and (3) the surrender was voluntary.<sup>29</sup> The essence of voluntary surrender is spontaneity and the intent of the accused to give himself up and submit himself to the authorities either because he acknowledges his guilt or he wishes to save the authorities the trouble and expense that may be incurred for his search and capture.<sup>30</sup> Without these elements, and where the clear reasons for the supposed surrender are the inevitability of arrest and the need to ensure his safety, the surrender is not spontaneous and, therefore, cannot be characterized as "voluntary surrender" to serve as a mitigating circumstance.<sup>31</sup> In the present case, when the petitioners reported the incident and allegedly surrendered the bladed weapon used in the stabbing, such cannot be considered as voluntary surrender within the contemplation of the law. Besides, there was no spontaneity, because they only surrendered after a warrant of their arrest had already been issued.

**WHEREFORE**, the Petition for Review on *Certiorari* under Rule 45, dated February 22, 2008, of Rodolfo Belbis, Jr. and Alberto Brucales, is hereby **DENIED**. Consequently, the Decision of the Court of Appeals, dated August 17, 2007, and its Resolution dated January 4, 2008, affirming with modification the Decision dated December 23, 2004 of the Regional

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<sup>28</sup> *People v. Cutura*, G.R. No. L-12702, March 30, 1962, 4 SCRA 663.

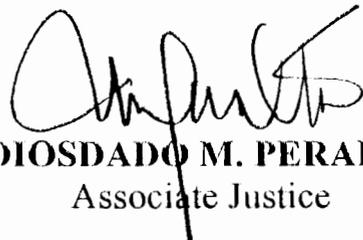
<sup>29</sup> *De Vera v. De Vera*, G.R. No. 172832, April 6, 2009, 584 SCRA 506, 515, citing *People v. Oco*, 458 Phil. 815, 851 (2003).

<sup>30</sup> *Id.*, citing *People v. Garcia*, G.R. No. 174479, June 17, 2008, 554 SCRA 616, 637; *Mendoza v. People*, G.R. No. 173551, October 4, 2007, 534 SCRA 668, 697-698.

<sup>31</sup> *Id.* at 515-516, citing *People v. Garcia, supra*, at 637-638.

Trial Court, Tabaco City, Albay, Branch 17, finding petitioners guilty beyond reasonable doubt of the crime of Homicide are hereby **AFFIRMED**.

**SO ORDERED.**

  
**DIOSDADO M. PERALTA**  
Associate Justice

**WE CONCUR:**

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson

  
**ROBERTO A. ABAD**  
Associate Justice

  
**JOSE PORTUGAL PEREZ**  
Associate Justice

  
**JOSE CATRAL MENDOZA**  
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.

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson, Third 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