



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

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

“G.R. No. 258722 (*Pablito Tayone y Unajan v. People of the Philippines*). – Filed before the Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court seeking to reverse and set aside the Decision² dated March 25, 2021 and the Resolution³ dated November 2, 2021 of the Court of Appeals (CA) in CA-G.R. CEB CR No. 03317. The challenged Decision affirmed the Decision⁴ dated May 8, 2018 of the Regional Trial Court (RTC), Branch 51 (Carmen, Bohol) in Criminal Case No. 1528 finding Pablito Tayone y Unajan (petitioner) guilty beyond reasonable doubt of Homicide under Article 249 of the Revised Penal Code (RPC). The assailed Resolution denied petitioner’s motion for reconsideration.

The Antecedents

In an Information⁵ dated November 7, 2012, petitioner was charged with the crime of Homicide allegedly committed as follows:

That on the 5th day of November 2012, in the Municipality of Carmen, Province of Bohol, Philippines, and within the jurisdiction of this Honorable Court, the accused, with intent to kill, willfully and unlawfully, struck the head of a certain Roldan Necanor (sic) with a piece of wood several times, causing the victim to fall and sustain injuries on his head that led to his untimely death, to the damage and prejudice of the heirs of the said victim and the Republic of the Philippines, in the amount to be proved during the trial.

Acts committed contrary to the provisions of Article 249 and 250 of the Revised Penal Code.⁶

¹ *Rollo*, pp. 10-34.

² *Id.* at 85-100; penned by Associate Justice Dorothy P. Montejo-Gonzaga with Associate Justices Gabriel T. Ingles and Bautista G. Corpin, Jr., concurring.

³ *Id.* at 116-118.

⁴ *Id.* at 63-70; penned by Executive Presiding Judge Patsita Sarmiento-Gamutan.

⁵ *Id.* at 63.

⁶ *Id.*

On arraignment, petitioner pleaded not guilty to the offense charged.⁷ During pre-trial, he admitted to have struck the head of Roldan Nicanor (Nicanor) with a piece of wood causing the latter's death on self-defense.⁸

Reverse trial then ensued.

The defense presented, as witnesses, petitioner, Dannyboy⁹ Lague (Dannyboy), and Vivencio¹⁰ Tayone (Vivencio); while the prosecution presented Dr. Josephine Jabonillo (Dr. Jabonillo), Gaudiosa Dano (Dano), Police Officer (PO) 3 Raulito Generalao (PO3 Generalao), and PO3 Basil Edaurdos Evangelista as its witnesses.¹¹

Version of the defense

Petitioner testified that on November 5, 2012, at around 6:00 o'clock in the evening, he was outside his home, having a drinking spree with Dannyboy and Vivencio. They were cooking cow meat as their *pulutan*. While they were drinking, Nicanor came. Petitioner offered Nicanor a drink but the latter got angry instead. Upon entering petitioner's premises without permission, Nicanor then told them that he will not drink because he will kill a person. Petitioner asked Nicanor whom he was going to kill since he had no enemy. Petitioner further told Nicanor to just drink with them. Nicanor then smashed a bottle of beer and overturned their table. Nicanor drew out a knife. Petitioner asked Nicanor "What is that?" and, thereafter, petitioner jumped and looked for something to defend himself. While petitioner was being chased by Nicanor, the former found a piece of wood which he used to parry the stabbing blows from Nicanor. Petitioner hit Nicanor on the left shoulder, but Nicanor continued to attack petitioner. So, petitioner swung the wood several times and hit Nicanor causing the latter to fall to the ground. Subsequently, petitioner went inside his house. Later on, the *barangay tanods* arrived and he surrendered. He also surrendered himself when the police authorities arrived later on.¹²

Petitioner claimed that he could not remember what part of Nicanor's body was hit by the wood because he brandished the wood many times. Petitioner also did not sustain any stab wound or injury from Nicanor because petitioner was able to immediately brandish the wood and parry the knife when Nicanor attacked him. Petitioner stated that he had no prior altercation with Nicanor.¹³

Petitioner's version was corroborated by Dannyboy and Vivencio, who affirmed petitioner's assertions that Nicanor suddenly and angrily drew a

⁷ Id.
⁸ Id. at 64.
⁹ Danny Boy in some parts of the *rollo*
¹⁰ Vevencio in some parts of the *rollo*.
¹¹ *Rollo*, p. 64.
¹² Id. at 51-52 and 89-90
¹³ Id. at 52 and 89.

knife and chased petitioner. While running away from Nicanor, petitioner was able to pick up a piece of wood at the side of his house, which he used to fend off Nicanor's knife and attack.¹⁴

Version of the prosecution

As summed up by the Office of the Solicitor General, evidence for the prosecution established the following:

x x x On November 5, 2012, around 7:45 in the evening, [PO3 Generalao] of the Philippine National Police Carmen, Bohol and his group were conducting a checkpoint operation at the national road in Bicao, Carmen, Bohol. PO3 Generalao received a phone call from PO1 Reynaldo Caduyac informing him that a homicide incident occurred at Sitio Riverside, Barangay Bicao, Carmen, Bohol.

x x x Accordingly, PO3 Generalao proceeded to the reported area, specifically at the house of [petitioner] where the incident happened. Upon arrival, he saw [Nicanor] lying in front on the ground inside the fence of [petitioner's] house.

x x x PO3 Generalao immediately called up [Dr. Jabonillo] of the Municipal Health Office of Carmen to conduct a medical examination on [Nicanor]. He then took photographs and interviewed [petitioner] who admitted killing [Nicanor]. Thereafter, PO3 Generalao arrested [petitioner] and informed him of his constitutional rights as required by law.

x x x Dr. Jabonillo testified that upon arrival at the place of incident, she saw the body of [Nicanor] in a frown position. Based on her examination on the cadaver of [Nicanor], the cause of death is intra cerebral hemorrhage secondary to close comminuted fracture, skull occipital area. She opined that the victim was not facing his perpetrator when the incident took place because he was hit at the back of his head.¹⁵

The RTC Decision

On May 8, 2018, the RTC rendered a Decision,¹⁶ the dispositive portion of which reads:

WHEREFORE, and considering the failure to prove self-defense, the court therefore finds accused Pablito Tayone y Unajan guilty beyond reasonable doubt for homicide and after appreciating the mitigating circumstance of voluntary surrender, hereby sentences him to the indeterminate penalty of two (2) years and four (4) months of prison correccional as minimum to eight (8) years and one (1) day of prison mayor as maximum, and to pay the heirs of the victim the amount of Fifty Thousand Pesos (P50,000.00) as civil indemnity for his death; Fifty Thousand Pesos (P50,000.00) for moral damages; and Twenty Five Thousand Pesos (P25,000.00) as temperate damages.

¹⁴ Id. at 52-54 and 90-91.

¹⁵ Id. at 75.

¹⁶ Id. at 63-70.

SO ORDERED.¹⁷

The RTC did not give credence to petitioner's assertion of self-defense because it found his version marred with improbabilities and material contradictions. First, petitioner admitted that he had no prior altercation with Nicanor. According to the RTC, it was highly improbable that Nicanor would simply just get angry, smash a bottle of beer, overturn a table where three adult men were drinking, and draw a knife without provocation or any explanation.¹⁸ Second, the scenario presented by petitioner in saying that he was being chased by Nicanor at the time he inflicted the fatal injury on the latter was negated by Dr. Jabonillo's Medico-Legal Examination Report which showed that Nicanor's injury was at the back of his head. Dr. Jabonillo further testified that Nicanor was possibly not facing his assailant because he was hit at the back of his head with a blunt object. Dr. Jabonillo also found fractures on Nicanor's femur or thighbone or leg.¹⁹ Third, the RTC noted that petitioner did not immediately assert self-defense when he voluntarily surrendered to the police officers. There was also nothing in the testimony of the other defense witnesses that would show that petitioner was just defending himself when he struck Nicanor.²⁰

Petitioner having failed to prove self-defense, the RTC convicted him of homicide for the killing of Nicanor.

The CA Decision

On appeal, the CA, through the challenged Decision²¹ affirmed with modification the RTC Decision, viz.:

WHEREFORE, the Decision dated May 8, 2018 of the Regional Trial Court, 7th Judicial Region, Branch 51, Carmen, Bohol, in Criminal Case No. 1528, is **AFFIRMED with MODIFICATION** to the effect that accused-appellant PABLITO TAYONE y UNAJAN is found guilty beyond reasonable doubt of **HOMICIDE**, and **ACCORDINGLY**, is punished with the indeterminate sentence of eight (8) years and one (1) day of *prision mayor*, as minimum, to twelve (12) years and one (1) day of *reclusion temporal*, as maximum. The accused-appellant is likewise **ORDERED to PAY** 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.²²

The CA upheld the RTC's finding on petitioner's failure to prove self-defense particularly the element of unlawful aggression.²³ The CA agreed

¹⁷ Id. at 69-70.

¹⁸ Id. at 65.

¹⁹ Id. at 66-68.

²⁰ Id. at 69.

²¹ Id. at 85-100.

²² Id. at 99-100.

²³ Id. at 95-97.

with the RTC that petitioner's version of what transpired that fateful day was belied by the medico-legal examination of Nicanor conducted by Dr. Jabonillo. According more weight to the testimony of Dr. Jabonillo and her Medico-Legal Examination Report, the CA ruled that "physical evidence is evidence of the highest order. It speaks more eloquently than a hundred witnesses [and has] been characterized as that mute but eloquent manifestations of truth which rate high in our hierarchy of trustworthy evidence."²⁴ Further, inasmuch as the case depends on the credibility of witnesses, the CA applied the time-honored rule that findings of the RTC with respect thereto, as well as its conclusions anchored thereon, are accorded high respect, if not conclusive effect. This is so because the RTC had the unique opportunity to observe the demeanor of witnesses and is in the best position to discern whether they are telling the truth.²⁵

Petitioner moved for reconsideration but was denied by the CA through the assailed Resolution.²⁶

The Present Petition

Petitioner is now before the Court *via* the present Rule 45 petition in his final plea to overturn his conviction. Petitioner ascribes error to the CA in affirming the RTC Decision convicting him of Homicide.

The Court's Ruling

The petition has no merit.

At the onset, petitioner admits that his petition involves questions of fact. He nonetheless implores this Court to exercise its discretionary appellate jurisdiction in view of the alleged unfounded factual findings and glaring errors of the RTC that were affirmed by the CA.²⁷

Under a Rule 45 petition, the Court not being a trier of facts, will not take cognizance of factual issues, much less recalibrate the evidence on record. More, the factual findings of the RTC on the credibility of the witnesses are generally accorded the highest degree of respect, especially when affirmed by the CA, as in this case. For the RTC is in the best position to ascertain the facts and determine the credibility of evidence presented during the trial. There is here, no compelling reason to depart from this rule.²⁸

Here, petitioner admitted killing Nicanor but claims self-defense to avoid criminal liability.

²⁴ Id. at 95.

²⁵ Id. at 97-98.

²⁶ Id at 116-118.

²⁷ Id. at 19.

²⁸ *Santos v. People*, G.R. No. 251408, June 23, 2021.

An admission of self-defense frees the prosecution from the burden of proving that the accused committed that act charged against him or her. The burden is shifted to the accused to prove that his or her act was justified.²⁹ When an accused admits harming the victim but invokes self-defense to escape criminal liability, the accused assumes the burden to establish his plea by credible, clear and convincing evidence; otherwise, conviction would follow from his admission that he harmed the victim. Self-defense cannot be justifiably appreciated when uncorroborated by independent and competent evidence or when it is extremely doubtful by itself. Indeed, in invoking self-defense, the burden of evidence is shifted and the accused claiming self-defense must rely on the strength of his own evidence and not on the weakness of the prosecution.³⁰

For self-defense to be appreciated, petitioner must prove the following elements: (a) unlawful aggression on the part of the victim; (b) reasonable necessity of the means employed to prevent or repel it; and (c) lack of sufficient provocation on the part of the person defending himself. Unlawful aggression is the indispensable element of self-defense. **If no unlawful aggression attributed to the victim is established, self-defense is unavailing, for there is nothing to repel.**³¹

Both the RTC and the CA found that petitioner failed to prove the aforesaid elements.

The Court agrees.

Not only is petitioner's version of the events leading to Nicanor's death doubtful, it was also refuted by the findings of Dr. Jabonillo who conducted the post-mortem examination of Nicanor. On this score, the Court quotes with approval the following disquisition of the CA:

[Petitioner's] version, however, was found untruthful when the medico-legal officer conducted a post-mortem examination on [Nicanor's] body. Dr. Jabonillo concluded that [Nicanor's] cause of death is "intra-cerebral hemorrhage secondary to close comminuted fracture, skull, occipital area." [Nicanor] was hit at the back of his head which caused his instantaneous death. The medico-legal continued to opine that [Nicanor] was probably not facing the perpetrator when he was hit. As a rule, physical evidence is evidence of the highest order. It speaks more eloquently than a hundred witnesses. They have been characterized as "that mute but eloquent manifestations of truth which rate high in our hierarchy of trustworthy evidence."

Thus, comparing the version of the defense and the physical findings of the medico-legal officer, the latter is more credible. Here, if, in fact, [petitioner] was chased and attacked by [Nicanor], the latter would have been facing him. [Petitioner] himself testified that when he hit

²⁹ *People v. Anuengo*, G.R. No. 249257, July 28, 2021.

³⁰ *Id.*, citing *People v. Antonio*, G.R. No. 229349, January 29, 2020.

³¹ *People v. Agustin*, G.R. No. 250140, February 15, 2021.

[Nicanor], they were facing each other since [Nicanor] was in an attack position while he [petitioner] was brandishing a piece of wood to parry the said attacks. These circumstances, however, were belied by the findings that [Nicanor] was actually hit from behind, or at least from the side. This means that [Nicanor] was not facing [petitioner] when he was hit. The attack was from the back, outside [Nicanor's] view, which led to his demise.

Additionally, although [petitioner] claimed that he was able to initially hit [Nicanor] on the left shoulder, there was no finding of any bruise or injury sustained on the said area. Instead, the medico-legal found a broken bone on [Nicanor's] thigh; there was a fracture on [his] right femur. Based on the series of events, it can be inferred that such injury may have been sustained prior to the blow in the head since [Nicanor] fell down and lost consciousness when he was hit on the head. At this point, [petitioner] already stopped swinging the piece of wood. Therefore, if he already hit [Nicanor] and broke a bone on his lower extremities, the latter would have had difficulty chasing and attacking him. There would have been no reason to hit [Nicanor] [on] the head if [petitioner's] only intention was to defend himself.

x x x x

More importantly, and as correctly observed by the court *a quo*, there is nothing from [Dannyboy's] testimony which showed that in striking [Nicanor], [petitioner] was merely defending himself from an unlawful aggression. It appears that [petitioner] intentionally obtained a weapon inside his house and, thereafter, hit [Nicanor] [on] the head. These circumstances were contrary to [petitioner's] testimony that he obtained the wood from the side of his house while being chased, and that he cannot remember where he hit [Nicanor].

Moreover, x x x [petitioner] claimed to have hit [Nicanor] on the left shoulder to parry the knife held by the latter. However, the un rebutted testimony of [Nicanor's] sister [Dano] showed that he was right-handed. There is, therefore, doubt as to [petitioner's] testimony that the victim was holding a knife in his hands. It became more suspicious when it was shown in the photographs and based on the testimonies of PO3 Generalao and [Dano], that the knife was found on the left hand of [Nicanor], who, to emphasize, was right-handed.³²

The foregoing ruling of the CA is fully supported by the evidence on record and coincides with the findings of the RTC. The Court finds no cogent reason to disturb, much less, alter or reverse the same.

Under Article 249 of the RPC, Homicide is punishable by *reclusion temporal*.³³ Considering the presence of the mitigating circumstance of voluntary surrender, the penalty should be imposed in its minimum period.³⁴

³² Rollo, pp. 95-97.

³³ Article 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*.

³⁴ REVISED PENAL CODE, Article 64(2) provides:

Article 64. *Rules for the application of penalties which contain three periods*. — In cases in which the penalties prescribed by law contain three periods, whether it be a single divisible penalty or composed of three different penalties, each one of which forms a period in accordance with the

Applying the Indeterminate Sentence Law,³⁵ the maximum penalty shall be taken from the range of the minimum period of *reclusion temporal*, while the minimum penalty shall be within the range of the penalty next lower in degree, *i.e.*, *prision mayor*.

Although the minimum of the penalty imposed by the CA – eight (8) years and one (1) day of *prision mayor* – is within the range of the minimum of the indeterminate penalty prescribed by law, the Court deems it proper to modify the same and adopt the lower minimum of the indeterminate penalty – six (6) years and one (1) day – the same being more beneficial to petitioner.³⁶ Conformably with the recent cases of *Navarro v. People*³⁷ and *Diego v. People*,³⁸ where the accused-petitioners therein were also convicted of Homicide with one mitigating circumstance, petitioner should be sentenced to six (6) years and one (1) day of *prision mayor*, as minimum, to twelve (12) years and one (1) day of *reclusion temporal*, as maximum.

Anent the award of damages, the Court, in Homicide cases, shall award civil indemnity *ex delicto* in the amount of ₱50,000.00 and moral damages in the amount of ₱50,000.00. The heirs of the victim are also entitled to temperate damages in the amount of ₱50,000.00 in the absence of any documentary evidence showing the amount spent for burial or funeral expenses.³⁹ Albeit not included in the dispositive portion of its Decision, the CA, nevertheless, also held petitioner liable for exemplary damages in the amount of ₱50,000.00.⁴⁰ Exemplary damages is awarded only when the crime was committed with one or more aggravating circumstances,⁴¹ which is not so in this case.

WHEREFORE, the petition is **DENIED**. The assailed Decision dated March 25, 2021 and Resolution dated November 2, 2021 of the Court of Appeals in CA-G.R. CEB CR No. 03317 are **AFFIRMED with MODIFICATIONS**. Accordingly, petitioner Pablito Tayone y Unajan is

provisions of Articles 76 and 77, the courts shall observe for the application of the penalty the following rules, according to whether there are or are not mitigating or aggravating circumstances:

x x x x

2. When only a mitigating circumstance is present in the commission of the act, they shall impose the penalty in its minimum period.

x x x x

³⁵ INDETERMINATE SENTENCE LAW, Section 1 reads:

Section 1. Hereafter, in imposing a prison sentence for an offense punished by the Revised Penal Code, or its amendments, the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code, and the minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense; and if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same.

³⁶ See *Reyes, Jr. v. People*, G.R. No. 250407, September 8, 2020.

³⁷ UDK No. 17100, January 3, 2022.

³⁸ G.R. No. 256399, July 12, 2021.

³⁹ See *Cruz v. People*, G.R. No. 216642, September 8, 2020, citing *People v. Jugueta*, 783 Phil. 806, 380-381 (2016).

⁴⁰ *Rollo*, p. 99.

⁴¹ CIVIL CODE, Article 2230.

found **GUILTY** beyond reasonable doubt of the crime of Homicide under Article 249 of the Revised Penal Code. He is **SENTENCED** to suffer the indeterminate penalty of imprisonment of six (6) years and one (1) day of *prision mayor*, as minimum, to twelve (12) years and one (1) day of *reclusion temporal*, as maximum.

Further, petitioner Pablito Tayone y Unajan is **DIRECTED** to **PAY** the heirs of Roldan Nicanor the following amounts:

1. ₱50,000.00 as civil indemnity;
2. ₱50,000.00 as moral damages; and
3. ₱50,000.00 as temperate damages.

The above monetary awards shall earn legal interest at the rate of six percent (6%) *per annum* from finality of this Resolution until full satisfaction.

SO ORDERED.”

By authority of the Court:

Misael D. Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court *JB 11/7/22*

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