



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **February 8, 2023** which reads as follows:*

“**G.R. 215907 (Joel Sarabia, Sr. v. People of the Philippines)**.—Before this Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assailing the May 31, 2013 Decision² and the October 28, 2014 Resolution³ of the Court of Appeals (CA) in CA-G.R. CEB-CR No. 01022 affirming the May 9, 2008 Order⁴ of the Regional Trial Court (RTC) of Iloilo City, Branch 29, in Criminal Case No. 00-52211, finding petitioner Joel Sarabia, Sr. guilty beyond reasonable doubt of the crime of Frustrated Homicide.

Petitioner was charged with the crime of Frustrated Murder with the Use of an Unlicensed Firearm in an Information⁵ that reads:

That on or about May 14, 2000, in the Municipality of Lambunao, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a short unlicensed firearm of unknown caliber with deliberate intent and decided purpose to kill, with treachery did then and there willfully, unlawfully and feloniously attack, assault and shoot LEONARICO LEMANA with said unlicensed short firearm accused was then provided at that time, inflicting gunshot wound on said Leonarico Lemana; thus performing all acts of execution which would produce the crime of murder as a consequence but which nevertheless did not produce the same by reason of causes independent of the will of the accused, that is, by the timely and able medical attendance rendered on said Leonarico Lemana which prevented his death.

CONTRARY TO LAW.⁶

¹ *Rollo*, pp. 37-49.

² *Id.* at 9-21. Penned by Associate Justice Pamela Ann Abella Maxino and concurred in by Associate Justices Edgardo L. Delos Santos (now a retired Member of the Court) and Maria Elisa Sempio Diy.

³ *Id.* at 28-32.

⁴ *Records*, pp. 535-547. Penned by Judge Gloria G. Madero.

⁵ *Id.* at 1.

⁶ *Id.*

During his arraignment, petitioner entered a plea of “not guilty.”⁷ After termination of pre-trial, the trial on the merits ensued. The prosecution presented the following witnesses: Leonarico Lemana (Lemana), Barangay Captain Jesus Encena (Encena), Police Officer 2 Reggie Navarra, Dr. Dennis Superficial (Dr. Superficial), and Police Inspector Paulino Roga, Jr. The defense presented the following witnesses: petitioner, Reynaldo Lopez (Lopez), and Dr. Nenita Dimatulac (Dr. Dimatulac).

The Antecedents

The facts, as alleged by the prosecution, are as follows:

In the evening of May 14, 2000, Yvonne Lepeño (Lepeño) hosted a party at her residence in celebration of a *fiesta* in Barangay Caninguan, Lambunao, Iloilo.⁸ At around 9:20 p.m., noticing that the stock of beer at the party was running low, Lepeño ordered her driver, Lemana, to bring over beer from her warehouse located 35 meters away from her home.⁹

On the way to the warehouse, Lemana spotted in his periphery and a few meters away from him, the father of his employer, Encena, talking with petitioner.¹⁰ As he approached the pair, petitioner suddenly stepped aside, drew his gun and, without warning or provocation, shot Lemana.¹¹ Lemana was hit in the stomach.¹² In an attempt to defend himself, Lemana reached for his own gun¹³ as petitioner once again aimed his gun at Lemana and pulled the trigger.¹⁴ The second shot missed Lemana.¹⁵

As Lemana tried to draw and aim his gun at petitioner, he felt cold numbness envelop him and his vision began to blur.¹⁶ Lemana then collapsed and lost consciousness.¹⁷ After seeing Lemana fall to the ground, petitioner immediately fled the scene of the crime. Encena, who was caught in the middle of the crossfire, recovered his wits and directed his *tanods* to apprehend petitioner.¹⁸ However, despite their efforts to go after petitioner, they were unable to locate and apprehend him.¹⁹

Lemana was brought to the hospital where he underwent an exploratory laparotomy procedure which entailed resection of portions of his intestines to

⁷ Id. at 30

⁸ TSN, November 21, 2002, pp. 3-4.

⁹ Id. at 4-5.

¹⁰ Id. at 6; TSN, July 4, 2002, pp. 3-5; TSN, April 3, 2003, p. 6.

¹¹ TSN, November 21, 2002, p. 6; TSN, July 4, 2002, pp. 5-6; TSN, April 3, 2003, p. 8.

¹² TSN, November 21, 2002, p. 6.

¹³ TSN, July 4, 2002, p. 6.

¹⁴ TSN, July 4, 2002, p. 7; TSN, November 21, 2002, p. 6.

¹⁵ TSN, July 4, 2002, p. 7.

¹⁶ TSN, November 21, 2002, p. 7.

¹⁷ Id.

¹⁸ TSN, July 4, 2002, p. 7.

¹⁹ Id.

save his life.²⁰ Dr. Superficial, the attending physician of the Iloilo Mission Hospital who handled Lemana's case, confirmed that the gunshot wound sustained by Lemana in his abdomen would have caused his immediate death if he had not received medical attention.²¹

In his defense, petitioner claimed that, in the evening of May 14, 2000, petitioner was outside the house of his mother standing beside his tricycle when Encena suddenly approached him and accused him of spreading rumors about the relationship of Encena's daughter with Lemana.²² Petitioner denied any involvement with the spreading of such rumors²³ but Encena proceeded to berate and insult him.²⁴ During this heated discussion, Lemana approached the pair and suddenly fired his gun at petitioner.²⁵ Petitioner was not hit by the first shot but the second shot grazed the right side of his head.²⁶ Petitioner then pulled out his own gun and fired back at Lemana.²⁷ Thereafter, petitioner ran away and, when he stopped running, he claimed he felt something hot and painful on the right side of his head.²⁸ He went to the house of a certain Colonel Perez and asked for help.²⁹ The morning after the incident, petitioner went to the Dr. Ricardo Y. Ladrido Memorial Hospital in Lambunao, Iloilo.³⁰ Dr. Dimatulac, a resident physician at Dr. Ricardo Y. Ladrido Memorial Hospital, testified that she examined and treated the injuries sustained by petitioner.³¹ When asked during trial what may have caused the bruise above petitioner's right ear, Dr. Dimatulac responded that "this may be produced by [a] hard object secondary to fall or anything that [can] cause hematoma and also, discoloration of that portion."³² Thereafter, petitioner voluntarily surrendered to the authorities.³³

Ruling of the Regional Trial Court

In its May 9, 2008 Order,³⁴ the trial court rendered judgment finding petitioner guilty of the crime of Frustrated Homicide taking into consideration the mitigating circumstance of voluntary surrender. The RTC held that the prosecution failed to prove all of the elements of the crime of Frustrated Murder with the Use of an Unlicensed Firearm because there is nothing in the record that will show that petitioner is not a holder of a licensed firearm and that treachery, as a qualifying circumstance to the crime of Murder, was not

²⁰ TSN, June 14, 2001, pp. 4-5.

²¹ Id. at 5.

²² TSN, September 21, 2006, pp. 4-5.

²³ Id.

²⁴ Id. at 5.

²⁵ Id.

²⁶ Id.

²⁷ Id.

²⁸ Id. at 6.

²⁹ Id.

³⁰ Id. at 7.

³¹ TSN, July 20, 2006, pp. 3-4.

³² Id. at 7.

³³ Records, p. 499.

³⁴ Id. at 535-547.



duly established. Moreover, since the records and the evidence presented by the parties show no proof that the special aggravating circumstance of “use of unlicensed firearm” is present, the same was not considered by the trial court in the imposition of the appropriate penalty. The dispositive portion of the RTC judgment reads:

WHEREFORE, premises considered, judgment is hereby rendered finding the accused Joel Sarabia, GUILTY beyond reasonable doubt of the crime of Frustrated Homicide and hereby sentences him to suffer the penalty of two (2) years, four (4) months and one (1) day of *prision correccional* as MINIMUM to six (6) years and one (1) day of *prision mayor* minimum as MAXIMUM. No award for actual damages as no receipts were presented to prove the same.

SO ORDERED.³⁵

Aggrieved, petitioner appealed his conviction to the appellate court on April 14, 2019.³⁶ In the Brief for Accused-Appellant,³⁷ petitioner claimed that Lemana was the aggressor at the time of the incident and that petitioner was merely acting in self-defense.³⁸ Petitioner insisted that there was no justifiable reason whatsoever for him to shoot Lemana and he only learned that Lemana harbored ill feelings towards him after the incident.³⁹ In the Brief for the Plaintiff-Appellee,⁴⁰ the People, through the Office of the Solicitor General (OSG), prayed that the assailed Order dated May 9, 2008 of the trial court be affirmed *in toto* on the following grounds: (1) [petitioner’s] guilt for Frustrated Homicide has been established beyond reasonable doubt and (2) the prosecution witnesses were not motivated by ill will in positively identifying the [petitioner] as perpetrator of the crime.⁴¹

Ruling of the Court of Appeals

In its May 31, 2013 Decision,⁴² the CA affirmed with modification the trial court’s judgment of conviction. The CA found that all the essential elements of Frustrated Homicide were established by the prosecution and that the testimonies of the prosecution witnesses were straightforward, candid, and earnest. The appellate court also found that petitioner’s assertion that he acted in self-defense in shooting Lemana was implausible as it was established by the prosecution that petitioner was the unlawful aggressor and Lemana was merely passing by when petitioner shot the latter. Finally, the CA held that the trial court’s imposition of penalty was in order but added that petitioner is

³⁵ Id. at 547.

³⁶ CA *rollo*, pp. 28-44.

³⁷ Id.

³⁸ Id. at 35-41.

³⁹ Id.

⁴⁰ Id. at 76-91.

⁴¹ Id. at 83-88.

⁴² *Rollo*, pp. 9-21.

also liable for moral damages suffered by Lemana in the amount of PHP 25,000.00.⁴³

The *fallo* of the CA's May 31, 2013 Decision reads:

IN LIGHT OF ALL THE FOREGOING, the Court hereby affirms with MODIFICATION the assailed Decision dated May 9, 2008 of the Regional Trial Court, Branch 29, Iloilo City, in Criminal Case No. 00-52211. Accused-Appellant Joel Sarabia Sr. is found GUILTY of the crime of frustrated homicide and is hereby sentenced to suffer the penalty of two years, four months and one day of *prision correccional*, as minimum, to six years and one day of *prision mayor*, as maximum. Accused-Appellant is further ordered to pay Leonarico Lemana the amount of Php25,000.00 as moral damages. Interest at the rate of six percent (6%) per annum on the moral damages awarded from the finality of this decision until fully paid shall likewise be paid by accused-appellant to Leonarico Lemana.

SO ORDERED.⁴⁴

In a Resolution⁴⁵ dated October 28, 2014, the appellate court denied the Motion for Reconsideration⁴⁶ filed by petitioner. The CA found that “no new matter of significance or any substantial import or compelling consequence [was raised by the petitioner in his Motion for Reconsideration to] warrant a reversal of the Decision sought to be reconsidered.”⁴⁷

Undeterred, petitioner filed before this Court the present Petition for Review on *Certiorari*.⁴⁸ Petitioner argues that he is entitled to the appreciation of the mitigating circumstance of incomplete self-defense as he also sustained injuries on his body, particularly when an alleged bullet shot by Lemana grazed the right side of his head.⁴⁹ Petitioner claims that he acted in self-defense and if he had not fired his gun while Lemana was in the act of making follow-up shots, petitioner would have been hit by such shots and eventually would have died.⁵⁰ The People, through the OSG, filed a Comment⁵¹ to the petition stating therein that the petition must be denied on the following grounds: (1) the issues in the instant controversy being questions of fact, the same must be dismissed for being contrary to Rule 45 of the Rules of Court, which only permits questions of law; and (2) the alleged unlawful aggression on the part of Lemana, and the supposed injuries petitioner sustained, have no basis in evidence; as such, said allegations are insufficient to prove self-defense, whether incomplete or otherwise.⁵² In

⁴³ Id. at 15-20.

⁴⁴ Id. at 20.

⁴⁵ Id. at 28-32.

⁴⁶ Id. at 22-27.

⁴⁷ Id. at 31.

⁴⁸ Id. at 37-49.

⁴⁹ Id. at 44.

⁵⁰ Id. at 45.

⁵¹ Id. at 95-106.

⁵² Id. at 99-102.

petitioner's Reply⁵³ to the Comment, petitioner claims that the present case falls under the exceptions to Section 1 of Rule 45, which provides that petitions for review on *certiorari* must only raise questions of law. However, petitioner merely reiterated the arguments in his petition and did not provide any explanation to justify his assertion that the present case falls under any of the exceptions to the rule.⁵⁴

Issue

Whether the CA correctly affirmed the finding of the RTC that petitioner is guilty beyond reasonable doubt of Frustrated Homicide.

Our Ruling

The petition is bereft of merit.

A petition for review on *certiorari* under Rule 45 must only raise questions of law.⁵⁵ We have repeatedly held that this Court is not a trier of facts. The determination of whether the accused acted in self-defense, complete or incomplete, is a factual issue.⁵⁶ The factual findings of the trial court and its calibration of the testimonies of the witnesses and its conclusions anchored on its findings are accorded by the appellate court high respect, if not conclusive effect, more so when affirmed by the CA, except when it is established that the trial court ignored, overlooked, misconstrued or misinterpreted facts and circumstances which, if considered, will change the outcome of the case.⁵⁷

Upon a review of the records of both the RTC and CA, We find no cogent reason to deviate from the findings and conclusion of the courts *a quo*. It is apparent that petitioner failed to discharge his burden of proving the elements of self-defense.

The elements of Frustrated Homicide are: (1) the accused intended to kill his or her victim, as manifested by his or her use of a deadly weapon in the assault; (2) the victim sustained fatal or mortal wound/s but did not die because of timely medical assistance; and (3) none of the qualifying circumstance for Murder under Article 248 of the Revised Penal Code, as amended, is present.⁵⁸ If the victim's wounds are not fatal, the crime is only Attempted Homicide. Thus, the prosecution must establish with certainty the nature, extent, depth and severity of the victim's wounds.⁵⁹

⁵³ Id. at 140-144.

⁵⁴ Id. at 141-143.

⁵⁵ REVISED RULES OF COURT, Rule 45, SEC. 1.

⁵⁶ *Novicio v. People*, 585 Phil. 673, 681 (2008).

⁵⁷ Id.

⁵⁸ *Serrano v. People*, 637 Phil. 319, 337 (2010); *Colinares v. People*, 678 Phil. 482, 494 (2011) and *People v. Aquino*, 829 Phil. 477, 488 (2018).

⁵⁹ Id.

In cases of Frustrated Homicide, intent to kill is an indispensable element. “Intent to kill” is a state of mind and, thus, may be discerned by the courts only through external manifestations, such as the acts and conduct of the accused at the time of the assault and immediately thereafter.⁶⁰ In *De Guzman, Jr. v. People*,⁶¹ the Court enumerated the factors that determine the presence of intent to kill, to wit:

- (1) the means used by the malefactors;
- (2) the nature, location, and number of wounds sustained by the victim;
- (3) the conduct of the malefactors before, during, or immediately after the killing of the victim; and
- (4) the circumstances under which the crime was committed and the motives of the accused.⁶²

In the present case, as correctly held by the RTC and CA, the prosecution sufficiently established the foregoing elements. The witnesses of the prosecution positively identified petitioner as the assailant who shot Lemana without any provocation. Through the testimony of the Dr. Superficial, the attending physician who handled the case of Lemana, the prosecution established that Lemana sustained a fatal wound but did not die because of timely medical assistance. Finally, as correctly held by the courts *a quo*, none of the qualifying circumstance for Murder under Art. 248 of the RPC, as amended, is present.

With particular regard to the presence of the element “intent to kill”, this Court agrees with the following findings of the appellate court:

In the case at bench, the evidence presented by the prosecution shows that while Lemana was walking towards the direction of the warehouse, he was suddenly shot with the use of a firearm of unknown calibre, without warning and at close-range, by [Petitioner] Sarabia. This close proximity of [Petitioner] and Lemana, the former’s conduct of attacking the latter without provocation and warning, plus the successive shots he fired at Lemana, establish a reasonably veritable inference that there was indeed clear intent by [Sarabia] to kill [Lemana].

As to the gravity and location of the wounds inflicted [by] the accused, the testimony of Dr. Dennis Superficial, the attending physician clearly established that Lemana sustained [a] gunshot wound on his abdomen and had to immediately undergo exploratory laparotomy procedure; resecting and requiring the repair of his intestines. As succinctly declared by Dr. Superficial, leaving the gunshot wound untreated would have had a fatal result on Lemana.⁶³

⁶⁰ *De Guzman, Jr. v. People*, 748 Phil. 452, 458-459 (2014).

⁶¹ *Supra*.

⁶² *Id.* at 459.

⁶³ *Rollo*, pp. 16-17.

Petitioner does not deny that he indeed shot Lemana in the abdomen. Petitioner also readily admits that after shooting Lemana, he ran away⁶⁴ and then voluntarily surrendered to the authorities the day after the incident.⁶⁵ Despite the aforementioned circumstances, petitioner claims that he shot Lemana in self-defense. When the accused invokes self-defense, in effect, he or she admits to the commission of the acts for which he or she was charged, albeit under circumstances that, if proven, would exculpate him or her.⁶⁶ Consequently, the burden of proving that the act was justified, shifts upon him or her.⁶⁷

To successfully invoke self-defense, an accused must establish: (1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel such aggression; and (3) lack of sufficient provocation on the part of the person resorting to self-defense.⁶⁸ In the case of *People v. Nugas*,⁶⁹ the Court emphasized that unlawful aggression is the primordial element of the justifying circumstance of self-defense, and that the accused must establish the concurrence of the three elements of unlawful aggression in order to invoke self-defense, as follows:

Unlawful aggression on the part of the victim is the primordial element of the justifying circumstance of self-defense. Without unlawful aggression, there can be no justified killing in defense of oneself. The test for the presence of unlawful aggression under the circumstances is whether the aggression from the victim put in real peril the life or personal safety of the person defending himself [or herself]; the peril must not be an imagined or imaginary threat. Accordingly, the accused must establish the concurrence of three elements of unlawful aggression, namely: (a) there must be a physical or material attack or assault; (b) the attack or assault must be actual, or, at least, imminent; and (c) the attack or assault must be unlawful.⁷⁰

Petitioner claims that Lemana was the unlawful aggressor and that he also sustained an injury on the right side of his head when Lemana allegedly shot him. The defense presented Dr. Dimatulac to testify about petitioner's injury. However, when Dr. Dimatulac was asked about what may have caused the bruise above petitioner's right ear, she responded that "this may be produced by [a] hard object secondary to fall or anything that [can] cause hematoma and also, discoloration of that portion."⁷¹ Dr. Dimatulac confirmed, during cross-examination, that the bruise at the right parietal of the head of petitioner may be caused by any object like wood, steel, or any hard material

⁶⁴ TSN, September 21, 2006, p. 6.

⁶⁵ Records, p. 499.

⁶⁶ *People v. Archivido*, G.R. No. 233085, September 21, 2020, citing *Velasquez v. People*, 807 Phil. 438, 449 (2017).

⁶⁷ *Id.*, citing *Dela Cruz v. People*, 747 Phil. 376, 384-385 (2014) and *Jacobo v. Court of Appeals*, 337 Phil. 7, 18 (1997).

⁶⁸ *Belbis v. People*, 698 Phil. 706, 719-720 (2012).

⁶⁹ 677 Phil. 168 (2011).

⁷⁰ *Id.* at 177. Citations omitted.

⁷¹ TSN, July 20, 2006, p. 7.

like stone.⁷² Dr. Dimatulac did not confirm that the wound sustained by petitioner was indeed related to a gunshot wound.

Petitioner also did not sufficiently establish that the prosecution witnesses had any ill will or motive to testify against him. In fact, petitioner is a relative by affinity of prosecution witness, Encena, as he is the nephew of Encena's wife. Both parties alleged in their testimonies that the opposing parties had motive to shoot one another. Both Encena and Lemana testified that Lemana was an informant of the Criminal Investigation and Detection Group of the Philippine National Police and reported the gunrunning activities of petitioner.⁷³ Petitioner claims that Encena accused him of spreading rumors about the relationship of Encena's daughter with Lemana⁷⁴ and that Lemana may be angry at him because Lemana thinks that petitioner influenced his aunt to remove Lemana as a driver because of his cousin's business.⁷⁵ Notwithstanding the foregoing allegations, the parties stipulated in the Pre-Trial Conference that there was no previous incident between petitioner and Lemana prior to the incident of May 14, 2000.⁷⁶ Where there is no convincing evidence that the witnesses of the prosecution were actuated by ill motive, it is presumed that they were not so actuated and their testimony is entitled to full faith and credit.⁷⁷

The Court also notes that there were inconsistencies in the evidence of the defense, including the testimonies of the defense witnesses. Defense witness Lopez claimed that he was talking with petitioner before the incident and saw Lemana approach Encena and petitioner while he was walking with a child.⁷⁸ However, petitioner testified that he was just standing beside his tricycle when Encena approached him⁷⁹ and only mentioned Lopez, the eyewitness other than Encena, when asked if he knew a person named Lopez. Petitioner did not mention that Lopez was also in the vicinity when he was narrating the events leading to the shooting incident. Moreover, in the Extract Copy of the Police Blotter detailing petitioner's voluntarily surrender to P/Supt. Perez, petitioner alleged that, without any provocation, he was shot three times by Lemana while he was about to board his motorcycle, hitting him on the right portion of his head.⁸⁰ In his testimony, petitioner testified that Lemana attempted to shoot him twice but he missed and the second shot allegedly grazed the right side of his head.⁸¹ Petitioner, in his testimony, stated that he was standing near his tricycle and talking to Encena, not boarding his motorcycle when Lemana suddenly attempted to shoot him.

⁷² Id. at 9-10.

⁷³ TSN, November 21, 2002, pp. 8-9.

⁷⁴ TSN, September 21, 2006, pp. 4-5.

⁷⁵ Id. at 10.

⁷⁶ Records, p. 93.

⁷⁷ *People v. Sota*, 821 Phil. 887, 904 (2017).

⁷⁸ TSN, June 30, 2005, p. 6.

⁷⁹ TSN, September 21, 2006, p. 4.

⁸⁰ Records, p. 499.

⁸¹ Id.



In view of the foregoing, it is apparent that the evidence of the prosecution clearly show that all the following elements of Frustrated Homicide are present in the instant case: (1) the witnesses of the prosecution clearly and positively identified petitioner as the assailant who shot Lemana without any provocation; (2) Lemana sustained a fatal wound but did not die because of timely medical assistance; and (3) none of the qualifying circumstance for Murder under Article 248 of the Revised Penal Code (RPC), as amended, is present. The close proximity of petitioner and Lemana, the former's conduct of attacking the latter without provocation and warning, the successive shots he fired at Lemana, and the gravity and location of the wounds inflicted by petitioner all support the conclusion that petitioner intended to kill Lemana. Petitioner also failed to prove that the elements of self-defense, complete or incomplete, are present in this case. The evidence presented by the prosecution clearly establishes that petitioner, not Lemana, was the unlawful aggressor in this case.

Anent the imposable penalty, Art. 249 of the RPC provides that the penalty for Homicide shall be *reclusion temporal*. Considering that the crime committed was Frustrated Homicide and in view of the presence of the mitigating circumstance of voluntary surrender, the penalty imposed shall be one degree lower than *reclusion temporal*, which is *prision mayor* in its minimum term,⁸² Applying the Indeterminate Sentence Law, an indeterminate sentence shall be imposed, consisting of a maximum term, which is the penalty under the RPC properly imposed after considering any attending circumstance; while the minimum term is within the range of the penalty next lower than that prescribed by the RPC for the offense committed.⁸³ Accordingly, the CA correctly meted the penalty of two (2) years, four (4) months, and one (1) day of *prision correccional*, as minimum, to six (6) years and one (1) day of *prision mayor*, as maximum.

With regard to the amount of damages awarded, this Court modifies the same in order to conform with current jurisprudence. Guided by the Court's ruling *People v. Jugueta*,⁸⁴ the amount of damages imposed against petitioner shall be as follows: (a) PHP 30,000.00 as moral damages and (b) PHP 30,000.00 as civil indemnity.⁸⁵ These amounts shall be subject to the legal rate of interest of six percent (6%) per *annum* from the finality of the Court's ruling until full payment.

WHEREFORE, the petition is **DENIED**. The May 31, 2013 Decision and the October 28, 2014 Resolution of the Court of Appeals in CA-G.R. CEB-CR No. 01022 are **AFFIRMED with modifications**.

⁸² REVISED PENAL CODE, Article 250; *Miranda v. People*, 846 Phil. 125, 140 (2019).

⁸³ *Miranda v. People*, *supra*.

⁸⁴ 783 Phil. 806, 852 (2016).

⁸⁵ *Cruz v. People*, G.R. No. 216642, September 8, 2020.

Petitioner **JOEL SARABIA, SR.** is found **GUILTY** of Frustrated Homicide and is sentenced to suffer the penalty of two (2) years, four (4) months and one (1) day of *prision correccional*, as minimum, to six (6) years and one (1) day of *prision mayor*, as maximum. Petitioner is further ordered to pay Leonarico Lemana the amount of PHP 30,000.00 as moral damages and PHP 30,000.00 as civil indemnity. Interest at the rate of six percent (6%) per *annum* shall be imposed on the amount of the monetary awards computed from the finality of this Resolution until full payment.

SO ORDERED.” *Rosario, J., on official leave.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *gfb*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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