



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **July 27, 2022** which reads as follows:*

“G.R. No. 248375 (*People of the Philippines v. Rodolfo Palileo, Jr.*). — Before this Court is an appeal under Rule 122 of the Revised Rules of Court assailing the Decision¹ dated November 16, 2018 rendered by the Court of Appeals (*CA*). The *CA* earlier affirmed the Decision² dated August 3, 2015 rendered by the Regional Trial Court, Branch 1, Borongan City, Eastern Samar (*RTC*) finding Rodolfo Palileo, Jr. alias Vandolf (*Palileo*) guilty of murder, as defined under Article 248 of the Revised Penal Code (*RPC*).

Facts

At around 7:15 p.m. of November 30, 2010, Louie Paano (*Paano*) and Jograd Oplimo (*Oplimo*) were in a videoke bar owned by Spouses Sonny and Amelita Lemsic with their seven other friends for a birthday celebration. At around 8:00 p.m., Palileo arrived at the videoke bar with Benjamin Acol (*Acol*), Acol’s child, and another adult companion. As policy, Amelita Lemsic (*Amelita*) frisked everyone who enters the videoke bar for deadly weapons. At that time, everyone who entered the premises had no weapons on their person.

An hour after entering the bar, Palileo’s group left because they were irked by the other patrons in the bar who commandeered the microphone. Palileo and Acol returned at around 10:15 p.m. without their other two companions. Amelita no longer frisked them because she recognized them and remembered she did not find any deadly weapon on them earlier. In any case, she was not expecting them to stay long because the bar was about to close. By 11:00 p.m., there were only four patrons left inside the bar. Paano and

¹ Penned by Associate Justice Louis P. Acosta, with Associate Justices Pamela Ann Abella Maxino and Dorothy P. Montejo-Gonzaga concurring; *rollo*, pp. 5-23.

² Penned by Judge Elvie P. Lim, *CA rollo*, pp. 49-80.

NA

Oplimo were occupying one table, while Palileo and Acol were occupying the table about three to four meters away.

While Paano was singing, Acol angrily approached him and started cursing him. To appease Acol, Paano handed over the microphone to him and let him sing two of the six songs that they reserved. When he was done, Paano asked if they could have the microphone back, but Acol refused to do so. A fight thus ensued between the two.

When Acol and Paano ended up falling to the ground, Palileo wordlessly stood up, pulled a gun from his waist, and fired at Paano. The gun initially malfunctioned. Palileo pulled the trigger again and this time he hit Paano on his left shoulder and back. Amelita tried to restrain him and told him to leave and go home, but he ignored her. Amelita and Oplimo then rushed out of the bar to seek police assistance. As they were on their way out, Amelita heard four more gunshots.

When the police officers arrived at the scene of the crime, they saw Paano sprawled dead on the ground. Beside his body were three empty shells and three live bullets for a caliber 9mm pistol. Senior Police Officer 2 Nicanor Paracale (*SPO2 Paracale*), a police investigator from the Municipal Police Office of Sulat, Eastern Samar, instructed Paano's younger brother, Vicente Paano, to bring his body to the health center. When the police officers got back to the police station, Palileo was already there having voluntarily surrendered. He also gave the police officers the gun that he used in shooting Paano. The following day, the police officers apprehended Acol when he came to the police station to visit Palileo.

On December 1, 2010, Dr. Nilda Acuba Anistoso issued a Medico-Legal Report³ which stated that Paano died from the gunshot wounds that he sustained, to wit:

1. GSW, 2 cm. as point of entry right upper lip and point of exit, left lower mandibular area.
2. GSW, 1.5 cm. as point of entry, left upper anterior chest below the left clavicle area; no point of exit.
3. GSW, 1.5 cm. point of entry, mid upper auxilliary area directed downward; no point of exit.
4. GSW, 1 cm. as point of entry upper scapular area of the posterior chest, no point of exit.

³ Records, p. 32.

Consequently, Palileo and Acol were charged with conspiring to commit Murder as defined and penalized under Article 248 of the RPC. The Information indicting them reads as follows:

Information for Crim. Case No. 12239

The undersigned hereby accuses Rodolfo Palileo, Jr. y Del Monte @ Vandolf and Ben[j]amin Acol y Pitalbo @ Bong both residents of Brgy. Baybay, Sulat, Eastern Samar of the crime of murder, committed as follows:

That at about 11:00 in the evening of November 30, 2010, at So. Pasakay, Brgy. San Francisco, Sulat, Eastern Samar, Philippines and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill, with treachery and evident premeditation, conspiring with each other did then and there willfully, unlawfully and feloniously attack, assault and shot (sic) several times the victim Louie Paano y Evardone with the use of a short firearm (9mm) thereby inflicting gunshot wounds upon the victim and which wounds caused the immediate death of the victim, to the damage and prejudice of the heirs of the victim.

Contrary to law.

In their defense, Palileo and Acol admitted that they were at the scene of the crime. They maintained, however, that it was not them who instigated the fight. Acol clarified that no one was holding the microphone when he sang two songs at around 11:00 p.m. While he was singing, Paano grabbed the microphone from him. The two grappled for the possession of the microphone until they ended up on the floor. Acol testified that he heard two gunshots coming from inside the bar, but he did not see who fired the gun. What he saw was that it was Paano who was shot. He hurriedly stood up and ran outside. As he was running, he heard two more gunshots but he did not see who was shooting. He likewise testified that he only saw Palileo running a few meters behind him. As for Palileo, he merely denied any knowledge about the shooting incident.

After trial on the merits, the RTC rendered its Decision⁴ finding Palileo guilty beyond reasonable doubt of committing murder as defined and penalized under Article 248 of the Revised Penal Code (*RPC*). The witnesses for the prosecution were one in saying that Palileo pulled a gun from his waist and shot Paano inside the videoke bar. Palileo's defense of denial was not given credence as it was unsubstantiated.

The RTC also held that treachery attended the commission of the crime. This was evident from the fact that the shooting was so calculated so as not to afford Paano the chance to either evade it or defend himself. There was,

⁴ Penned by Judge Elvie P. Lim, *CA rollo*, pp. 49-80.

however, no showing that Palileo had plans of killing Paano when they went to the videoke bar.

With respect to Acol, the RTC acquitted him of the charge of murder. The RTC held that the prosecution failed to present direct proof that he agreed with Palileo to the killing before, during, or after the commission. Neither was there any showing that Acol had a common sentiment and community of purpose with Palileo. Thus, the RTC disposed as follows:

WHEREFORE, all the foregoing premises considered, this Court finds accused Rodolfo Palileo, Jr. alias Vandolf GUILTY beyond reasonable doubt of the crime of MURDER. Accordingly, it is hereby imposed upon him the penalty of imprisonment of *reclusion perpetua*, without eligibility of parole, and with the corresponding accessory penalties provided under Article 41 of the Revised Penal Code, and ORDERING accused Rodolfo Palileo, Jr. alias Vandolf to PAY the heirs of victim Louie Paano the following:

- a. Civil indemnity for the death of Louie Paano in the amount of Seventy-Five Thousand Pesos (₱75,000.00) Philippine Currency;
- b. Moral damages in the amount of Seventy-Five Thousand Pesos (₱75,000.00) Philippine Currency;
- c. Exemplary damages in the amount of Thirty Thousand Pesos (₱30,000.00) Philippine Currency; and
- d. Temperate damages in the amount of Thirty-Five Thousand Pesos (₱35,000.00) Philippine Currency.

It appearing on record that accused has been detained on December 2, 2010, his period of detention shall be credited in full in the service of his sentence consisting of deprivation of liberty or imprisonment pursuant to Article 29 of the Revised Penal Code.

Further the prosecution having failed to establish conspiracy and the guilt of accused Benjamin Acol alias Bong beyond reasonable doubt, this Court finds accused Benjamin Acol alias Bong NOT GUILTY.

SO ORDERED.⁵

On appeal⁶ to the CA, the ruling of the RTC was affirmed with modification on the civil indemnity and damages imposed. The CA found no reason to depart from the factual findings of the RTC. The testimonies of the prosecution witnesses were clear, straightforward, positive, and convincing. They positively identified Palileo to be the one who shot Paano. There was nothing on the records that would show that they had improper motive to falsely testify against him.

⁵ *Id.* at 9.

⁶ Docketed as CA-G.R. CEB CR-HC NO. 02328.

With the pieces of evidence that were presented by the prosecution, the CA finds that the RTC did not commit any error in convicting Palileo of murder, as defined and penalized under Article 248 of the RPC. The CA found from the records of the case that Palileo initially admitted to the commission of the crime when he voluntarily surrendered at the police station. Later during trial, his counsel interposed the justifying circumstance of defense of a stranger. Then again, Palileo failed to prove that he was merely acting on instinct to defend his friend, Acol. For it would appear from the records that it was Acol who initiated the fight. Also, the number and nature of wounds sustained by Paano reveals that he intended to kill him. Thus, the CA disposed as follows:

ACCORDINGLY, the appeal is **DENIED**. The Decision dated 3 August 2015 of the Regional Trial Court in Criminal Case No. 12239. The RTC, Branch 1, of Borongan City, Eastern Samar, is **AFFIRMED WITH MODIFICATIONS** insofar as the award of civil indemnity, moral damages, exemplary damages, and temperate damages is concerned, in accordance with jurisprudence.

Accused-appellant Rodolfo Palileo Jr. shall pay civil indemnity in the amount of One Hundred Thousand Pesos (₱100,000.00); Moral Damages in the amount of One Hundred Thousand Pesos (₱100,000.00); Exemplary Damages in the amount of One Hundred Thousand Pesos (₱100,000.00); and Temperate Damages in the amount of Fifty Thousand Pesos (₱50,000.00), with interest at the rate of six percent (6%) per annum from the time of finality of this decision until fully paid, to be imposed on the civil indemnity, moral damages, exemplary damages, and temperate damages.

SO ORDERED.⁷

Hence this appeal before this Court.

Issues

I.

Whether the courts *a quo* gravely erred in finding that accused-appellant is guilty of murder despite the failure of the prosecution to prove his guilt beyond reasonable doubt;

II.

Assuming *arguendo* that accused-appellant participated in the killing of the victim, the crime committed should only be

⁷ Penned by Associate Justice Louis P. Acosta, with Associate Justices Pamela Ann Abella Maxino and Dorothy P. Montejo-Gonzaga concurring; *rollo*, pp. 5-23.

homicide as the qualifying circumstance of treachery is wanting in the instant case; and

III.

Whether the courts *a quo* gravely erred in convicting accused-appellant of the crime of murder despite the insufficient allegation of treachery in the Information.

Our Ruling

The accused-appellant⁸ and the State,⁹ through the Office of the Solicitor General (*OSG*), manifested that they will be adopting the arguments that they raised in the briefs they filed before the CA.

Accused-appellant points out in his brief¹⁰ that the testimony of Oplimo and Amelita are inconsistent as regards the number of people inside the videoke bar when the crime was committed. He then avers that this inconsistency raises the possibility that there was another person inside the videoke bar who could have shot Paano. This also shows that the testimony of Oplimo and Amelita are unreliable. While his defense of denial is inherently weak, he is still entitled to an acquittal because the prosecution failed to prove his guilt by proof beyond reasonable doubt.¹¹

Assuming *arguendo* that he committed the crime, accused-appellant asseverates that the crime should be homicide and not murder, as the killing was not attended by treachery. For one, the killing was done at the spur of the moment. Also, there was no showing that the gun was purposely used to ensure that Paano would not have the opportunity to defend himself or retaliate. Another, the information did not specify the particular acts constituting treachery. Accused-appellant further contends that the courts *a quo* should have considered the mitigating circumstance of voluntary surrender in his favor.¹²

For the State, the OSG counters in its brief¹³ that the courts *a quo* did not err in convicting accused-appellant of murder, as defined and penalized under Article 248 of the RPC. Accused-appellant initially admitted that he

⁸ *Rollo*, pp. 41-42.

⁹ *Id.* at 34-36.

¹⁰ *CA rollo*, pp. 25-48.

¹¹ *Id.* at 37-39.

¹² *Id.* at 41-47.

¹³ *Id.* at 90-107.

killed Paano when he voluntarily surrendered to the police officers. He insisted, however, that he killed Paano because he was merely defending Acol. When accused-appellant could not establish the elements of the justifying circumstance of defense of a stranger, he changed his theory and denied any participation in the commission of the murder. He then argued that the testimony of Oplimo and Amelita should not be given credence as these were inconsistent. The purported inconsistencies, however, pertain to minor impertinent details which will not diminish the probative value of their testimonies. In any case, the two prosecution witnesses positively identified accused-appellant as the one who killed Paano.¹⁴

With regard to the crime charged, the OSG argues that the commission of the crime was attended by treachery. Paano was an unsuspecting victim as he was on the ground grappling with Acol. He was unarmed and had no opportunity to defend himself, while accused-appellant consciously armed himself when they went back to the videoke bar. Accused-appellant was not deterred when his gun initially malfunctioned. He cocked his gun again and shot Paano several times. Contrary to accused-appellant's asseveration, the information sufficiently alleged the facts constituting treachery. In any case, accused-appellant never claimed before the lower courts that he was not fully apprised of the nature of the charges filed against him.¹⁵

Upon a careful review of the records of this case, this Court finds the appeal to be partly meritorious.

Accused-appellant was charged with committing murder as defined and penalized under Article 248¹⁶ of the RPC. It has been held that for an accused to be convicted of murder, the prosecution must establish the following elements: "(1) that a person was killed; (2) that the accused killed him or her; (3) that the killing was attended by any of the qualifying circumstances

¹⁴ *Id.* at 100-103.

¹⁵ *Id.* at 103-104.

¹⁶ Article 248 of the RPC, as amended by R.A. No. 7659, reads as follows:

Art. 248. Murder. - Any person who, not falling within the provisions of Article 246 shall kill another, shall be guilty of murder and shall be punished by *reclusion perpetua*, to death if committed with any of the following attendant circumstances:

1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity.
2. In consideration of a price, reward or promise.
3. By means of inundation, fire, poison, explosion, shipwreck, stranding of a vessel, derailment or assault upon a railroad, fall of an airship, or by means of motor vehicles, or with the use of any other means involving great waste and ruin.
4. On occasion of any of the calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic or other public calamity.
5. With evident premeditation.
6. With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse.

mentioned in Article 248 of the RPC; and (4) that the killing is not parricide or infanticide.”¹⁷

As pointed out by the OSG, accused-appellant initially invoked the justifying circumstance of defense of a relative under Article 11(2)¹⁸ of the RPC.¹⁹ By invoking any of the justifying circumstances under Article 11 of the RPC, accused-appellant inextricably admitted that he committed the crime charged.²⁰ Consequently, the prosecution no longer needs to prove that accused-appellant was the one who killed Paano. The burden now shifts to accused-appellant to prove by credible, clear, and convincing evidence that the commission of the crime was justified by the circumstances.²¹

Accused-appellant can only be absolved of criminal liability under the ground of ‘defense of a relative’ under Article 11(2)²² of the RPC if the following elements were established:

(a) unlawful aggression on the part of [Paano]; (b) reasonable necessity of the means employed to prevent or repel the unlawful aggression; and (c) [accused-appellant] acts in defense of his spouse, ascendants, descendants, or legitimate, natural, or adopted brothers or sisters, or of his relatives by affinity in the same degrees, and those by consanguinity within the fourth civil degree.²³

It can be gleaned from a mere perusal of the records that the justifying circumstance of defense of a relative finds no application in the instant case because Palileo and Acol are not related.²⁴

¹⁷ *Casilac v. People*, G.R. No. 238436, February 17, 2020, citing *People v. Racal*, 817 Phil. 665, 677 (2017).

¹⁸ Article 11(2) of the Revised Penal Code reads as follows:
2. Anyone who acts in defense of the person or rights of his spouse, ascendants, descendants, or legitimate, natural or adopted brothers or sisters, or of his relatives by affinity in the same degrees, and those by consanguinity within the fourth civil degree, provided that the first and second requisites prescribed in the next preceding circumstance are present, and the further requisite, in case the provocation was given by the person attacked, that the one making defense had no part therein.

¹⁹ Pre-Trial Conference Order dated November 16, 2022, Records, pp. 43-45.

²⁰ *Oliveros, Jr. v. People*, G.R. No. 242552, March 3, 2021.

²¹ *People v. Antonio*, G.R. No. 229349, January 29, 2020, citing *Belbis v. People*, 698 Phil. 706, 719 (2012).

²² Article 11(2) of the Revised Penal Code reads as follows:
2. Anyone who acts in defense of the person or rights of his spouse, ascendants, descendants, or legitimate, natural or adopted brothers or sisters, or of his relatives by affinity in the same degrees, and those by consanguinity within the fourth civil degree, provided that the first and second requisites prescribed in the next preceding circumstance are present, and the further requisite, in case the provocation was given by the person attacked, that the one making defense had no part therein.

²³ Article 11 (2) of the Revised Penal Code.

²⁴ Pre-Trial Conference Order dated November 16, 2011, Records, pp. 43-45.

Proceeding further, it is not amiss to point out that the defense corrected themselves during trial and invoked defense of a stranger as their justifying circumstance under Article 11(3) of the RPC.²⁵ Nonetheless, for such defense to prosper, accused-appellant needs to establish three things by clear and convincing evidence: “(a) unlawful aggression on the part of [Paano]; (b) reasonable necessity of the means employed to prevent or repel the unlawful aggression; and (c) [accused-appellant] was not induced by revenge, resentment, or other evil motive.”²⁶

Just like the justifying circumstance of defense of a relative, there can neither be a complete nor incomplete defense of a stranger if it was not established that there was unlawful aggression on the part of Paano.²⁷ This element was explained by this Court in the case of *People v. Nugas*²⁸ 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; 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.

Unlawful aggression is of two kinds: (a) actual or material unlawful aggression; and (b) imminent unlawful aggression. Actual or material unlawful aggression means an attack with physical force or with a weapon, an offensive act that positively determines the intent of the aggressor to cause the injury. Imminent unlawful aggression means an attack that is impending or at the point of happening; it must not consist in a mere threatening attitude, nor must it be merely imaginary, but must be offensive and positively strong (like aiming a revolver at another with intent to shoot or opening a knife and making a motion as if to attack). Imminent unlawful aggression must not be a mere threatening attitude of the victim, such as pressing his right hand to his hip where a revolver was holstered, accompanied by an angry countenance, or like aiming to throw a pot.²⁹

Moreover, in invoking the defense of a stranger, accused-appellant bears the burden of proving that his intent was only to prevent or repel such unlawful aggression using whatever reasonable means necessary to accomplish the same and that he had no other evil motives. This Court has clarified in several cases that what the law envisions is that there should be a

²⁵ TSN, September 4, 2013, p. 3.

²⁶ *People v. Olarbe*, 836 Phil. 1015, 1024 (2018), citing *Cabuslay v. People*, 508 Phil. 236, 247 (2005).

²⁷ *Oliveros, Jr. v. People*, *supra* note 21, citing *People v. Morato*, 296 Phil. 211, 219-220 (1993).

²⁸ 677 Phil. 168, (2011).

²⁹ *Id.* at 177-178.

“rational equivalence between the means of attack and the defense.”³⁰ This is in recognition of the fact that the person making the defense is acting on their instinct for self-preservation. Hence, they cannot be expected to think rationally at that given moment.³¹

Going through the testimonies of the witnesses, it would appear that there was no unlawful aggression on the part of Paano. On the contrary, it would appear that Paano’s only intent was to get the microphone from Acol. It must be noted that when Acol resisted, Paano merely deflected his blows.³² Evidently, the elements of defense of a stranger under Article 11(3) of the RPC are not present in the instant case. In any case, it should be pointed out that when accused-appellant testified in open court, he merely disclaimed any knowledge about the killing of Paano.³³ Consequently, for his failure to substantiate his defense that he was merely defending Acol, accused-appellant should be deemed to have admitted to the killing of Paano.

All the same, this Court finds merit in Palileo’s contention that he is only guilty of homicide and not murder for failure of the prosecution to establish that treachery attended the commission of the crime.

As an aggravating circumstance, treachery has been defined under paragraph 16, Article 14 of the Revised Penal Code to be the “employ[ment of] means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.” Accordingly, for this aggravating circumstance to be appreciated, the following elements must be established by the prosecution: “(1) at the time of the attack, the victim was not in a position to defend them; and (2) the accused consciously and deliberately adopted the particular means, methods, or forms of attack employed by them.”³⁴

In this case, it was uncontroverted that Paano was not in a position to defend himself during the attack. It was clear from the facts of this case that Paano was distracted when accused-appellant shot him. Still, this Court finds that the prosecution was not able to prove that accused-appellant armed himself with his gun with the intention of killing anyone with it that night. Just the opposite, accused-appellant instinctively reached for his gun when he saw that his friend Acol was losing his fight with Paano. It has been held that impulse killing, preceded by heated attractions, are generally not attended by

³⁰ *Velasquez et al. v. People*, 807 Phil. 438, 451 (2017), citing *People v. Obordo*, 431 Phil. 691, 712 (2002).

³¹ *People v. Antonio*, *supra* note 22, citing *People v. Encomienda*, 150-B Phil. 419, 433-434 (1972).

³² TSN, February 22, 2012, pp. 8 and 18.

³³ TSN, September 4, 2013, pp. 5-7.

³⁴ *Casilac v. People*, *supra* note 17.

treachery for lack of opportunity of the accused to deliberately employ a treacherous mode of attack.³⁵ As the killing was preceded by a fight between Acol and Paano, it cannot be said the accused-appellant was able to reflect on his actions and deliberately used his gun to ensure the execution of the act of killing without detriment to himself. Thus, absent this aggravating circumstance, accused-appellant should only be convicted of homicide for the killing of Paano.

Article 249 of the RPC provides that those who were found guilty of homicide should be punished by *reclusion temporal*. This Court, however, holds that his penalty should be lessened due to the presence of the mitigating circumstance of voluntary surrender.

Jurisprudence provides that an accused may only be deemed to have voluntarily surrendered if the following elements were established: “1) the offender has not been actually arrested; 2) the offender surrendered himself to a person in authority or the latter's agent; and 3) the surrender was voluntary.”³⁶ In this case, the police officers themselves testified that when they returned to the police station, Palileo was already there with the gun he used in killing Paano.³⁷

Taking into consideration the provisions of the Indeterminate Sentence Law,³⁸ the maximum period of imprisonment of accused-appellant shall be taken from the range of the minimum of *reclusion temporal*, while the minimum period shall be taken from the range of *prision mayor*. Accused-appellant is thus, sentenced to suffer imprisonment with a minimum period of eight (8) years of *prision mayor*, and a maximum period of twelve (12) years and six (6) months of *reclusion temporal*.³⁹ With regard to the award of damages, this Court finds that the award given by the CA should be reduced pursuant to this Court's recent ruling in *People v. Jugueta*.⁴⁰ Accordingly, Palileo is hereby ordered to pay the heirs of Paano civil indemnity and moral damages in the amount of ₱50,000.00, each. The award of exemplary damages is deleted for failure of the prosecution to establish that an aggravating circumstance attended the commission of the crime.⁴¹ Considering that the prosecution was not able to present any piece of evidence as regards the amount that the family of Paano spent for his burial and funeral, this Court awards them the amount of ₱50,000.00 as temperate damages.⁴²

³⁵ See G.R. No. 233205, June 26, 2019.

³⁶ *People v. Lumahang*, G.R. No. 218581, March 27, 2019 citing *de Vera v. de Vera*, 602 Phil. 877, 886 (2009).

³⁷ TSN dated February 14, 2021, pp. 4-6

³⁸ Act no. 4103

³⁹ *People v. Doca*, G.R. No. 233479, October 16, 2019.

⁴⁰ 783 Phil. 806 (2016).

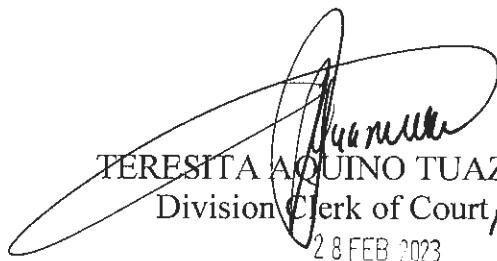
⁴¹ *Id.*

⁴² *Id.*

FOR THESE REASONS, the Appeal is **DISMISSED**. The Decision dated November 16, 2018 of the Court of Appeals in CA-G.R. CEB CR-HC No. 02328 is **MODIFIED**. Accused-appellant Rodolfo Palileo, Jr. alias Vandolf is hereby found **GUILTY** beyond reasonable doubt of the crime of homicide, as defined under Article 249 of the Revised Penal Code. As such, he is sentenced to suffer the penalty of imprisonment for eight (8) years of *prision mayor*, as minimum, to twelve (12) years and six (6) months of *reclusion temporal*, as maximum. Accused-appellant Rodolfo Palileo, Jr. alias Vandolf is further ordered to pay ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱50,000.00 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
 28 FEB 2023

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