



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated July 25, 2023 which reads as follows:

“G.R. No. 265786 (*Rolly Almodiel v. People of the Philippines*).— This Petition for Review on Certiorari¹ (Petition) assails the Decision² dated 27 June 2022 and the Resolution³ dated 09 February 2023 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 12132, affirming with modification the Decision⁴ dated 24 April 2018 of the Regional Trial Court (RTC), Branch 84 of Quezon City.

The Court resolves to **DENY** the instant Petition for failure of petitioner Rolly Almodiel (petitioner) to sufficiently show any reversible error in the assailed Decision and Resolution of the CA.

In this case, both the RTC and the CA held that the prosecution clearly established all the elements of the crime of Murder. The only difference is that the RTC ruled treachery as the qualifying circumstance while the CA disagreed, ruling that it was abuse of superior strength that qualified the crime to Murder.

Factual findings of the trial court and its evaluation of the credibility of witnesses and the probative weight of their testimonies are entitled to great respect and even conclusive effect,⁵ unless the trial court is shown to have overlooked, misapprehended, or misapplied any fact or circumstance of

¹ *Rollo*, pp. 11-40.

² *Id.* at 47-76. Penned by Associate Justice Emily R. Aliño-Geluz and concurred in by Associate Justices Nina G. Antonio-Valenzuela and Jose Lorenzo R. Dela Rosa.

³ *Id.* at 77-80.

⁴ *Id.* at 98-104, 107-122. Penned by Presiding Judge Luisito G. Cortez.

⁵ *People v. Pereira*, G.R. No. 220749, 20 January 2021.

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weight and substance.⁶ In this case, petitioner failed to state any compelling reason to disturb the factual findings of the trial court, as affirmed by the CA. Moreover, petitioner's denial and alibi, which are self-serving negative evidence and easily fabricated, cannot be accorded greater evidentiary weight than the categorical and positive testimony of Graciano Dionora (Graciano), the surviving victim of the stabbing, who consistently identified petitioner as one of the perpetrators responsible for the death of the victim, Jaime Sobretudo, Jr. (Jaime). As stated by the CA, the stabbing incident happened just outside petitioner's house, such that it was not physically impossible for petitioner to be at the crime scene during the stabbing incident.

While jurisprudence dictates that the Information must state the ultimate facts relative to such circumstance,⁷ abuse of superior strength in this case, an accused shall be deemed to have waived any defects in the Information if he or she failed to question the sufficiency of the Information by availing any of the remedies provided under the procedural rules, namely: either by filing a motion to quash for failure of the Information to conform substantially to the prescribed form, or by filing a motion for bill of particulars. In this case, it does not appear that petitioner availed of any of the said remedies. As such, he is deemed to have waived any waivable defects in the Information filed against him.

The Court likewise concurs with the ruling of the CA that petitioner should only be convicted of Serious Physical Injuries, instead of Frustrated Murder, in Criminal Case No. Q-07-147536-CR, since the prosecution failed to present evidence to prove that Graciano would have died from his wounds without the timely medical assistance.

Furthermore, the Court agrees with the CA that an interest at the rate of six percent (6%) per *annum* shall be imposed on all damages awarded from the date of the finality until fully paid.⁸ The CA also correctly deleted the pronouncement of the RTC ordering all damages awarded to earn interest at the rate of six percent (6%) per *annum* computed from the date of the filing of this case on 18 June 2007.

However, there is a need to modify the monetary awards given to the heirs of Jaime. The Court notes that although the CA in Criminal Case No. Q-07-147536-CR deleted the award of temperate damages since actual damages was already awarded to Graciano, the CA inadvertently adopted the award of both temperate and actual damages to the heirs of Jaime, as ordered by the RTC.

⁶ *People v. Fullante*, G.R. No. 238905, 01 December 2021.

⁷ *People v. Solar*, G.R. No. 225595, 06 August 2019.

⁸ *People v. Pilen*, G.R. No. 254875, 13 February 2023; *People v. Fullante*, G.R. No. 238905, 01 December 2021.

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The award of temperate damages is sanctioned when proof of pecuniary loss cannot be offered. Thus, in *People v. Jugueta*,⁹ the Court ruled that the award of temperate damages in the amount of ₱50,000.00 in murder cases was proper when no documentary evidence of burial or funeral expenses is presented during trial. In this case, aside from the actual damages in the amount of ₱13,650.00 awarded in favor of the heirs of Jaime, the RTC also ordered the award of temperate damages in the amount of ₱50,000.00.

Generally, when actual damages are duly substantiated, the court no longer awards temperate damages. However, since the ₱13,650.00 actual damages awarded in this case is less than the ₱50,000.00 allowed by the Court as temperate damages, the award of temperate damages is more equitable and justified in lieu of the actual damages which is of a lesser amount. "The rationale for this rule is that it would be anomalous and unfair for the victim's heirs, who tried and succeeded in presenting receipts and other evidence to prove actual damages, to receive an amount which is less than that given as temperate damages to those who are not able to present any evidence at all."¹⁰ Thus, the ₱13,650.00 actual damages, which is less than the prevailing amount of ₱50,000.00 for temperate damages in murder cases, should be deleted. In lieu of the actual damages, the award of ₱50,000.00 as temperate damages to be paid to the heirs of Jaime should be retained.

Anent the penalty imposed against petitioner for the crimes of Murder and Serious Physical Injuries, We find the same to be in order and consistent with jurisprudence.

WHEREFORE, the Petition is **DENIED**. The Decision dated 27 June 2022 and the Resolution dated 09 February 2023 of the Court of Appeals in CA-G.R. CR-HC No. 12132 are **AFFIRMED with MODIFICATION** in that the award of actual damages in the amount of **₱13,650.00** to be paid to the heirs of Jaime Sobretudo, Jr. is **DELETED**.

The petitioner's Motion for Extension of twenty-five (25) days within which to file a Petition for Review on Certiorari is **GRANTED**, counted from the expiration of the reglementary period.

⁹ 783 Phil. 806 (2016).

¹⁰ *People v. Racal*, 817 Phil. 665 (2017).

SO ORDERED.” *Rosario, J., on leave.*

By authority of the Court:



MARIA TERESA B. SIBULO
Deputy Division Clerk of Court and
Acting Division Clerk of Court ~~11/15~~
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(Crim. Case Nos. Q-07-147536-CR,
Q-07-147537-CR & Q-08-152468-CR)

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