



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **January 11, 2023**, which reads as follows:*

**“G.R. No. 258430 (*Apolinario Compendio, Petitioner v. People of the Philippines, Respondent*).**— After a judicious study of the case, the Court resolves to **DENY** the instant Petition for Review on *Certiorari* under Rule 45<sup>1</sup> and **AFFIRM** the Decision<sup>2</sup> and Resolution<sup>3</sup> of the Court of Appeals Cebu City Station finding Apolinario Compendio (petitioner) **GUILTY** beyond reasonable doubt of the crime of Attempted Homicide and denying his motion for reconsideration thereof, respectively, in CA-G.R. CR No. 03270.

In questioning his conviction, petitioner claims that the prosecution failed to sufficiently establish his identity as the perpetrator of the crime. In the alternative, he argues that there was no proof of intent to kill.<sup>4</sup>

***Petitioner’s arguments deserve scant consideration.***

Contrary to his claim, petitioner was positively identified not only by Temotio Bisnar, the victim himself, but also by another eyewitness, Loreto Bisnar (Loreto). Thus, the Court adopts with approbation the findings of the Court of Appeals—

The categorical testimonies of Temotio and Loreto, positively identifying [petitioner] as the culprit must be accorded great weight.

The victim, Temotio, testified:

....

Q: What time did you go to that cockpit place on [that] November 22, 2003?

A: I arrived at 3:00 o’clock.

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<sup>1</sup> *Rollo*, pp. 11–35.

<sup>2</sup> *Id.* at 78–92. The Decision dated October 29, 2019 was penned by Associate Justice Edgardo L. Delos Santos (now a retired Member of this Court), with the concurrence of Associate Justices Marilyn B. Lagura-Yap and Alfredo D. Ampuan.

<sup>3</sup> *Id.* at 101–106. The August 24, 2021 Resolution was penned by Associate Justice Marilyn B. Lagura-Yap, with the concurrence of Associate Justices Roberto P. Quiroz and Nancy C. Rivas-Palmones.

<sup>4</sup> *Id.* at 22–28.

Q: Were there already many people when you arrived?

A: Yes.

....

Q: And while you were placing the gaff what happened?

A: I was stabbed immediately and suddenly in many parts of my body (Witness demonstrated by pointing the left part of his chest).

Q: Who stabbed you?

A: Him (Witness pointing to the [petitioner]).

Q: And what weapon did the [petitioner] use in stabbing you and hit you?

A: That knife used in slaughtering pigs.

Q: Did you notice before the [petitioner] stabbed you where he came from?

A: I noticed him he just walked around that area and suddenly told me "this is my path" and suddenly stabbed me.

Q: And what happened to you after suddenly you were hit by the stab of the [petitioner]?

A: I uttered these words "sanama bitch" (*sic*) you are the one who got near me and you are the one who stabbed me.

Q: And what did he say with that statement?

A: He again hit me at (*sic*) my right eyebrow.

Q: What happened to you after you were stabbed for the second time by the [petitioner]?

A: I fainted for a few minutes.

....

As found by the trial court, the victim and Loreto were unwavering and unshaken in their testimonies that it was indeed [petitioner] who perpetrated the crime. Temotio was hit in his chest and in the eyebrow so he obviously saw the perpetrator. Moreover, Loreto corroborated every detail of his testimony since Loreto was also at the cockpit when the incident unfolded before his very own eyes.

Furthermore, [petitioner] has not shown that Temotio and Loreto had any ill-motive to testify against him. It has been a consistent ruling of the Supreme Court that a witness' testimony deserves full faith and credit where there exists no evidence to show any improper motive why he/she should testify falsely against the accused, or why he/she should implicate the accused in a serious offense.<sup>5</sup> . . . .

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<sup>5</sup> *Id.* at 85-87.

In this jurisdiction, the evaluation of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court because of its unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct, and attitude under grueling examination.<sup>6</sup> Accordingly, the Court usually defers and accords finality to the factual findings of the trial court, especially when such findings are undisturbed by the appellate court, as in the instant case.

It is likewise noteworthy that the incident transpired in broad daylight at around three o'clock in the afternoon. It was, therefore, highly improbable, if not outrightly impossible, for Temotio and Loreto to have mistaken petitioner for another person, as petitioner avowed.

On the issue of whether there was intent to kill. Intent to kill is the principal element of homicide or murder, in whatever stage of commission. Such intent must be proved in a clear and evident manner to exclude every possible doubt as to the homicidal intent of the aggressor.<sup>7</sup> In *De Guzman, Jr. v. People*,<sup>8</sup> the Court pointed out that there are several ways by which courts may determine the existence of intent to kill, namely: (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.<sup>9</sup>

While the wounds sustained by Temotio were not proven fatal, the Court of Appeals aptly found that the prosecution was nonetheless able to establish that there was intent to kill by—1) the means used by petitioner which, in this case, was a sharp knife used for slaughtering pigs; 2) the location of the wound—left part of the chest, a spot near the heart; and 3) the testimony of Temotio himself, which was corroborated by Loreto and the medical certificate presented in evidence, indicating “SW, 3 cm, level of 3<sup>rd</sup> intercostal space (L) along, parasternal line.”<sup>10</sup> Ineluctably, the Court concludes that the attack was made with intent to kill.

However, this Court is not persuaded with the pronouncement of the Court of Appeals that the qualifying circumstance of treachery cannot be appreciated against petitioner solely by reason of the absence of allegations in the Information of the acts constituting the same. As the records evince, petitioner failed to raise any objection the sufficiency of the allegations in the Information and in actual fact, fully participated in the trial. Thus, he is

<sup>6</sup> *The People of the Philippines v. Jay Godoy Mancao*, G.R. No. 228951, July 17, 2019 at 10. [Per J. Lazaro-Javier, Second Division]. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website.

<sup>7</sup> *Rolen Peñaranda v. People of the Philippines*, G.R. No. 214426, December 2, 2021 [Per J. Caguioa, First Division] at 6. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website.

<sup>8</sup> 748 Phil. 452 (2014) [Per J. Bersamin, First Division].

<sup>9</sup> *Id.* at 459.

<sup>10</sup> *Rollo*, p. 81.

deemed to have waived any of the waivable defects in the Information, including the supposed lack of particularity in the description of the attendant circumstances.<sup>11</sup>

Notwithstanding the foregoing, the prosecution's lack of evidence to prove treachery substantiates the conclusion that petitioner should be convicted of attempted homicide only. As narrated by the victim himself, petitioner approached him and uttered the words, "*this is my path*," before stabbing him. Hence, it is apparent that the attack was in no way treacherous, unexpected or unforeseen. Moreover, any doubt as to the existence of treachery must be resolved in favor of the accused.<sup>12</sup>

Anent the imposable penalty, Article 249 of the Revised Penal Code imposes the penalty of *reclusion temporal* upon those who commit Homicide. Article 51 of the Revised Penal Code, in turn, provides that the penalty lower by two degrees is to be imposed when the felony committed is in the attempted stage. Thus, this Court sustains the penalty of *prision correccional* imposed by the Court of Appeals.

Lastly, pursuant to *People v. Jugueta*,<sup>13</sup> the Court of Appeals correctly imposed the award of damages each in the amount of PHP 20,000.00 by way of civil indemnity and moral damages. No exemplary damages shall be awarded in view of the absence of any aggravating circumstance.

**ACCORDINGLY**, the instant Appeal is hereby **DISMISSED**. The Decision dated October 29, 2019 and the Resolution dated August 24, 2021 of the Court of Appeals Cebu City Station, in CA-G.R. CR No. 03270, are **AFFIRMED**.

**SO ORDERED.**"

By authority of the Court:

Misael Domingo C. Battung III  
MISAEL DOMINGO C. BATTUNG III  
Division Clerk of Court  
G.R.  
3/4/23

<sup>11</sup> *People v. Solar y Dumbrique*, G.R. No. 225595, August 6, 2019. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website. [Per J. Caguioa, *En Banc*].

<sup>12</sup> *People v. Escarlos*, 457 Phil. 580, 599 (2003) [Per J. Panganiban, *En Banc*].

<sup>13</sup> 783 Phil. 806 (2016) [Per J. Peralta, *En Banc*].

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(Crim. Case No. H-2132)

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