



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 1, 2022** which reads as follows:*

“G.R. No. 258621 (Noe Vetonio y Eulin, petitioner v. People of the Philippines, respondent.) — The Court resolves to:

1. **NOTE** the manifestation dated February 17, 2022 of counsel for petitioner, informing the Court that a motion for extension to file petition was filed and served by registered mail on January 31, 2022; with attached copies of the said motion and payment of ₱1,000.00 for sheriff’s trust fund; and
2. **GRANT** the motion of petitioner for extension of thirty (30) days from the expiration of the reglementary period within which to file a petition for review on certiorari.

This Petition for Review on *Certiorari*¹ assails the Decision² dated January 28, 2021 of the Court of Appeals in CA-G.R. CR No. 43966, affirming the conviction of Noe Vetonio y Eulin (Vetonio) for homicide and imposing the penalty of six (6) years and one (1) day of *prision mayor*, as minimum penalty, to twelve (12) years and one (1) day of *reclusion temporal*, as maximum penalty, plus civil liabilities.

By Information³ dated December 17, 2015, Vetonio was charged with homicide for the killing of Jill Ryan Ibardaloza (Jill Ryan) in Criminal Case No. 037, *viz.*:

That on or about the 26th day of November 2015, in the City of Taguig, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, did then and there, willfully, unlawfully and feloniously attack, assault and throw a stone to one Jill Ryan Ibardaloza, hitting him on [the] head, inflicting upon him fatal injuries

¹ *Rollo*, pp. 13-34.

² Penned by Associate Justice Marie Christine Azcarraga-Jacob, concurred in by Associate Justice Apolinario D. Bruselas, Jr. and Associate Justice Florencio Mallanao Mamauag, Jr.; *rollo*, pp. 35-45.

³ *Rollo*, p. 36.

which directly caused his death to the damage and prejudice of the heirs of the said Jill Ryan Ibardaloza.

CONTRARY TO LAW.

On arraignment, Vetonio pleaded not guilty.⁴

Prosecution's Version

The prosecution presented two witnesses, namely: (1) Aniceto Ibardaloza (Aniceto), Jill Ryan's father; and (2) Marellie Ibardaloza (Marellie), Jill Ryan's wife. In addition, the parties stipulated on the proposed testimonies of (1) Senior Police Officer 2 Rico Pereya (SPO2 Pereya), the investigator assigned on this case; (2) Leanne Mae Sabalan (Sabalan), the credit and collection supervisor at UBHI Parañaque Doctor's Hospital; and (3) Joseph Eborá (Eborá), a medical records staff from UBHI Parañaque Doctor's Hospital.⁵

On November 26, 2015, around 2:00 a.m., Aniceto testified that he was sleeping in his house when a certain "Boy" and "Jeff Sta. Ana" woke him and informed him that his son, Jill Ryan, was hit in the head by a stone thrown by Vetonio. He went to his son and rushed him to the Taguig Pateros District Hospital. The hospital, however, informed them that they lacked the facilities to treat Jill Ryan. He then transferred his son to UBHI Parañaque Doctor's Hospital where his son eventually died the next day around 5:10 in the morning.⁶

He incurred medical expenses in the total amount of ₱127,700.04 consisting of (1) ₱23,826.04 hospital bill; (2) ₱75,000.00 burial expense; and (3) ₱28,874.00 wake and other expenses. Sabalan and Eborá corroborated the correctness of the amount of the hospital bill Aniceto paid to UBHI Parañaque Doctor's Hospital.⁷

Marellie, Jill Ryan's wife, testified that on November 26, 2015, at 2:00 a.m., she got informed that her husband was brought to UBHI Parañaque Doctor's Hospital because Vetonio smashed a rock on his head. When she arrived at the hospital, she was no longer able to speak to her husband as the latter was unconscious and in critical condition.⁸

⁴ Id.

⁵ Id.

⁶ Id. at 37.

⁷ Id.

⁸ Id.

The Defense's Version

Vetonio refuted the charge against him and asserted that he was only defending himself from Jill Ryan's repeated assault and bullying. On November 26, 2015, around 2:00 a.m., he was playing *cara y cruz* with his friends when Jill Ryan arrived and suddenly tried to grab his coin, insisting he should be the one to toss it. When he refused to give his coin, Jill Ryan hit his nape, boxed him, and cursed at him. Since Jill Ryan had consistently bullied him before, he reached the limit of his patience. He took hold of a rock and threw it at Jill Ryan. The latter was accidentally hit on the side of his head which caused his untimely death. In sum, he insisted that the incident was an accident. The throwing of a stone at Jill Ryan was done in self-defense and the result of strong emotions due to the consistent bullying he suffered from the latter.⁹

The Rulings of the Regional Trial Court and the Court of Appeals

By Decision¹⁰ dated August 14, 2019, the trial court rendered a verdict of conviction. It noted that while Vetonio did not invoke self-defense during the arraignment and pretrial, he nevertheless raised self-defense and lack of intention to commit so grave a wrong as a defense during the trial. By invoking self-defense, the trial court ruled that it was incumbent upon Vetonio to prove by clear and convincing evidence that he indeed acted in defense of himself. It found that he failed to establish self-defense. The aggression allegedly employed by Jill Ryan against him did not put his life in danger. His claim that Jill Ryan hit him in the nape and boxed him remained uncorroborated. The essential element of unlawful aggression was lacking in this case; hence, the justifying circumstance of self-defense cannot be appreciated in Vetonio's favor. The trial court, however, gave credence to his claim that he had no intention to commit so grave a wrong as to kill Jill Ryan. It appreciated in his favor the mitigating circumstance of *praeter intentionem*.

On appeal, the Court of Appeals affirmed with modification. It reduced the award of actual damages from ₱52,700.00 to ₱42,652.08 per receipt attached on record.¹¹

The Present Petition

Vetonio now prays anew for his acquittal, reiterating that all the elements of self-defense are present. *First*, there was unlawful aggression

⁹ Id.

¹⁰ Id. at 37-38.

¹¹ Id. at 39-44.

when Jill Ryan tried to grab his coin, hit his nape, boxed him, and cursed at him. *Second*, there was reasonable necessity of the means employed when he threw a rock at Jill Ryan because it was out of instinct and for his self-preservation. *Third*, there was lack of sufficient provocation on his part because he was merely playing *cara y cruz* when Jill Ryan suddenly appeared and attacked him. Alternatively, he should only be convicted of reckless imprudence resulting in homicide since he had no intention to kill Jill Ryan and was only acting out of impulse by reason of the latter's incessant bullying.¹²

Our Ruling

We affirm.

The determination of the guilt of an accused hinges on how a court appreciates evidentiary matters in relation to the requisites of an offense. Determination of guilt is, thus, a fundamentally factual issue. The Court, however, is not a trier of facts.¹³ A Rule 45 Petition for Review on *Certiorari* is limited to a review of pure questions of law. The Court, therefore, is not duty bound to reexamine and calibrate the evidence on record.¹⁴ The factual findings of the trial court are generally binding and conclusive upon the Court when supported by evidence¹⁵ and affirmed by the appellate court, as in this case.

Guided by this principle, the Court finds no cogent reason to disturb the trial court's factual findings, which were affirmed by the Court of Appeals. Vetonio failed to adduce any special reason to warrant the exercise of the Court's discretionary appellate review.

In any event, the prosecution has proved beyond reasonable doubt that Vetonio is guilty of homicide.

The elements of the crime of homicide are the following: (a) a person was killed; (b) the accused killed him 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.¹⁶

These elements were all sufficiently established. *First*, Vetonio admitted that he killed Jill Ryan. *Second*, the justifying circumstance of self-

¹² *Id.* at 17-27.

¹³ *Macayan v. People*, 756 Phil. 202, 214 (2015).

¹⁴ *Quines v. United Philippine Lines, Inc.*, G.R. No. 248774, May 12, 2021.

¹⁵ *Gumama v. People*, G.R. No. 253799, February 3, 2021.

¹⁶ *Wacoy v. People*, 761 Phil. 570, 578 (2015).

defense cannot be appreciated, there being no unlawful aggression on the part of Jill Ryan. Vetonio, having the burden of evidence to prove self-defense, was not able corroborate his claim that he got hit in the nape, boxed, and cursed by Jill Ryan. He failed to present any of the testimonies of his companions during the incident while the medical certificate presented in court showed that Vetonio did not sustain any injury. *Third*, he also admitted to deliberately throwing a rock at Jill Ryan. His intent to kill was conclusively presumed as his actions resulted in the latter's death.¹⁷ *Fourth*, the killing was not attended by any of the qualifying circumstances of murder, or by that of parricide or infanticide.

Vetonio's argument that he should only be liable for reckless imprudence resulting in homicide is erroneous. Reckless imprudence consists in voluntarily, but without malice, doing or failing to do an act from which material damage results by reason of inexcusable lack of precaution on the part of the person performing or failing to perform such act, taking into consideration his or her employment or occupation, degree of intelligence, physical condition and other circumstances regarding persons, time and place.¹⁸ The act of the person who caused the death of another must have been lawful to be liable for reckless imprudence. Clearly, Vetonio's throwing of stone at Jill Ryan was not a lawful act done in negligence, but rather, a deliberately unlawful act. It cannot, therefore, be deemed as reckless imprudence.

In any case, the trial court correctly appreciated the mitigating circumstance of lack of intention to commit so grave a wrong under Article 13 (3) of the Revised Penal Code and must be appreciated in Vetonio's favor. He could not have known that upon throwing the rock at Jill Ryan, the same would have a lethal effect upon the latter. There is no evidence showing that he deliberately aimed for Jill Ryan's head.

Going now to the imposable penalties and damages, Article 249 of the Revised Penal Code provides that the penalty for homicide is *reclusion temporal*. Article 64 of the same Code states that the imposable penalty shall be imposed in its minimum period when a mitigating circumstance is present in the commission of the act. Accordingly, the imposable penalty is *reclusion temporal* in its minimum period. Applying the Indeterminate Sentence Law, the minimum penalty to be meted on Vetonio should be anywhere within the range of six (6) years and one (1) day to eight (8) years of *prision mayor* which is one degree lower than *reclusion temporal*, and the maximum penalty should be taken from the minimum period of *reclusion temporal* ranging from twelve (12) years and one (1) day to fourteen (14) years and eight (8) months. Thus, as imposed by the trial court and affirmed by the Court of Appeals, Vetonio is hereby sentenced to suffer the indeterminate penalty of **six (6) years and**

¹⁷ *People v. Doca*, G.R. No. 233479, 16 October 2019.

¹⁸ ARTICLE 365. *Imprudence and Negligence*. Revised Penal Code.

one (1) day of *prision mayor*, as minimum penalty, to twelve (12) years and one (1) day of *reclusion temporal*, as maximum penalty.

The Court, however, must modify Vetonio's civil liability. In *People v. Jugueta*,¹⁹ the Court ruled that where the crime of homicide is committed, civil indemnity and moral damages should be awarded to the victim in the amount of ₱50,000.00 each.²⁰ Also, in *People v. Oliva*,²¹ the Court ruled that when actual damages proven by receipts during the trial amount to less than the sum allowed by the Court as temperate damages, the award of temperate damages is justified in lieu of actual damages which are of a lesser amount. Conversely, if the amount of actual damages proven exceeds, then temperate damages may no longer be awarded; actual damages based on the receipts presented during trial should instead be granted. The rationale for this rule is that it would be anomalous and unfair for the victim's heirs, who tried and succeeded in presenting receipts and other evidence to prove actual damages, to receive an amount which is less than that given as temperate damages to those who are not able to present any evidence at all.

In this case, the trial court granted the following sums: ₱52,700.00 as actual damages; ₱75,000.00 as civil indemnity; and ₱75,000.00 as moral damages. Following *Jugueta* and *Oliva*, the Court modifies the award of civil indemnity and moral damages to ₱50,000.00 each. The award of actual damages is deleted, being less than the sum allowed by the Court as temperate damages. In lieu of actual damages, the amount of ₱50,000.00 as temperate damages is awarded to Jill Ryan's heirs. All monetary awards shall earn interest at the rate of 6% *per annum* pursuant to *Nacar v. Gallery Frames*.²²

FOR THESE REASONS, the Petition is **DENIED**. The Decision dated January 28, 2021 of the Court of Appeals in CA-G.R. CR No. 43966 is **AFFIRMED** with **MODIFICATION**.

Petitioner **Noe Vetonio y Eulin** is **GUILTY** of **Homicide** and sentenced to **six (6) years and one (1) day of *prision mayor*, as minimum penalty, to twelve (12) years and one (1) day of *reclusion temporal*, as maximum penalty**. He is ordered to pay the heirs of Jill Ryan Ibardaloza ₱50,000.00 as civil indemnity; ₱50,000.00 as moral damages; and ₱50,000.00

¹⁹ 783 Phil. 806-856 (2016).

²⁰ V. In other crimes that result in the death of a victim and the penalty consists of divisible penalties, *i.e.*, Homicide, Death under Tumultuous Affray, Infanticide to conceal the dishonour of the offender, Reckless Imprudence Resulting to Homicide, Duel, Intentional Abortion and Unintentional Abortion, etc.:

x x x x

1.2 Where the crime committed was not consummated, except those crimes where there are no stages, *i.e.*, Reckless Imprudence and Death under tumultuous affray:

1.1 Where the crime was consummated:

a. Civil indemnity – ₱50,000.00

b. Moral damages – ₱50,000.00

x x x (Emphasis supplied)

²¹ G.R. No. 237811, January 10, 2019.

²² 716 Phil. 267, 283 (2013).

as temperate damages. These amounts shall earn six percent (6%) interest *per annum* from finality of this Resolution until fully paid.

SO ORDERED.”

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court ^{MP}₁₂₅
25 JAN 2023

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HON. PRESIDING JUDGE (reg)

Regional Trial Court, Branch 153
Taguig City
(Crim. Case No. 037)

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*with copy of CA Decision dated January 28, 2021
Please notify the Court of any change in your address.
GR258621. 08/01/2022(218)URES