



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated August 3, 2022, which reads as follows:

“G.R. No. 259384 (Robert Lemi y Chan 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 February 4, 2021, of the Court of Appeals in CA-G.R. CR-HC No. 09604 and its Resolution³ dated February 28, 2022, denying the motion for reconsideration thereof. The assailed Decision dismissed the appeal and affirmed with modification (as to the amount of damages) the Decision⁴ dated February 28, 2017 of the Regional Trial Court of Caloocan City, Branch 124 in Criminal Case No. C-72004 which found Robert Lemi y Chan (petitioner) and accused Francisco Cruz y Castro guilty beyond reasonable doubt of the crime of Murder as defined and penalized under Article 248 of the Revised Penal Code.

After a perusal of the records of the case, the Court resolves to **DISMISS** the appeal for failure to sufficiently show any reversible error in the herein assailed Decision dated May 18, 2017, to warrant the exercise of our appellate jurisdiction.

Foremost, it must be stated that the petitioner erroneously availed of the remedy under Rule 45 instead of a Notice of Appeal. On this ground alone, the petition should be dismissed.⁵ Nonetheless, in the higher interest of substantial justice, the Court deemed it proper to relax the rules and treat the present petition for review as an appeal, particularly as the instant petition was filed within the fifteen (15) day reglementary period for filing an appeal⁶ and no less than the liberty of the petitioner is at stake here.

¹ *Rollo*, pp. 3-26.

² *Id.* at 37-53; penned by Associate Justice Louis P. Acosta with Associate Justices Eduardo B. Peralta, Jr. and Bonifacio S. Pascua, concurring.

³ *Id.* at 33-34.

⁴ *Id.* at 56-85; rendered by Presiding Judge Glenda K. Cabello-Marin.

⁵ RULES OF COURT, Rule 122, Section 3(c); Rule 124, Section 12(c).

⁶ *Punongbayan-Visitacion v. People, et al.*, 823 Phil. 212, 222 (2018).

Unfortunately, after evaluating the factual issues raised and examining the records of the case, the Court finds that the evidence presented by the prosecution supports the conviction of the petitioner. Contrary to the petitioner's submission, the prosecution established the existence of conspiracy, as such, it is irrelevant who actually inflicted the fatal wound, as the act of one is the act of all.⁷

The conviction notwithstanding, the Court modifies the amount of damages imposed to conform with jurisprudence. Under Article 248, the penalty for Murder is *reclusion perpetua* to death. There being no other aggravating circumstance in this case other than "abuse of superior strength" which already qualified the killing to Murder, the proper imposable penalty is *reclusion perpetua*, the lower of the two indivisible penalties.⁸ Following this imposition, in accordance with *People v. Jugueta*,⁹ civil indemnity, moral damages, and exemplary damages shall be pegged at ₱75,000.00 each. With respect to the amount of actual damages, as the amount proven during trial is less than ₱50,000.00, the award of temperate damages is justified in lieu thereof which is fixed by prevailing jurisprudence at ₱50,000.00.¹⁰ In addition, the award of damages shall earn interest at the rate of six percent (6%) *per annum* from the date of finality of this judgment until fully paid.¹¹

WHEREFORE, the instant petition is **DENIED**. The Decision dated February 4, 2021 and the Resolution dated February 28, 2022, issued by the Court of Appeals in CA-G.R. CR-HC No. 09604 finding petitioner Robert Lemi y Chan and accused Francisco Cruz y Castro guilty of the crime of Murder and imposing upon them the penalty of *reclusion perpetua*, are hereby **AFFIRMED with MODIFICATION** in that they are also liable to pay the heirs of victim Marvin Bernardo y Aguilar ₱50,000.00 as temperate damages, ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages. All damages awarded shall earn interest at the rate of six percent (6%) *per annum* from the date of finality of this resolution until fully paid.

SO ORDERED."

By authority of the Court:

Misael C. Battung III
MISAELO DOMINGO C. BATTUNG III

Division Clerk of Court *JB* 11/15/22

⁷ *Quidet v. People*, 632 Phil. 1, 12 (2010).

⁸ REVISED PENAL CODE, Article 63(2).

⁹ 783 Phil. 806 (2016).

¹⁰ *People v. Racal*, 817 Phil. 665 (2017).

¹¹ *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).

Atty. Allan Agno Pasamonte
Counsel for Petitioner
Blk. 6 Lot 3 Veraville Drive, Veraville
Manuela Townhomes 3, Pamplona 3
1740 Las Pinas City

COURT OF APPEALS
CA-G.R. CR HC No. 09604
1000 Manila

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
1229 Legaspi Village, Makati City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 124, 1400 Caloocan City
(Criminal Case No. C-72004)

Atty. Alvin A. Siapin
Counsel for Francisco C. Cruz
No. 339 First St., Brgy. 39, Grace Park
1400 Caloocan City

PHILIPPINE JUDICIAL ACADEMY
Research Publications and Linkages Office
Supreme Court, Manila
[research_philja@yahoo.com]

PUBLIC INFORMATION OFFICE
Supreme Court, Manila
[For uploading pursuant to A.M. 12-7-1-SC]


LIBRARY SERVICES
Supreme Court, Manila

Judgment Division
JUDICIAL RECORDS OFFICE
Supreme Court, Manila

G.R. No. 259384

ach

VB


(61)
URES