



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **August 31, 2022** which reads as follows:*

“G.R. No. 256488 (Ariel C. Mingoy @ Baby Boy, petitioner v. People of the Philippines, respondent). – This petition for review on *certiorari*¹ assails the following issuances of the Court of Appeals in CA-G.R. CR No. 42673 entitled “*People of the Philippines v. Ariel Mingoy @ Baby Boy:*”

- 1) **Decision**² dated June 30, 2020, affirming petitioner’s conviction for homicide with modification, imposing legal interest of six percent (6%) *per annum*; and
- 2) **Resolution**³ dated March 23, 2021, denying petitioner’s motion for reconsideration.

Proceedings before the Trial Court

The Charge

By Information dated December 3, 2014, petitioner Ariel C. Mingoy @ “Baby Boy” (petitioner) was charged with homicide for the death of Rudy Rivas y Acosta (Rudy), thus:

On the 29th day of November 2014, in the City of Makati, the Philippines, the accused with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and stab Rudy Rivas y Acosta on his body, thereby inflicting upon the latter serious and mortal wound which directly caused his death.

CONTRARY TO LAW.⁴

¹ *Rollo*, pp. 12–29.

² Penned by Associate Justice Marie Christine Azcarraga-Jacob, and concurred in by Associate Justices Marlene B. Gonzales-Sison and Florencio Mallanao Mamauag, Jr., *id.* at 34–47.

³ *Id.* at 49–52.

⁴ *Id.* at 69.

The case was raffled to the Regional Trial Court (RTC) – Branch 66, Makati City. On arraignment, petitioner pleaded “not guilty.”⁵

During the pre-trial conference, the parties stipulated on the following: (1) the death of the victim, Rudy; (2) the identity of the petitioner; (3) at the time of the incident, both petitioner and the victim were residing in the same place; (4) petitioner was a security guard at the time of the incident; and (5) the trial court had jurisdiction over the case.⁶

Jervick Castillo (Jervick), Eduardo Rivas, Senior Police Officer 2 Jason David (SPO2 David), Senior Police Officer 1 Eleazar Dagoh (SPO1 Dagoh), and Police Superintendent Voltaire Nulud (Dr. Nulud) testified for the prosecution. On the other hand, petitioner alone testified for the defense.

The Prosecution’s Version

Rudy together with Ramon Luar (Ramon), Aljon Dhenver Abela (Aljon), Jervick, and petitioner were roommates in Ecology Village, Pasong Tamo Extension, Brgy. Magallanes, Makati City.⁷

On November 29, 2014, around 12:30 in the afternoon, the five (5) decided to have a drinking session inside their rented room. While drinking, Rudy and Ramon almost came to blows but Jervick was able to pacify them. Meanwhile, Jervick left the room to urinate and Aljon followed him. When they returned, they saw Rudy and Ramon already strangling each other. Jervick and Aljon again intervened and were able to separate the two (2). Thereafter, Aljon noticed that Rudy’s shirt was wet. Aljon pulled up Rudy’s shirt and saw blood. Aljon went out of the room to seek help, leaving Rudy to the care of Jervick. When they were left alone, Rudy confided to Jervick. “*Sarge, binanatan ako ni Baby Boy.*” referring to petitioner. Rudy was thereafter rushed to Makati Medical Center but he eventually passed away on December 1, 2014 due to a stab wound in his thorax.⁸

When the police officers arrived at the hospital, they initially arrested not only petitioner but also Jervick and Aljon. During the medical examination of the three (3), SPO1 Dagoh noticed something unusual about the stainless buckle of the belt petitioner was wearing. When SPO1 Dagoh inspected petitioner’s buckle, he discovered there was a knife attached to it. Thereafter, inquest proceedings were initiated against petitioner, Jervick, and Aljon but only petitioner was charged for the death of Rudy.⁹

⁵ *Id.* at 70.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 71.

Based on the autopsy report, Dr. Nulud found that the depth of Rudy's wound *vis-a-vis* the length and characteristics of the knife found in petitioner's possession were consistent with each other.¹⁰

The Defense's Version

Petitioner denied that he killed Rudy and that he was the "Baby Boy" referred to by him.¹¹ He claimed that Rudy called him "Boss" not "Baby Boy."¹²

Petitioner testified that on November 29, 2014, he agreed to have a drinking session with Jervick and Ramon. After consuming the second bottle of liquor, Rudy arrived. They invited him to join in. During the drinking spree, Rudy suddenly threw the liquor, the food, and then the table outside. Jervick stood up and pushed Rudy to the wall, and then left to urinate. He also left to fix the electric fan that was thrown out together with the table. He left Rudy and Ramon alone inside the room. When he stepped back into the room, he saw Rudy and Ramon strangling each other. He tried to pacify them, saying "*Tama na 'yan, matulog na lang tayo.*" While pacifying them, he was also trying to fix the electric fan. When Jervick returned, he also pacified the two (2). Even though the commotion was still going on, he already went to bed. Then, he heard Aljon who just arrived, asking "*Anong nangyari?.*" When he opened his eyes, he saw Rudy and Ramon talking to each other. Suddenly, Rudy fell on the floor. Then he heard Rudy saying, "*Binanatan ako ni Baby Boy.*" He and Aljon ran outside to hail a taxi cab because he saw blood on Rudy's shirt. Rudy was left with Jervick and Ramon inside the room. After hailing a taxi cab, they were able to rush Rudy to Makati Medical Center.¹³

The Ruling of the Trial Court

By Judgment¹⁴ dated October 26, 2018, the trial court found petitioner guilty as charged, *viz.*:

WHEREFORE, in view of the foregoing, this Court finds accused Ariel Mingoy also known as "Baby Boy", GUILTY beyond reasonable doubt for the crime of Homicide as defined and penalized under Article 249 of the Revised Penal Code and is hereby sentenced to suffer the penalty of EIGHT (8) years and ONE (1) day of *prision mayor* as minimum to FIFTEEN (15) year[s] and ONE (1) day of *reclusion temporal* as maximum.

In addition thereto, said accused is also hereby ordered to pay the heirs of the deceased, Rudy Rivas y Acosta, the following amounts: (a) One Hundred Five Thousand Eight Hundred Thirty Two Pesos (Php105,832.00)

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 72.

¹³ *Id.* at 71-72.

¹⁴ Penned by acting Presiding Judge Ricardo A. Moldez II, *id.* at 69-83.

as actual damages; (b) Fifty Thousand Pesos (Php50,000.00) as civil indemnity; and (c) Fifty Thousand Pesos (Php50,000.00) as moral damages.

SO ORDERED.¹⁵ (Emphases in the original)

The trial court ruled that the prosecution established all the elements of homicide including the identity of petitioner as the assailant known as “Baby Boy.” It debunked petitioner’s argument that Rudy called him “Boss.” The trial court also took into account the victim’s dying declaration, “*Sarge, binanatan ako ni Baby Boy,*” which *ante-mortem* statement was uttered to Jervick prior to the victim losing consciousness and eventually expiring. The statement is also part of the *res gestae* which is admissible as an exception to the hearsay rule. While there was no eyewitness as to the actual stabbing, the trial court ruled that the circumstantial evidence adduced by the prosecution, when taken together, sufficiently established that it was petitioner who stabbed and killed the victim.

The Proceedings Before the Court of Appeals

On appeal, petitioner faulted the trial court for rendering a verdict of conviction. In the main, he argued that the trial court erred in giving credence to the prosecution witnesses’ testimony, especially to his identity as the alleged perpetrator in the killing of Rudy.¹⁶

The Office of the Solicitor General (OSG), on the other hand, countered that petitioner’s conviction was proven beyond reasonable doubt. The prosecution established an unbroken chain of circumstances which points to petitioner as the guilty person to the exclusion of all others.¹⁷

The Ruling of the Court of Appeals

By its assailed Decision¹⁸ dated June 30, 2020, the Court of Appeals affirmed but modified the monetary awards by imposing legal interest of six percent (6%) *per annum*, thus:

WHEREFORE, premises considered, the appeal is **DENIED** for want of merit.

The *Judgment dated 26 October 2018* issued by the Regional Trial Court (RTC), Branch 66, of Makati City, in Criminal Case No. 14-1968 is **AFFIRMED** subject to the **SOLE MODIFICATION** that all monetary awards shall earn interest at the rate of six percent (6%) *per annum* from the date of finality of this *Decision* until full satisfaction thereof.

¹⁵ *Id.* at 83.

¹⁶ Brief of the Accused-Appellant, *id.* at 53–68.

¹⁷ Brief of the Plaintiff-Appellee, *id.* at 84–98.

¹⁸ *Id.* at 34–47.

The bondsman of accused-appellant Ariel Mingoy *a.k.a.* “Baby Boy” is ordered to surrender him to the court *a quo* within ten (10) days from notice for the court *a quo* to report to this Court the fact of his surrender within ten (10) days from notice of such fact.

In case of non-surrender, the Regional Trial Court of Makati City, Branch 66, is **DIRECTED** to:

- i. cancel the bond posted for the provisional liberty of the accused-appellant;
- ii. order the arrest of the accused-appellant;
- iii. immediately commit the said accused-appellant to the Bureau of Prisons.

SO ORDERED.¹⁹ (Emphases in the original)

Petitioner’s motion for reconsideration was denied through Resolution²⁰ dated March 23, 2021.

The Present Petition

Petitioner now seeks to reverse the verdict of conviction against him. He faults the courts below for pointing to him as the victim’s assailant despite that no one, even Jervick, actually saw the stabbing incident. He adds that the victim was seen having an altercation and strangling with Ramon. The records did not show that it was him who had an altercation with the victim prior to or during the drinking session as to support the conclusion that he was the one who fatally stabbed the victim. Also, while a buckle knife was recovered in his possession, there was no showing that the same knife was used to stab the victim.²¹

On the other hand, the People through the OSG, ripostes that petitioner’s guilt was established beyond reasonable doubt through circumstantial evidence. Too, petitioner’s contentions are mere rehash of his previous claims. They were already passed upon by the trial court and the Court of Appeals. Thus, the factual findings of the trial court which the Court of Appeals affirmed are binding to the Court. In any case, the prosecution established petitioner’s identity as the assailant.

Ruling

The Court denies the petition.

¹⁹ *Id.* at 46.

²⁰ *Id.* at 49–52.

²¹ *Id.* at 12–29.

Homicide is defined and penalized under Article 249 of the Revised Penal Code (RPC), *viz.*:

Art. 249. *Homicide.* — Any person who, not falling within the provisions of Article 246, shall kill another without the attendance of any of the circumstances enumerated in the next preceding article, shall be deemed guilty of homicide and be punished by *reclusion temporal*.

To sustain the conviction, the prosecution must establish the following elements: (a) a person was killed; (b) the accused killed him or her without any justifying circumstance; (c) the accused had the intention to kill, which is presumed; and (d) the killing was not attended by any of the qualifying circumstances of murder, or by that of parricide, or infanticide.²²

Here, the prosecution established beyond reasonable doubt that the victim, Rudy, was killed by petitioner. The intent to kill was manifested by the use of a sharp bladed weapon as well as the nature and location of the wound suffered by the victim.

With respect to the identity of the assailant, the prosecution was likewise able to prove to a moral certainty that it was petitioner who inflicted the stab wound which caused the victim's untimely death.

Prosecution witness Jervick steadfastly declared in open court that he heard Rudy identify petitioner as the assailant, *viz.*:

PROS. EVANGELISTA:

Q: So, what happened next upon seeing that there is blood in Mr. Rivas' body?

WITNESS:

A: Lumabas po si Aljohn²³ Abela para humingi ng tulong at ako [na po] 'yong nag-alalay kay Rudy Rivas.

PROS. EVANGELISTA:

Q: Now, you said that Mr. Abela went outside to get help while you assisted Mr. Rivas?

WITNESS:

A: Yes, Sir.

PROS. EVANGELISTA:

²² *Villanueva v. Caparas*, 702 Phil. 609, 616 (2013) [per J. Brion, Second Division]; Also see *Wacoy v. People*, 761 Phil. 570, 578 (2015) [per J. Perlas-Bernabe, First Division]; and *Anisco v. People*, G.R. No. 242263, November 18, 2020.

²³ Sometimes "Aljon" in the *rollo*.

Q: So while you were assisting Mr. Rivas, what happened next, if any?

WITNESS:

A: Nabanggit po niya na binanatan daw po siya ni Baby Boy, sir.

PROS. EVANGELISTA:

Q: What were the exact words of Mr. Rivas to you?

WITNESS:

A: *“Sarge, binanatan ako ni Baby Boy.” Yon po sir.*

COURT:

Q: Binanatan ni?

WITNESS:

A: Baby Boy, (Your) Honor.

PROS. EVANGELISTA:

May we move, (Your) Honor, that the utterance be quoted in the vernacular?

COURT:

Okay. Quote.

PROS. EVANGELISTA:

Q: And when [Mr. Rivas] uttered “binanatan ako ni Baby Boy,” to whom was he referring to?

WITNESS:

A: **Kay Ariel Mingoy po sir.**

PROS. EVANGELISTA:

Q: So, are you trying to say that he is also known by the name Baby Boy?

WITNESS:

A: **Yes, sir.**²⁴ (Emphasis supplied)

As shown, Jervick positively identified petitioner as the person known and referred to as “Baby Boy.” On this score, the Court of Appeals keenly noted petitioner and Ramon, who had an altercation with the victim, were not total strangers to Jervick. The latter is familiar with the victim, petitioner, and Ramon as they all live in the same boarding house. Apart from Jervick’s positive identification of the petitioner, his close proximity to the crime scene

²⁴ *Rollo*, pp. 74–76.

bolsters the credibility of petitioner's identification as the perpetrator of the crime.

Too, Jervick's positive identification of the petitioner was strengthened by the victim's statement, "*Sarge, binanatan ako ni Baby Boy.*"

We also agree with the trial court's findings that the victim's statement is an exception to the hearsay rule and admissible as a dying declaration. *First*, the victim communicated his *ante-mortem* statement to Jervick, identifying the petitioner as the one who stabbed him. *Second*, given the severity and seriousness of the stab wound, it can be reasonably presumed that the victim uttered such statement to Jervick under the belief that his death is forthcoming. *Third*, in the absence of any evidence to the contrary, the victim would have been competent to testify on the subject of the declaration or statement. The *fourth* requisite is clearly present as the declaration was offered in the criminal case for homicide.

But even assuming there was doubt regarding the victim's impending death when he uttered the questioned statement, the same is still admissible for being part of *res gestae* – also an exception to the hearsay rule. *First*, the stabbing incident was the startling occurrence. *Second*, the victim had no opportunity to fabricate a statement implicating petitioner because he immediately identified him as his attacker after Jervick pacified him and Ramon. *Lastly*, the statement of the victim concerned the circumstances surrounding his stabbing.

In fine, petitioner's denial has no leg to stand on. It is inherently weak as a defense, especially when weighed against the positive and credible testimony of Jervick identifying petitioner as the perpetrator.

Further, direct evidence of the commission of the crime is not indispensable to criminal prosecutions. A contrary rule would render convictions virtually impossible given that most crimes, by their nature, are purposely committed in seclusion and away from eyewitnesses.²⁵

Here, there is ample evidence, though circumstantial, to establish the guilt of the petitioner, *viz.*: (1) Jervick saw petitioner near the victim and Ramon while the two were strangling each other; (2) after Jervick pacified the victim and Ramon, he saw the victim wounded and the latter confessed to him that petitioner stabbed him; (3) the investigating officer, SPO1 Dagoh, positively identified petitioner as the one from whom the buckle knife was recovered; and (4) medico legal officer, Dr. Nulud, who conducted the autopsy on the body of the victim testified that the depth of Rudy's wound

²⁵ *People v. Pentecostes*, 820 Phil. 823, 833 (2017) [per J. Caguioa, Second Division].

vis-a-vis the length and characteristics of the knife found in petitioner's possession were consistent with each other.²⁶

In this light, the presence of all the elements of homicide under Article 249 of the RPC was sufficiently proved.

Penalty and Damages

Under Art. 249 of the RPC, homicide is punishable by *reclusion temporal*. Considering that no aggravating and mitigating circumstances attended the commission of the crime here, the penalty should be imposed in its medium period. Applying the Indeterminate Sentence Law, the maximum penalty shall be taken from the range of the medium period of *reclusion temporal*, with the minimum penalty selected from the range of the penalty next lower in degree, *i.e.*, *prision mayor*.²⁷

Thus, the trial court as affirmed by the Court of Appeals, properly imposed the penalty of eight (8) years and one (1) day of *prision mayor* as minimum to fifteen (15) years and one (1) day of *reclusion temporal* as maximum.²⁸

On the monetary awards, in accord with *People v. Jugueta*,²⁹ the Court of Appeals correctly sustained the award of ₱50,000.00 each as civil indemnity and moral damages. With respect to the award of actual damages of ₱105,832.00 which was duly supported by receipts, the same was properly sustained by the Court of Appeals.

The Court of Appeals, too, correctly modified the monetary award to add the legal interest of six percent (6%) *per annum* in accordance with *Nacar v. Gallery Frames*.³⁰

FOR THESE REASONS, the Petition is **DENIED**. The Decision dated June 30, 2020 and Resolution dated March 23, 2021 in CA-G.R. CR No. 42673 of the Court of Appeals are **AFFIRMED**.

Petitioner **Ariel C. Mingoy @ Baby Boy** is found **GUILTY** of **HOMICIDE**. He is sentenced to eight (8) years and one (1) day of *prision mayor* as minimum to fifteen (15) years and one (1) day of *reclusion temporal* as maximum. He is further ordered to **PAY** the heirs of **Rudy Rivas y Acosta**, the following monetary awards:

²⁶ *Rollo*, p. 44.

²⁷ *People v. Menil*, G.R. No. 233205, June 26, 2019, 906 SCRA 391, 404.

²⁸ *Rollo*, p. 83 and p. 45.

²⁹ 783 Phil. 806, 946 (2016) [per J. Peralta, *En Banc*].

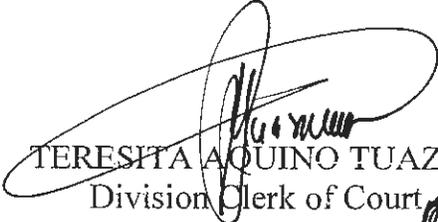
³⁰ 716 Phil. 267 (2013) [per J. Peralta, *En Banc*].

- (a) **₱50,000.00** as civil indemnity;
- (b) **₱50,000.00** as moral damages; and
- (c) **₱105,832.00** as actual damages.

All monetary awards shall earn legal interest of six percent (6%) *per annum* from finality of this Resolution until fully paid.

SO ORDERED.”

By authority of the Court:


 TERESITA AQUINO TUAZON
 Division Clerk of Court
 01 FEB 2023

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