



**Republic of the Philippines**  
**Supreme Court**  
**Bacolod City**

FIRST DIVISION

NOTICE

Sirs/Mesdames:

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

**“G.R. No. 260645 (Emmanuel Berog y Vecina a.k.a. “Eman” v. People of the Philippines).** – The petitioner’s Motion for an Extension of thirty (30) days within which to file a petition for review on certiorari is **GRANTED**, counted from the expiration of the reglementary period.

After a review of the records, the Court resolves to **DENY** the instant Petition for Review on *Certiorari*<sup>1</sup> (Petition) for failure of petitioner Emmanuel Berog y Vecina, a.k.a. “Eman” (petitioner), to sufficiently show that the Court of Appeals (CA) committed any reversible error in its assailed Decision<sup>2</sup> dated 25 May 2021 and its Resolution<sup>3</sup> dated 25 April 2022 in CA-G.R. CR No. 43132 as to warrant the exercise of the Court’s appellate jurisdiction.

Petitioner would have the Court re-examine the evidence on record. However, petitions brought under Section 1, Rule 45 of the Rules of Court pertain only to questions of law and not to factual issues. The Court is not a trier of facts. It is not the Court’s function to examine, review or evaluate the evidence all over again.<sup>4</sup>

In any case, We agree with the CA that the prosecution successfully established that petitioner killed Nelson Hernandez (Hernandez). Eyewitness Raul Bonifacio Cruel positively identified petitioner as the person who stabbed Hernandez. His statement was lent credence by the fact that he was seated but a meter away from where the stabbing happened.

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<sup>1</sup> *Rollo*, pp. 106-125.

<sup>2</sup> *Id.* at 15-29.

<sup>3</sup> *Id.* at 36-47. Penned by Associate Justice Louis P. Acosta and concurred in by Associate Justices Myra V. Garcia-Fernandez and Bonifacio S. Pascua.


<sup>4</sup> *Id.* at 49-52. Penned by Associate Justice Louis P. Acosta and concurred in by Associate Justices Myra V. Garcia--Fernandez and Bonifacio S. Pascua.

While the trial court, as affirmed by the CA, correctly ordered the payment of civil indemnity and moral damages in the amount of ₱50,000.00 each, there being no aggravating circumstance proven during trial that would warrant the imposition of exemplary damages,<sup>5</sup> there is still a need to modify the monetary awards. The trial court ordered petitioner to indemnify the heirs of Hernandez for the costs incurred for hospitalization, and for funeral and burial in the amount of ₱60,000.00 and ₱40,000.00, respectively. However, the same cannot be construed as payment for actual damages considering that no official receipts were presented to prove the actual expenses incurred. Following *People v. Jugueta*,<sup>6</sup> temperate damages in lieu of actual damages may be awarded, but only in the amount of ₱50,000.00. Moreover, pursuant to prevailing law and jurisprudence, legal interest should be imposed on all monetary awards at the rate of six percent (6%) per *annum* from finality of this Resolution until fully satisfied.<sup>7</sup>

**WHEREFORE**, the instant Petition is **DENIED**. The Decision dated 25 May 2021 and the Resolution dated 25 April 2022 of the Court of Appeals in CA-G.R. CR No. 43132 are **AFFIRMED** with **MODIFICATION**. Petitioner Emmanuel Berog y Vecina a.k.a. “Eman” is found **GUILTY** beyond reasonable doubt of the crime of Homicide. He is sentenced to suffer the indeterminate penalty of imprisonment of eight years of *prision mayor*, as minimum, to fourteen years, eight months, and one day of *reclusion temporal*, as maximum. He is likewise ordered to pay the heirs of Nelson Hernandez the following amounts: (a) ₱50,000.00 as civil indemnity; (b) ₱50,000.00 as moral damages; and (c) ₱50,000.00 as temperate damages, and to pay the costs. All monetary awards shall earn legal interest at the rate of six percent (6%) per *annum* from of finality of this Resolution until full payment.

**SO ORDERED.**” *Marquez, J., on official business.*

**By authority of the Court:**

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

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court

**336-A**

**JAN 19 2023**

<sup>5</sup> *People v. Jugueta*, 783 Phil. 806, 853 (2016).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 854.

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Manila  
(CA-G.R. CR No. 43132)

The Solicitor General  
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The Hon. Presiding Judge  
Regional Trial Court, Branch 93  
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(Crim. Case No. 09-6910-SPL)

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