



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated March 29, 2022 which reads as follows:*

**“G.R. No. 214941 – ROGELIO HABLERO, JR. y LANGRIO alias “OSOY,” petitioner, versus PEOPLE OF THE PHILIPPINES, respondent.**

After a careful review of the instant case, the Court resolves to **DENY** the present Petition for Review on *Certiorari*<sup>1</sup> (Petition) for failure of petitioner Rogelio Hablero, Jr. y Langrio alias “Osoy” (petitioner) to show any reversible error on the part of the Court of Appeals (CA) in rendering the assailed Decision<sup>2</sup> and Resolution<sup>3</sup> dated July 8, 2013 and August 19, 2014, respectively, in CA-G.R. CR No. 00903-MIN, as to warrant the exercise of the Court’s appellate jurisdiction.

The Court holds that the CA Decision dated July 8, 2013, affirming with modification petitioner’s conviction for the compound crime of homicide with serious physical injuries, has already become final and executory on account of petitioner’s belated filing of his motion for reconsideration with the CA. In any event, the Court finds no compelling reason to disturb the assailed rulings of the CA.

*The July 8, 2013 CA Decision had already become final.*

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<sup>1</sup> *Rollo*, pp. 3-28.

<sup>2</sup> *Id.* at 30-40. Penned by Associate Justice Edgardo A. Camello, with Associate Justices Jhosep Y. Lopez and Henri Jean Paul B. Inting (now Members of this Court) concurring.

<sup>3</sup> *Id.* at 42-44. Penned by Associate Justice Edgardo A. Camello, with Associate Justices Romulo V. Borja and Henri Jean Paul B. Inting (now a Member of this Court) concurring.

Section 16, Rule 124<sup>4</sup> of the Revised Rules of Criminal Procedure provides that a motion for reconsideration of a decision or final order of the CA should be filed within 15 days from notice. Substantially, the same rule is found in Section 1, Rule VII<sup>5</sup> of the 2009 Internal Rules of the CA (IRCA). If no motion for reconsideration is filed within 15 days, the judgment or final resolution shall be entered by the clerk in the Book of Entries of Judgments.<sup>6</sup>

Here, petitioner failed to timely file a motion for reconsideration of the CA Decision dated July 8, 2013, which petitioner received on August 19, 2013, through his counsel of record, the Catedral Bendita Emilio and Associates Law Office (CBEA Law Office).<sup>7</sup> Thus, petitioner had 15 days therefrom, or until September 3, 2013, within which to file a motion for reconsideration. However, it was only on October 11, 2013, or more than a month after the CA had issued its Decision, that petitioner, through Atty. German A. Operiano (Atty. Operiano), filed his Motion for Reconsideration with Motion to Admit.<sup>8</sup> At that point, the judgment of conviction had already attained finality. Thus, the CA was duty-bound to enter it in the Book of Entries of Judgments.

While it is conceded that procedural rules are to be construed liberally, it is also true that the provisions on reglementary period or those prescribing the time within which certain acts must be done or certain proceedings taken, are considered absolutely indispensable to

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<sup>4</sup> Section 16, Rule 124 of the Revised Rules of Criminal Procedure reads:

SEC. 16. *Reconsideration.* – A motion for reconsideration shall be filed within fifteen (15) days from notice of the decision or final order of the Court of Appeals, with copies thereof served upon the adverse party, setting forth the grounds in support thereof. The *mittimus* shall be stayed during the pendency of the motion for reconsideration. No party shall be allowed a second motion for reconsideration of a judgment or final order.

<sup>5</sup> Section 1, Rule VII of the IRCA reads:

SEC. 1. *Entry of Judgment.* – Unless a motion for reconsideration or new trial is filed or an appeal taken to the Supreme Court, judgments and final resolutions of the Court shall be entered upon expiration of fifteen (15) days from notice to the parties.

<sup>6</sup> Section 5, Rule VII of the IRCA reads:

SEC. 5. *Entry of Judgment and Final Resolution.* – If no appeal or motion for new trial or reconsideration is filed within the time provided in these Rules, the judgment or final resolution shall forthwith be entered by the clerk in the book of entries of judgments. The date when the judgment or final resolution becomes executory shall be deemed as the date of its entry. x x x

*See also* RULES OF COURT, Rule 51, Sec. 10.

<sup>7</sup> *Rollo*, p. 5.

<sup>8</sup> *Id.* at 43.

the prevention of needless delays and the orderly and speedy discharge of judicial businesses. Strict compliance with such rules is mandatory and imperative.<sup>9</sup>

Still, petitioner begs this Court for leniency in the interest of justice. Petitioner explains that his former counsel, Atty. Antonio O. Bendita (Atty. Bendita) of CBEA Law Office was elected Municipal Mayor of Surallah, South Cotabato, in 2013 and was unable to attend to his clients. Petitioner argues that the lawyers in a law office cannot be expected to take the cudgels of other lawyers who are preoccupied. Petitioner adds that on September 30, 2013, Atty. Bendita filed a Motion to Withdraw as Counsel, which is also the same date petitioner engaged the services of Atty. Operiano.<sup>10</sup> Thereafter, or on October 9, 2013, Atty. Operiano entered his appearance as petitioner's counsel. Two days later, Atty. Operiano filed a Motion for Reconsideration with Motion to Admit, which was within 15 days from when petitioner retained him as counsel.<sup>11</sup>

However, as correctly pointed out by the CA in the assailed Resolution, Atty. Bendita is not the lone counsel of petitioner but the whole CBEA Law Office. The Court quotes with approval the CA, thus:

x x x [T]he records clearly show that [petitioner's] counsel-of-record is not Atty. Bendita alone but the Cathedral Bendita Emilio and Associates Law Office. As he was then part of a law firm, there were definitely other partners who could have taken over his cases or settled his professional affairs after he separated from the firm. Therefore, the allegation that when he was elected Mayor and that he had no more time to continue his legal representation of his clients, deserve scant consideration. It is not the duty of the courts to inquire during the progress of a case whether the partnership continues to exist lawfully, or whether the partners or its associates are still connected with the firm. In other words, the copy of the assailed Decision was properly and effectively served on the law firm and that the reglementary period within which to file the intended motion commenced at the time of service. Therefore, with the period having lapsed without the filing of the motion for reconsideration, the assailed Decision became final and executory by operation of law. On the other hand, the Motion to Withdraw as Counsel filed by Atty. Bendita on his own could not be given any positive action as he is not the proper legal

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<sup>9</sup> *Surban v. People*, G.R. No. 231045, March 18, 2021 (Unsigned Resolution); citations omitted.

<sup>10</sup> *Rollo*, p. 5.

<sup>11</sup> *Id.* at 6-7.

representative having the right to withdraw as such. Consequently also, the Entry of Appearance has no legal effect except as to deem Atty. Operiano as a collaborating counsel.<sup>12</sup>

With no motion for reconsideration having been timely filed, the Decision dated July 8, 2013 of the CA had already become final and executory.

*The questions raised by petitioner fall outside the scope of a Rule 45 petition.*

Essentially, petitioner's contention in this Petition is centered on the credibility of the prosecution witness. The issue thus raised entails a re-examination of the evidence presented. Petitioner would like the Court to delve into the veracity and truthfulness of the testimonial evidence presented, the determination of which generally involves a question of fact. The well-entrenched rule is that only errors of law and not of fact are reviewable by this Court in petitions for review on *certiorari* under Rule 45 under which this Petition is filed. It is not the Court's function under Rule 45 to review, examine and evaluate or weigh once again the probative value of the evidence presented.<sup>13</sup> While there are recognized exceptions,<sup>14</sup> none is present in this case.

Since the Petition is anchored on the credibility of the prosecution witness, which is a factual allegation already rejected by the Regional Trial Court (RTC) and the CA, the Petition can be denied outright. Besides, findings of facts of the RTC, its calibration of the testimonial evidence, its assessment of the probative weight thereof, as well as its conclusions anchored on the said findings, are accorded high respect if not conclusive effect when affirmed by the CA,<sup>15</sup> as in this case.

*Petitioner is guilty beyond reasonable doubt of the compound crime of homicide with serious physical injuries.*

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<sup>12</sup> Id. at 43-44; citation omitted.

<sup>13</sup> *Reyes v. People*, G.R. No. 193034, July 20, 2015, 763 SCRA 226, 242.

<sup>14</sup> *Calaoagan v. People*, G.R. No. 222974, March 20, 2019, 898 SCRA 25, 36.

<sup>15</sup> *Roque v. People*, G.R. No. 193169, April 6, 2015, 755 SCRA 20, 27; citation omitted.

Putting the procedural obstacles aside, the Petition would still be denied. The Court holds and so rules that the prosecution was able to establish petitioner's guilt beyond reasonable doubt of the compound crime of homicide with serious physical injuries.

Article 48 of the Revised Penal Code (RPC) reads:

ART. 48. *Penalty for complex crimes.* – When a single act constitutes two or more grave or less grave felonies, or when an offense is a necessary means for committing the other, the penalty for the most serious crime shall be imposed, the same to be applied in its maximum period.

In a complex crime, although two or more crimes are actually committed, they constitute only one crime in the eyes of the law as well as in the conscience of the offender. Hence, there is only one penalty imposed for the commission of a complex crime.<sup>16</sup>

There are two kinds of complex crime. The first is known as compound crime, or when a single act constitutes two or more grave or less grave felonies. The second is known as complex crime proper, or when an offense is a necessary means for committing the other.<sup>17</sup>

The classic example of the first kind is when a single bullet results in the death or injury of two or more persons.<sup>18</sup> Thus, in the landmark case of *People v. Guillen*,<sup>19</sup> the Court held that the single act of throwing a grenade that killed one person and injured four others resulted in the complex crime of murder and multiple attempted murders.<sup>20</sup> In another case, the Court found that the single act of burning the victim's house, with the main objective of killing him and his daughter, resulting in their deaths — produced the complex crime of double murder.<sup>21</sup>

Similarly, in the present case, the Court holds that the single act of petitioner — firing his gun, killing Michael Causing (Causing), and injuring Edwin Felamin (Felamin) — falls under the first kind of complex crime. The single bullet that pierced Causing's chest and killed him was the same bullet that struck and wounded Felamin's left hand. Petitioner is therefore liable for the compound crime of homicide with serious physical injuries.

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<sup>16</sup> *People v. Gaffud, Jr.*, G.R. No. 168050, September 19, 2008, 566 SCRA 76, 88; citation omitted.

<sup>17</sup> *Id.* at 88; citation omitted.

<sup>18</sup> *Id.*

<sup>19</sup> 85 Phil. 307 (1950).

<sup>20</sup> *Id.* at 319-320.

<sup>21</sup> *People v. Gaffud, Jr.*, *supra* note 16, at 89.

Furthermore, Felamin positively identified petitioner as the gunman. The shooting incident could not have escaped his attention because it unfolded right before him, and Felamin was only a few meters away from petitioner. More, Felamin was already acquainted with petitioner, having seen him at Jebjeb's store fetch the woman Causing was conversing with.<sup>22</sup> Felamin also recognized petitioner's face as he and Causing approached petitioner and his companion moments before they were shot.

On the alleged inconsistencies, petitioner questions Felamin's credibility by arguing the following: (1) the Information stated that the shooting incident occurred on August 5, 2003, but Felamin testified that it happened on August 5, 2008;<sup>23</sup> (2) Felamin stated in his sworn statement that the bullet went through Causing's left chest, but during the preliminary examination he said that it went through Causing's right chest;<sup>24</sup> and (3) during Felamin's direct examination, he testified that his hand was on Causing's shoulder and Causing's hand was also on Felamin's shoulder, but during the cross-examination, Felamin testified that he was behind Causing when the latter was shot.<sup>25</sup>

The arguments fail to convince.

*First*, in crimes where the date of commission is not a material element, like in the present case, it is not necessary to allege such date with absolute specificity or certainty in the Information. The Rules of Court merely requires, for the sake of properly informing an accused, that the date of commission be approximated.<sup>26</sup> Despite the disparity as to the date of the alleged crime, the Court believes that there is no mistaking that both the Information and the evidence of the prosecution pertain to the same offense,<sup>27</sup> namely the shooting incident that resulted in Causing's death and injuries to Felamin's left hand.

*Second*, the trajectory of the bullet and the exact position of Causing and Felamin at the time of the shooting incident do not negate petitioner's guilt. Inconsistencies in the testimony of a witness referring to minor details do not destroy his or her credibility. Such minor inconsistencies even manifest truthfulness and candor and

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<sup>22</sup> *Rollo*, p. 31.

<sup>23</sup> *Id.* at 9-11.

<sup>24</sup> *Id.* at 11-13.

<sup>25</sup> *Id.* at 13-17.

<sup>26</sup> *People v. Delfin*, G.R. No. 201572, July 9, 2014, 729 SCRA 617, 622; citation omitted.

<sup>27</sup> *Id.* at 626.

remove any suspicion of a rehearsed testimony.<sup>28</sup> Hence, despite Felamin's contradictory statements, what is controlling is that he consistently testified on the occurrence of the crime and the identity of petitioner as the perpetrator. The CA, therefore, correctly determined that Felamin's testimony is credible even if there are minor inconsistencies, for these will not alter the fact that petitioner committed the crime.

All told, the CA did not err in convicting petitioner of the compound crime of homicide with serious physical injuries.

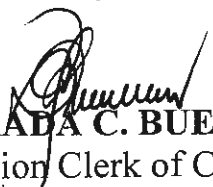
Finally, Article 48 of the RPC provides that the penalty for the more serious crime, which in the present case is *reclusion temporal*, should be applied in its maximum period. After applying the Indeterminate Sentence Law, the CA correctly imposed the indeterminate penalty of imprisonment ranging from twelve (12) years of *prision mayor*, as minimum, to twenty (20) years of *reclusion temporal*, as maximum.

**WHEREFORE**, the Petition for Review on *Certiorari* is **DENIED**. Accordingly, the Decision dated July 8, 2013 and Resolution dated August 19, 2014 of the Court of Appeals in CA-G.R. CR No. 00903-MIN are hereby **AFFIRMED**.

The elevation of *rollo* and complete records of the case by the Court of Appeals, Cagayan De Oro City, as required in the Resolution dated June 30, 2021, is **DISPENSED WITH**.

**SO ORDERED.**” *Inting, J., no part; Rosario, J., designated additional Member per Raffle dated March 16, 2022.*

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court  
4515

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
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<sup>28</sup> *People v. Reyes*, G.R. No. 224498, January 11, 2018, 851 SCRA 133, 150; citation omitted.



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The Hon. Presiding Judge  
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