



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated September 28, 2022, which reads as follows:

“**G.R. No. 261625 [Formerly UDK No. 17304] (*Antonio Flores v. People of the Philippines*)**. — Before the Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court, assailing the Decision² dated March 25, 2021 and the Resolution³ dated September 8, 2021 of the Court of Appeals (CA) in CA-G.R. CR-HC. No. 02411, which affirmed the Decision⁴ dated June 25, 2016 of the Regional Trial Court (RTC) of Argao, Cebu, Branch 26 in Criminal Case No. AR-1936, finding Antonio Flores (petitioner) guilty of Murder.

Antecedents

Petitioner was charged with the crime of Murder under the following Information:⁵

That on May 29, 1994 at 1:30 o'clock in the afternoon, more or less, in Barangay Colawin, Municipality of Argao, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent to kill, and by means of treachery, did then and there willfully, unlawfully and feloniously attack, thrust and stab FELIPE TUL-ID, with the use of a “Batangas knife”, thereby hitting the victim on his abdomen which caused his instantaneous death.

CONTRARY TO LAW.⁶

¹ *Rollo*, pp. 15-34.

² *Id.* at 95-110. Penned by Associate Justice Bautista G. Corpin, Jr. and concurred in by Associate Justices Gabriel T. Ingles and Dorothy P. Montejo-Gonzaga.

³ *Id.* at 35-36. Penned by Associate Justice Bautista G. Corpin, Jr. and concurred in by Associate Justices Gabriel T. Ingles and Dorothy P. Montejo-Gonzaga.

⁴ *Id.* at 55-62. Penned by Judge Maximo A. Perez.

⁵ *Id.* at 54.

⁶ *Id.*

The prosecution presented three witnesses: Casimiro Ortiz (Ortiz), Dr. Reno Rhine A. Mamac (Dr. Mamac), and Pauling Balagaso Tul-id (Pauling).⁷

Ortiz testified that on May 29, 1994, he saw the victim Felipe Tul-id (victim) and Jun Panerio (Panerio)⁸ having a verbal altercation as the victim rubbed cigarette butts on the stone used in a *cara y cruz* game. Panerio got irked and picked up the stone used in the game and dropped it heavily on the ground. Panerio then tried to punch the victim, but failed to hit the latter. Petitioner suddenly came and with the use of a Batangas knife, stabbed and hit the victim on the belly. The victim then held the post and slowly fell to the ground. Petitioner, while holding the knife, went with Panerio to the road. The wife of the victim, Pauling, came and asked the victim what happened, to which the latter replied that he was stabbed by petitioner. After the stabbing incident, Ortiz, together with Roger Quinto (Quinto) and Osting Saragena, boarded a jeepney and brought the victim to the Isidro Kintanar Memorial Hospital where the victim died.⁹

Dr. Mamac, Rural Health Officer of Argao, Cebu, testified that he conducted an autopsy on the body of the victim on May 30, 1994. In his Autopsy Report,¹⁰ which he identified in court, he stated that when he examined the victim, the latter was already in *rigor mortis*. He saw a wound just a little above the navel and a portion of the intestine protruded from the wound. Dr. Mamac stated that the cause of death was loss of blood because of the fatal wound. Based on the said findings, Dr. Mamac stated that the probable cause of the wound was a sharp-bladed and sharp-pointed weapon.¹¹

Pauling testified that on May 29, 1994, her neighbor Juanito Bañagaso informed her that her husband, the victim, was stabbed. She went to the scene of the incident, about 15 meters away from their house, and saw her husband lying on the ground still alive. She hugged him and asked what happened. Her husband coherently answered that petitioner was the one who stabbed him on the navel. Narding Gomez, Quinto and Ortiz arrived. They went to the Isidro C. Kintanar Memorial Hospital, but when they arrived there, her husband was already dead.¹²

The defense presented four witnesses: petitioner, Alejandro Gomez (Gomez), Mariano Albeos (Albeos), and Panerio whose testimonies constitute the following:

⁷ Id. at 96.

⁸ Also referred to as Esperidion Panerio in other parts of the record. See *rollo*, p. 113.

⁹ *Rollo*, p. 97.

¹⁰ Not attached to the petition.

¹¹ *Rollo*, pp. 97-98.

¹² Id. at 98.

On May 29, 1994, they were watching a *cara y cruz* game at the public market of Colawin, Argao, Cebu, participated in by Panerio and the victim, who was allegedly drunk. A quarrel ensued between the victim and Panerio as the latter reprimanded the former who rubbed cigarette butts against the stone used in the game and wanted to get the bet because he wanted to be a *kabidor*. After being reprimanded, the victim tried to punch Panerio, but the latter was able to evade it. The victim then drew a hunting knife and tried to stab Panerio, but petitioner, who suddenly appeared at the scene, parried the stab. Thereafter, petitioner and the victim grappled for the possession of the knife and, in the process, the victim was stabbed on his belly. The victim fell to the ground while petitioner left. Allegedly, Ortiz got the stone used in the *cara y cruz* game and went home before the stabbing incident. Panerio then looked for the vehicle to bring the victim to the hospital.¹³

Petitioner clarified that he had no intention to stab or kill the victim and he ran away because he got scared. He maintained that while he was grappling for possession of the knife, the victim stumbled and got wounded by his own weapon.¹⁴

Gomez, Albeos, and Panerio, who were at the place of the incident and witnessed the stabbing incident, gave corroborating statements in support of petitioner's theory.

RTC Ruling

In its Decision¹⁵ dated June 25, 2016, the RTC found petitioner guilty beyond reasonable doubt of the crime charged. The *fallo* of the RTC ruling reads:

WHEREFORE, premises considered, judgment is hereby rendered finding accused Antonio Flores **guilty** beyond reasonable doubt of the crime of Murder, as defined in Article 248 of the Revised Penal Code, qualified by treachery, and the said accused is hereby sentenced to suffer the penalty of *Reclusion Perpetua* and to indemnify the heirs of Felipe Tul-id the following damages: P50,000.00 as civil indemnity *ex delictu*; P50,000.00 as moral damages; and P30,000.00 as exemplary damages.

Accused Antonio Flores shall be credited full time of his preventive imprisonment which shall be deducted from the penalty imposed.

SO ORDERED.¹⁶

The RTC ruled that the prosecution established all the elements of murder: (1) the victim was killed, as shown by the death certificate; (2)

¹³ Id. at 99.

¹⁴ Id.

¹⁵ Id. at 55-62.

¹⁶ Id. at 62.

petitioner killed the victim; (3) the killing was attended by the qualifying circumstances of treachery and evident premeditation; and (4) the killing is neither parricide nor infanticide.¹⁷

The RTC also found that the elements of a dying declaration were present: (1) the declaration relates to the cause and circumstances of the victim's death; (2) the declaration was made at the time the victim was under consciousness of an impending death; (3) the victim was then competent as a witness; and (4) the declaration is offered in a criminal case for Murder in which the declarant is the victim.¹⁸ The RTC further found Ortiz trustworthy and his testimony credible, sufficient to support the finding of petitioner's guilt beyond reasonable doubt of the crime charged.¹⁹

The RTC held that petitioner cannot invoke self-defense as a justifying circumstance as the evidence on record does not show that the victim mounted an unlawful aggression against petitioner. It likewise found that petitioner's defense of denial cannot overcome positive evidence to the contrary.²⁰

Petitioner moved for reconsideration,²¹ which the RTC denied in its Order²² dated October 11, 2016.

CA Ruling

The CA affirmed the RTC in a Decision²³ dated March 25, 2021, the dispositive portion of which reads:

WHEREFORE, the appeal is hereby **DENIED**. The June 25, 2016 Decision of the RTC, Branch 26, Argao, Cebu, in Criminal Case No. AR-1936, is hereby **AFFIRMED** with **MODIFICATIONS**. Antonio Flores is **GUILTY** beyond reasonable doubt of Murder and is sentenced to suffer the penalty of *reclusion perpetua* with all its accessory penalties. He is likewise directed to pay the heirs of the late Felipe Tul-id the following: civil indemnity of Php75,000.00, moral damages of Php75,000.00, and exemplary damages of Php75,000.00. The imposition of six percent (6%) interest *per annum* on all damages awarded from the time of finality of this decision until fully paid is likewise sustained.

SO ORDERED.²⁴

The CA agreed with the RTC's finding that petitioner is guilty beyond reasonable doubt of the crime charged. It found that the testimonies of the prosecution witnesses, Ortiz and Pauling, were positive, clear, and consistent

¹⁷ Id. at 60.

¹⁸ Id. at 61.

¹⁹ Id.

²⁰ Id. at 62.

²¹ Id. at 63-74.

²² Id. at 75.

²³ Id. at 95-110.

²⁴ Id. at 109.

in all material points, and that there is no reason to doubt the positive identification of petitioner by said witnesses.²⁵ The CA likewise agreed with the RTC's pronouncement that the requisites of a dying declaration, which is an exception to the hearsay rule, are present herein.²⁶

Petitioner claimed that he was trying to establish the defense of stranger, and not self-defense, which the RTC discussed and struck down. He alleged that the victim was the unlawful aggressor and that he (petitioner) simply acted in defense of stranger, Panerio, in order to avert an impending harm. The CA found petitioner's defense of stranger incredulous, considering the positive and consistent testimony of prosecution witness Ortiz as to what transpired during the incident. The element of unlawful aggression on the part of the victim was therefore found wanting.²⁷

The CA further agreed with the RTC's declaration that the killing of the victim was qualified by treachery, as the victim was engrossed in his quarrel with Panerio when petitioner suddenly and out of nowhere stabbed the victim with a knife.²⁸

Lastly, the CA specified that petitioner, who is sentenced to suffer the penalty of *reclusion perpetua*, is not eligible for parole, pursuant to Section 3 of Republic Act No. 9346.²⁹ To conform to recent jurisprudence,³⁰ the CA modified the amount of damages awarded to the heirs of the victim by increasing the awards of civil indemnity, moral damages, and exemplary damages from ₱50,000.00 each to ₱75,000.00.

Petitioner moved for reconsideration,³¹ which the CA denied in its Resolution³² dated September 8, 2021.

Hence, this Petition.

Petitioner claims that the stabbing incident that led to the victim's death was accidental and the by-product of the grappling over the possession of the "knife" in the hand of the victim that the latter used in attempting to stab Panerio, which petitioner was able to parry in Panerio's defense.³³

Petitioner also claims that Ortiz's testimony was never corroborated on material points by any other prosecution witness, and that the alleged dying declaration of the victim only establishes the identity of petitioner as

²⁵ Id. at 102.

²⁶ Id. at 103-104.

²⁷ Id. at 106.

²⁸ Id. at 107-108.

²⁹ Entitled "AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES." Approved: June 24, 2006.

³⁰ *People v. Jugueta*, 783 Phil. 806, 825, 848 (2016); *People v. Jalbonian*, 713 Phil. 93, 106 (2013); *People v. Vitero*, 708 Phil. 49, 64-65 (2013); and *People v. Ogarte*, 664 Phil. 642, 663-664 (2011).

³¹ *Rollo*, pp. 111-119.

³² Id. at 35-36.

³³ Id. at 25-26.

the author of the stabbing but not as to the true circumstances of the stabbing incident, Pauling not being present when the incident occurred.³⁴ On the other hand, an independent and unbiased defense witness, Albeos, rebutted Ortiz's claims: Albeos stated that Ortiz was no longer around when the stabbing incident transpired as the latter left the area after he took the stone used in the game during the quarrel of Panerio and the victim.³⁵

The Court's Ruling

The petition lacks merit.

The instant petition is dismissible for lack of a certification against forum shopping.

Pursuant to Section 4³⁶ of Rule 45 of the Rules of Court, a petition under the said rule must be accompanied by a certification against forum shopping. Failure of the petitioner to comply with this requirement is a sufficient ground for the dismissal thereof.³⁷ Non-compliance with the requirement to submit a certification against forum shopping is generally not curable by its subsequent submission or correction thereof, unless there is a need to relax the rule on the ground of "substantial compliance" or presence of "special circumstances or compelling reasons."³⁸

Here, petitioner did not submit any certification against forum shopping and did not provide any reason for such non-compliance.

Moreover, Rule 45 of the Rules of Court covers only questions of law. In criminal cases, it is well-settled that 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.³⁹ It is only in exceptional circumstances, such as when the trial court overlooked material and relevant matters, that the Court will re-calibrate and evaluate the factual findings of the trial court.⁴⁰

³⁴ Id. at 26.

³⁵ Id. at 27.

³⁶ Section 4. *Contents of Petition.* – The petition shall be filed in eighteen (18) copies, with the original copy intended for the court being indicated as such by the petitioner, and shall (a) state the full name of the appealing party as the petitioner and the adverse party as respondent, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received; (c) set forth concisely a statement of the matters involved, and the reasons or arguments relied on for the allowance of the petition; (d) be accompanied by a clearly legible duplicate original, or a certified true copy of the judgment or final order or resolution certified by the clerk of court of the court *a quo* and the requisite number of plain copies thereof, and such material portions of the record as would support the petition; and (e) **contain a sworn certification against forum shopping as provided in the last paragraph of Section 2, Rule 42.** (Emphasis supplied)

³⁷ RULES OF COURT, Rule 45, Sec. 5.

³⁸ *Joven v. Spouses Tulio*, G.R. No. 204567, August 4, 2021, citing *Altres v. Empleo*, 594 Phil. 246, 261-262 (2008).

³⁹ *Seguritan v. People*, 632 Phil. 415, 418 (2010).

⁴⁰ Id.

When the credibility of the eyewitness is raised as an issue, this Court affords due deference and respect to the findings of the trial court, its calibration of the testimonies, its assessment of the probative weight thereof, and its conclusions anchored on said findings, absent any showing that it had overlooked circumstances that would have affected the final outcome of the case.⁴¹ The reason for this rule is borne out of the trial court's unique opportunity to observe the demeanor, conduct and attitude of witnesses under grueling examination.⁴² Hence, it is a settled rule that appellate courts will not overturn the factual findings of the trial court unless there is a showing that the latter overlooked facts or circumstances of weight and substance that would affect the result of the case.⁴³

The foregoing rule finds an even more stringent application where the findings of the RTC are sustained by the CA,⁴⁴ as in this case. Here, the RTC and the CA are in accord with their findings that Ortiz is a credible witness and that petitioner is guilty of the crime charged. Petitioner has not given any justifiable reason why the Court should review the factual findings of the lower courts.

Inclusion of an Award of Temperate Damages

Although the CA correctly increased the monetary awards to ₱75,000.00 each, it missed to award temperate damages, as stated in *People v. Jugueta*.⁴⁵ When no documentary evidence of burial or funeral expenses in court is presented, the amount of ₱50,000.00 as temperate damages shall be awarded.⁴⁶ An award of temperate damages in the amount of ₱50,000.00 is therefore proper.

WHEREFORE, the petition is **DENIED**. The Decision dated March 25, 2021 of the Court of Appeals in CA-G.R. CR-HC No. 02411, finding petitioner Antonio Flores **GUILTY** beyond reasonable doubt of Murder, is **AFFIRMED** with **MODIFICATION**. Petitioner is **SENTENCED** to serve the penalty of *reclusion perpetua* and to **PAY** the heirs of the victim, Felipe Tul-id, the amount of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, ₱75,000.00 as exemplary damages, and ₱50,000.00 as temperate damages, plus interest of six percent (6%) per *annum* on all monetary awards from the date of finality of this Resolution until full satisfaction.

The petitioner's supplemental manifestation, in compliance with the Resolution dated March 7, 2022, submitting the thereto attached replacement postal money order checks representing payment of the docket and other

⁴¹ *Balina v. People*, G.R. No. 205950, January 12, 2021.

⁴² *Labosta v. People*, G.R. No. 243926, June 23, 2020.

⁴³ *People v. Gerola*, 813 Phil. 1055, 1064 (2017).

⁴⁴ *Id.*


⁴⁵ *Supra* note 30 at 846-847.

⁴⁶ See *People v. Silvederio*, G.R. No. 239777, July 8, 2020.

legal fees, is **NOTED**; and the petitioner is required to **SUBMIT**, within five (5) days from notice hereof, a verified declaration of the supplemental manifestation, pursuant to A.M. Nos. 10-3-7-SC and 11-9-4-SC.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
42

OCT 21 2022

ORTEGA ONDANGAN BORINGA
LAW OFFICE
Counsel for Petitioner
G/F, Capitol Centrum Building
Escario Street, 6000 Cebu City

Court of Appeals
6000 Cebu City
(CA-G.R. CR-HC No. 02411)

The Solicitor General
134 Amorsolo Street, Legaspi Village
1229 Makati City

The Hon. Presiding Judge
Regional Trial Court, Branch 26
Argao, 6021 Cebu
(Crim. Case No. AR-1936)

Public Information Office (x)
Library Services (x)
Supreme Court
(For uploading pursuant to A.M.
No. 12-7-1-SC)

Philippine Judicial Academy (x)
Supreme Court

Judgment Division (x)
Supreme Court

UR

NT