



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **March 15, 2023** which reads as follows:*

“G.R. No. 254996 (JOSEPH VIAÑA y QUIÑONEZ, Petitioner v. PEOPLE OF THE PHILIPPINES, Respondent). — This Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court seeks the reversal of the Court of Appeals’ (CA) June 30, 2020 Decision² and December 10, 2020 Resolution³ in CA-G.R. CR No. 42885, which affirmed the Regional Trial Court’s (RTC) October 12, 2018 Decision⁴ finding Joseph Viaña y Quiñonez guilty of homicide under Article 249 of the Revised Penal Code (RPC).

ANTECEDENTS

On August 29, 2016, Junjun de Lara, Joseph Viaña (Joseph), Normilito Tañeca, Sr. (Normilito), Jayson Inmenzo (Jayson), Ricky Pestaño (Ricky), Troily* Salazar (Troily), and one “Ed” were having a drinking spree at the store where Joseph and Normilito were working. Around 10:00 p.m., the group dispersed, leaving Joseph and Normilito.⁵ Not long after, Troily came rushing to Jayson’s house, saying that someone had attacked Normilito.⁶ Jayson ran to the store and found Normilito unconscious on the floor in a pool

¹ *Rollo*, pp. 12–31.

² *Id.* at 36–51. Penned by Associate Justice Manuel M. Barrios, with the concurrence of Associate Justices Ronaldo Roberto B. Martin and Walter S. Ong.

³ *Id.* at 53–55. Penned by Associate Justice Manuel M. Barrios, with the concurrence of Associate Justices Ronaldo Roberto B. Martin and Walter S. Ong.

⁴ *CA rollo*, pp. 52–58. Penned by Presiding Judge Ronald B. Moreno.

⁵ Appears as Triolie in some parts of the *rollo*, pp. 14, 60.

⁶ *Id.* at 36.

⁶ *Id.*

of blood with injuries on his head.⁷ He asked Joseph what happened, and Joseph narrated that a man with tattoos suddenly entered the store, confronted Normilito, and kicked and banged Normilito's head against the wall.⁸ Jayson and Joseph brought Normilito to Ospital ng Makati.

Police Officer 2 Vince de Villa (PO2 Villa), Police Officer 2 Alvin Sy (PO2 Sy), and Senior Police Officer 2 Jayson David (SPO2 David) arrived at the hospital, and they saw Joseph with blood on his face and clothes.⁹ SPO2 David interviewed Joseph. Joseph narrated that he and Normilito had just finished a drinking session when a male intruder with tattoos entered the store and assaulted Normilito.¹⁰ The police officers, Jayson, and Joseph returned to the crime scene for an ocular inspection.¹¹

At the store, the Scene of the Crimes Operatives (SOCO) team found a hammer¹² with a yellow handle under the table where the group was previously drinking. SPO2 David asked Joseph to narrate again what happened. Joseph then claimed that there were two intruders. In his narration, Joseph eventually admitted to hitting Normilito on the head with his hammer.¹³ The SOCO recovered the yellow hammer, photographed and marked it, and endorsed it for serology examination, which yielded a negative result for the presence of human blood.¹⁴

On September 1, 2016, Normilito died. The Certificate of Death showed that the cause of death was blunt traumatic injuries to the head.¹⁵

Thus, Joseph was charged with the crime of homicide in an Information that reads, as follows:¹⁶

The undersigned Prosecutor accuses JOSEPH VIAÑA y QUIÑONEZ of the crime of Homicide, committed as follows:

On 29th day of August 2016 in the city of Makati, the Philippines, accused while armed with a hammer with intent to kill, did then and there willfully, unlawfully, and feloniously attack, assault Normilito Tañeca Sr. y Viaña, hitting the latter on his head, thereby inflicting upon him wounds which directly caused his death.

CONTRARY TO LAW.¹⁷

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* 36-37.

¹¹ *Id.*

¹² RTC records, p. 191.

¹³ CA rollo, p. 38.

¹⁴ *Id.* at 47.

¹⁵ RTC records, p. 185.

¹⁶ *Id.* at 1-3.

¹⁷ *Id.*

When arraigned, Joseph pleaded not guilty.¹⁸ Joseph testified that he was outside and about to close the store around 11:00 p.m. on August 29, 2016, when a tall and thin man with a sharp nose suddenly appeared and barged inside.¹⁹ He heard the intruder asking Normilito “*kanino itong ginagawang bahay,*” and then “*wala akong pakiaalam kung kanino pang bahay ito.*” An argument between the two ensued.²⁰ Alarmed by the incident, Joseph ran to Ricky’s house, but Ricky’s wife prevented Ricky from going out. Joseph went back to the store and found Normilito already bloodied, lying on the ground. The intruder was gone.²¹ Joseph then went to Troily, who called Jayson. Joseph and Jayson brought Normilito to the hospital.²² Joseph claimed that PO2 Villa and PO2 Sy arrested him at the hospital and then brought him back to the place of the incident. There, he was forced and threatened to admit to killing Normilito.²³

On October 12, 2018, the RTC rendered a Decision convicting Joseph of homicide.²⁴ Although the RTC did not consider Joseph’s admission of guilt before SPO2 David because it was made without a counsel’s presence and assistance, the RTC found the circumstantial evidence sufficient to warrant a conviction.

First, Joseph admitted that he was alone together with the victim before the latter’s death and admitted ownership of the yellow hammer found at the crime scene. *Second*, the RTC found it unusual for someone not known to Joseph and the victim to appear at the store, ask who owns the store under construction, and would suddenly bang the victim’s head on the wall. *Third*, it is contrary to the common human experience for Joseph to leave Normilito with the intruder knowing that they are arguing. Also, Joseph could have asked for help from bystanders instead of going to Ricky’s house, which is far from the incident. *Fourth*, Joseph’s statement that he can tell that the intruder banged Normilito’s head against the wall is inconsistent with his claim that he did not see the two arguing. *Fifth*, it is highly improbable for Joseph to describe the alleged intruder’s features when he had seen the person only once. Also, Joseph was then facing the opposite direction when the intruder entered the store. *Sixth*, the RTC noted that Joseph was angered by the delay in constructing the store, as he had an interest in its immediate completion because he would be hired as the storekeeper. *Seventh*, the injuries sustained by Normilito and the medico-legal expert’s testimony are consistent with the prosecution’s theory that the hammer recovered from the crime scene was used by Joseph to inflict deadly blows on the victim’s head. While there were two hammers presented in evidence by the prosecution—colored yellow/black and orange—the RTC held that the prosecution nonetheless established that a hammer was recovered from the crime scene. *Lastly*, the

¹⁸ *Id.* at 50.

¹⁹ *Rollo*, pp. 39–40.

²⁰ *Id.* at 40.

²¹ *Id.* at 41.

²² *Id.*

²³ *Id.*

²⁴ *CA rollo*, pp. 52–58.

fact that the hammer yielded a negative result for blood was sufficiently explained by Police Chief Inspector Jayson Ermina (P/CINSP Ermina) that there was contamination.²⁵

The RTC disposed:

WHEREFORE, premises considered, the Court finds the accused Joseph Viaña y Quiñonez GUILTY beyond reasonable doubt as principal of the crime of HOMICIDE defined and penalized under Article 249 of the Revised Penal Code for the killing of Normilito Tañeca Sr. y Viaña and he is hereby sentenced to suffer the penalty of imprisonment of six (6) years and one (1) day of *prision mayor* as minimum and twelve (12) years and one (1) day of *reclusion temporal* as maximum.

In addition, the accused is directed to indemnify the family of the deceased Normilito Tañeca, Sr. y Viaña civil indemnity in the amount of [P]50,000.00, moral damages in the amount of [P]50,000.00, and actual damages in the amount of [P]41,248.50.

Cost against the accused.

SO ORDERED.²⁶

On appeal to the CA, the CA affirmed the RTC's finding of guilt based on circumstantial evidence.²⁷ The CA ruled that Joseph's extrajudicial admission was admissible since he was not yet under custodial investigation when he gave the incriminating statements to SPO2 David. At the time, Joseph was merely a potential witness to the crime. The police officers also interviewed the bystanders at the crime scene. Joseph's voluntary admission and the circumstantial evidence have established his guilt beyond reasonable doubt for killing Normilito. The CA modified the penalty imposed by the RTC absent any mitigating circumstance, thus:

WHEREFORE, premises considered, the appeal is **DENIED**. The Decision dated 12 October 2018 of the Regional Trial Court, Branch 147, Makati City is **AFFIRMED with MODIFICATION**. Accused-appellant Joseph Viaña y Quiñonez is found **GUILTY** beyond reasonable doubt of the crime of HOMICIDE under Article 249 of the Revised Penal Code and is hereby sentenced to suffer the penalty of imprisonment of six (6) years and one (1) day of *Prision Mayor* as MINIMUM and fourteen (14) years, eight (8) months and one (1) day of *Reclusion Temporal* as MAXIMUM. Accused-appellant is ordered to pay the family of Normilito Tañeca Sr. y Viaña civil indemnity in the amount of [P]50,000.00, moral damages in the amount of [P]50,000.00, and actual damages in the amount of [P]41,248.50, with interest of six percent (6%) per annum.

SO ORDERED.²⁸

²⁵ *Id.* at 54-56.

²⁶ *Id.* at 57.

²⁷ *Rollo*, pp. 36-51.

²⁸ *Id.* at 50.

Joseph's Motion for Reconsideration was denied on December 10, 2020.²⁹ Hence, this recourse.

Joseph claims that the alleged circumstantial evidence failed to prove his guilt beyond reasonable doubt, even if combined. More importantly, the object evidence presented by the prosecution, allegedly used in killing Normilito, was not adequately preserved. The prosecution presented two hammers with the same markings. The examination of the hammer also yielded a negative result for blood. Further, the fact that Joseph brought Normilito to the hospital proved that he was innocent. Lastly, other than SPO2 David's self-serving testimony, the prosecution presented no other evidence to prove that Joseph voluntarily admitted to the commission of the crime.³⁰

In its Comment,³¹ the Office of the Solicitor General (OSG), on behalf of the People, counters that the prosecution sufficiently established all the elements of homicide. First, Joseph admitted to hitting the victim's head using a hammer. Second, the circumstantial evidence found by the RTC and affirmed by the CA indubitably points to Joseph as the perpetrator. Third, the OSG adds that the disparity in the hammer due to the mishandling of SOCO evidence is insufficient to acquit Joseph, as the totality of circumstantial evidence points to him as the assailant. Lastly, the OSG echoes the findings of the CA that Joseph's confession is admissible in evidence because it was spontaneously and voluntarily given and not during the custodial investigation.

RULING

The Petition is bereft of merit.

Prefatorily, We hold that Joseph's admission of hitting the victim with a hammer before SPO2 David is admissible in evidence. He was not yet under custodial investigation when he admitted to the crime but was merely considered a potential witness. The Court explained what constitutes custodial investigation in *People v. Marra*,³² to wit:

Custodial investigation involves any questioning initiated by law enforcement officers *after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way*. It is only after the investigation ceases to be a general inquiry into an unsolved crime and begins to focus on a particular suspect, *the suspect is taken into custody, and the police carries out a process of interrogations that lends*

²⁹ *Id.* at 53–55. The dispositive portion of the Resolution reads:

WHEREFORE, in view of the foregoing, the Motion for Reconsideration is **DENIED**.
SO ORDERED.

³⁰ *Id.* at 12–28.

³¹ *Id.* at 123–139.

³² 306 Phil. 586, 597 (1994) [Per J. Regalado, Second Division].

itself to eliciting incriminating statements that the rule begins to operate.
(Italics in the original)

Here, Joseph voluntarily confessed to the crime while the police officers were making a general inquiry from him and the bystanders in the area. He was not singled out as the probable culprit in the killing of Normilito. SPO2 David testified:³³

Pros. Millendez:

Q: At any time during your investigation up to the time that he verbally admitted to hitting the victim, have you considered Joseph Viaña as a suspect?

Witness:

A: No, sir.

Pros. Millendez:

Q: Not even at the time that you were conducting an ocular inspection?

Witness:

A: No, sir because I considered him as a witness because he was the one who brought the victim to the hospital. And later on when we conducted some interview and an ocular inspection and some other persons say they did not see any person entering that house that is time we considered until he voluntarily surrendered and admitted his guilt.

Pros. Millendez:

Q: So before he voluntarily admitted to hitting the victim he was not a suspect?

Witness:

A: Yes, sir.

x x x x

COURT: What happened at the crime scene?

Witness: Then iyon nga, nagconduct po ulit kami ng interview then together with...

COURT: Who did you interview?

Witness: The suspect your Honor.

COURT: Sige, And what happened?

Witness: Pati po yung mga bystanders, tinanong din po namin kung may pumasok nga ba dim sa crime scene na iyon nga, may nanggulo, sabi po, wala daw.

COURT: So what was the statement given by the Accused at the crime scene?

³³ TSN, SPO2 Jason David, March 14, 2017, pp. 50-52.

Witness: Sabi niya po, inulit po namin iyong tanong kung sino iyong pumasok sa kanilat at kung sino ang nambugbog sa biktima your Honor then he said that mayroon daw pumasok isang lalaki at iyon pinag-uuntog iyong ulo, binugbog si Normilito. then tinanong po ulit namin, binago niya po, sabi po dalawa daw po sila...

COURT: Anong dalawa sila

Witness: Dalawa daw po iyong suspect your Honor.

COURT: Tapos?

Witness: Then sabi niya, tinanong namin kung may nawala sa gamit sa kanila or pinagnakawan sila, sabi niya po, hindi daw po.

COURT: Tapos?

Witness: Tinanong namin kung anong rason, sabi niya, hindi niya daw po alam then immediately pumunta daw po siya doon sa kakilala para humingi ng pera para pamasaha pauwi your Honor.

COURT: Tapos?

Witness: Then noong bandang huli po, inamin niya na po na siya daw po iyong pumalo sa ulo ni Normilito using the hammer your Honor.

COURT: Who were present when the accused made admission?

Witness: The members of the SOCO, the investigator on case, other barangay official your Honor and the Bantay Bayan.

COURT: Were there bystanders?

Witness: Yes your Honor and other relatives of the victim.

In any case, even assuming the extrajudicial confession is inadmissible in evidence, the RTC and the CA correctly found Joseph guilty of homicide beyond reasonable doubt.

The prosecution positively established all the elements necessary to sustain a conviction for homicide, to wit: (1) Normilito was killed; (2) Joseph killed him without any justifying circumstance; (3) Joseph had the intention to kill, which is presumed; and (4) the killing was not attended by any of the qualifying circumstances of murder, or by that of parricide or infanticide.

To begin with, the sufficiency of evidence, circumstantial or otherwise, to support a conviction of a crime is a factual issue, the determination of which is better left to the trial court.³⁴ The Court generally defers to the trial court's factual findings since it is better positioned to observe and determine matters of credibility of the witnesses, having heard the witnesses and observed their

³⁴ *People v. Bueza, Jr.*, G.R. No. 233743, December 2, 2019 [Notice, Third Division].

deportment during the trial.³⁵ This deference becomes firmer when the appellate court affirms the trial court's factual findings.

Under Rule 133 of the Rules of Court, Section 4,³⁶ circumstantial evidence is sufficient to convict the offender if: (i) there is more than one circumstance; (ii) the facts from which the inference is derived are proven; and (iii) the combination of all circumstances is such as to produce a conviction beyond reasonable doubt. Thus, a conviction based on circumstantial evidence may result if sufficient circumstances, proven and taken together, create an unbroken chain leading to the reasonable conclusion that the accused, to the exclusion of all others, was the author of the crime.³⁷

In the present case, We agree with the RTC and the CA that the confluence of the following circumstances established that Joseph was the perpetrator of the crime: (1) Joseph was the last person seen with the victim Normilito; (2) Joseph admitted ownership over the hammer used to hit Normilito's head; (3) Joseph's version of events about an intruder was more imagined than real. It is incredulous for Joseph to remember the intruder's feature as tall, thin, and with a pointed nose when he did not see the man before entering the store. He did not also see the intruder and Normilito arguing inside; (4) Joseph chose to ask for Ricky's help, whose house is far from the store, instead of asking for help from the bystanders; (5) the victim's injuries and the medico-legal expert's testimony are consistent with the prosecution's theory that the hammer recovered from the crime scene was used by Joseph to inflict deadly blows on the victim's head. The confluence of these circumstances constitutes a solid unbroken chain of events that convinces us that the accused killed Normilito.

That there were two hammers presented by the prosecution, which yielded a negative result for blood, will not entitle Joseph to an acquittal. Prosecution witness Senior Police Officer 4 Dondon Villaralbo clarified during his testimony that the hammer, colored yellow/black, was turned over to the investigator and endorsed for serology examination.³⁸ Further,

³⁵ *People v. Magbitang*, 787 Phil. 130, 135 (2016) [Per J. Bersamin, *En Banc*].

³⁶ Section 4. Circumstantial evidence, when sufficient. — Circumstantial evidence is sufficient for conviction if:

(a) There is more than one circumstances;

(b) The facts from which the inferences are derived are proven; and

(c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

³⁷ *Almojuela v. People*, 734 Phil. 636, 646 (2014) [Per J. Brion, Second Division].

³⁸ CA rollo, p. 56.

SPO4 Dondon Villaralbo testified:

Pros. Millendez: I am showing you two hammers, Mr. Witness. Now to your recollection of the events when you received this hammer, which of these two hammers was turned over by the investigator and accompanied by that letter request for serology examination?

Witness: This one, sir. (*witness pointed to the yellow/black hammer*)

Pros. Millendez: Are you sure of that, Mr. Witness?

Witness: Yes, sir.

Pros. Millendez: Now after receiving this hammer, what did you do with this hammer?

Witness: After I received the letter request with the evidence hammer, I immediately bring to the evidence room with the separate box. All cases of serology were put there, sir.

prosecution witness P/CINSP Ermina explained that the negative result for the presence of human blood on the hammer was due to contamination.³⁹

Finally, the CA correctly modified the penalty imposed by the RTC. Under Article 249 of the Revised Penal Code, the prescribed penalty for homicide is *reclusion temporal*. Without any modifying circumstance, the penalty shall be imposed in its medium period. There was no mitigating circumstance that could be appreciated in Joseph's favor. Applying the Indeterminate Sentence Law, the penalty next lower in degree is *prision mayor* with a range of six (6) years and one (1) day to twelve (12) years. Thus, the CA correctly imposed upon Joseph the indeterminate penalty of six (6) years and one (1) day of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months, and one (1) day of *reclusion temporal*, as maximum.

Applying the Court's ruling in *People v. Jugueta*,⁴⁰ we affirm the award of civil indemnity and moral damages of PHP 50,000.00 each. For actual damages, We award PHP 50,000.00 as temperate damages, in lieu of PHP 41,248.50. We have ruled in *People v. Angeles*:⁴¹

But, as pronounced in *Gervero and People v. Jugueta*, "when no documentary evidence of burial or funeral expenses is presented in court, the amount of [PHP]50,000.00 as temperate damages shall be awarded." Considering that the receipts presented by Abelardo's heirs did not exceed Fifty Thousand Pesos ([PHP]50,000.00), they shall, in lieu of actual damages, be granted Fifty Thousand Pesos ([PHP]50,000.00) temperate damages in order to avoid the situation where those who did not present any receipt at all would get more than those who claimed for more than Fifty Thousand Pesos ([PHP]50,000.00) but failed to present receipts for the excess of that amount. Verily, the heirs of Abelardo Evangelista are entitled to Fifty Thousand Pesos ([PHP]50,000.00) as temperate damages, in lieu of actual damages.

Lastly, all monetary awards are subject to the legal interest of 6% per annum, from the finality of this Resolution until full payment.⁴²

Pros. Millendez: Okay. There is a masking tape with markings using a pentel pen. Do you know who made these markings SOCO SPD 0272, 30 August 2016?
 Witness: Yes, sir.
 Pros. Millendez: Who made those markings?
 Witness: I am the one who put these markings, sir. (TSN, SPO4 Dondon Villaralbo , July 17, 2018, pp. 8-9)

³⁹ *Id.*

P/CINSP Jayson Ermina testified:

Pros. Millendez: Your Honor, he conducted the serology examination. We would like to know why the examination resulted in the "negative" when in fact, your Honor, the Investigation Report says that has bloodstain. What could have caused the absence of bloodstain, Mr. Witness?
 Witness: Many factors that causes the absence the insufficient amount of bacterial contamination considering the procedures that we are using is highly sensitive for the presence of human blood. (TSN, P/CINSP Jayson Ermina , August 14, 2018, pp. 11-12)

⁴⁰ 783 Phil. 806 (2016) [Per J. Peralta, *En Banc*].

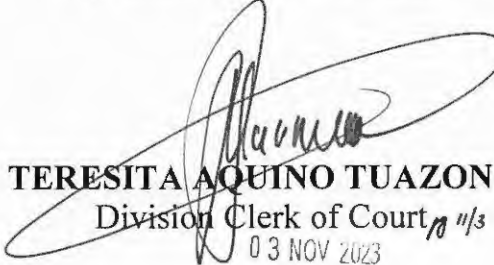
⁴¹ 859 Phil. 652 (2019) [Per J. Lazaro-Javier, Second Division].

⁴² *Nacar v. Gallery Frames*, 716 Phil. 267, 270 (2013) [Per J. Inting, Second Division].

FOR THESE REASONS, the Petition is **DENIED**. The Decision of the Court of Appeals dated June 30, 2020 and Resolution dated December 10, 2020 in CA-G.R. CR No. 42885 are **AFFIRMED with MODIFICATION**. Accused Joseph Viaña y Quiñonez is **GUILTY** beyond reasonable doubt of homicide under Article 249 of the Revised Penal Code. He is sentenced to suffer the indeterminate penalty of six (6) years and one (1) day of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months, and one (1) day of *reclusion temporal*, as maximum, and **ORDERED** to pay the heirs of Normilito Tañeca, Sr. y Viaña the amounts of PHP 50,000.00 as civil indemnity, PHP 50,000.00 as moral damages, and PHP 50,000.00 as temperate damages, in lieu of actual damages. All monetary awards shall earn interest at the legal rate of 6% per annum from the finality of this Resolution until fully paid.

SO ORDERED.”

By authority of the Court:


TERESITA AQUINO TUAZON
 Division Clerk of Court #1/3
 03 NOV 2023

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*with copy of CA Decision dated June 30, 2020
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 GR254996. 03/15/2023(143)URES