



Republic of the Philippines
Supreme Court
Manila

CERTIFIED TRUE COPY
Wilfredo V. Lapitan
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

SEP 05 2016

THIRD DIVISION

MARIO SALUTA,

Petitioner,

G.R. No. 181335

Present:

VELASCO, JR., J.,
Chairperson,

PERALTA,

PEREZ,

REYES, and

JARDELEZA, JJ.

- versus -

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:

July 27, 2016

Wilfredo V. Lapitan

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DECISION

REYES, J.:

Before this 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 November 29, 2006 and Resolution³ dated December 11, 2007 of the Court of Appeals (CA) in CA-G.R. CR No. 26663. The CA affirmed with modification the Judgment⁴ dated November 20, 2001 of the Regional Trial Court (RTC) of Cagayan de Oro City, Misamis Oriental, Branch 21, in Criminal Case No. 97-1502, finding Mario G. Saluta (Saluta) guilty of the crime of Homicide.

¹ Rollo, pp. 9-27.

² Penned by Associate Justice Teresita Dy-Liacco Flores, with Associate Justices Rodrigo F. Lim, Jr. and Mario V. Lopez concurring; id. at 77-96.

³ Id. at 106-107.

⁴ Issued by Judge Arcadio D. Fabria; id. at 31-43.

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The Facts

Based on the prosecution's evidence, it was established that on October 19, 1997, at 7:00 p.m., the victim, Police Officer 1 Tom Pinion (PO1 Pinion), Armando Abella (Abella) and Saluta, together with their team mates celebrated their victory in the basketball tournament at the house of Alex Catulong located at Barangay 25, Licoan, Julio Pacana Street, Cagayan de Oro City.⁵

During the party, PO1 Pinion, a police officer, took the bullets from the chamber of his .38 calibre service revolver and showed it to his friends. Afterwards, he reloaded the bullets to his gun, and placed the gun back on the holster tucked on his waist.⁶

By midnight, Saluta, Abella and PO1 Pinion went out to buy beer on credit at Bolatino Store but they were refused. According to the defense, PO1 Pinion suggested proceeding to Pilapil Store which was 30 meters away from the place of their party. When they arrived at Pilapil Store, it was already closed so they knocked on the door and said that they will buy Red Horse, but no one answered. They waited for the store to open so Saluta and PO1 Pinion sat on the bench while Abella stood beside the door of the store.⁷

According to Saluta, since the store did not open, he stood up and decided to leave but after two to three steps, he heard a gunshot. He stopped and saw PO1 Pinion falling down. He asked PO1 Pinion, "What happened, what is your problem?" "*Part, yawa! Wala ka kabalo*" ("Partner, damn it! I did not know."), then he held the latter in his hands. He saw Abella pacing back and forth so he asked him where he was going. Abella then replied that he will go to PO1 Pinion's parents to tell them that their son committed suicide.⁸

Meanwhile, after hearing the gunfire, their friends Alfon Piador and Loloy Hernandez came to the scene and saw PO1 Pinion wounded on his right head and lying on the ground. They immediately carried PO1 Pinion to one of their friend's owner-type jeepney and brought him to the hospital. Unfortunately, PO1 Pinion was pronounced dead on arrival. The prosecution claimed that when Saluta saw PO1 Pinion's parents in the hospital, he begged for forgiveness.⁹

⁵ Id. at 80.

⁶ Id.

⁷ Id. at 80-81.

⁸ Id. at 81.

⁹ Id. at 81-82.

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Subsequently, PO3 Jaime Blanco investigated the incident and invited Saluta for interrogation, while another police officer also asked Abella to go with them for the same purpose.¹⁰ At the police station, Saluta and Abella stated that PO1 Pinion committed suicide.¹¹

For his part, Abella said that he was already walking 6 to 7 m ahead of Saluta and PO1 Pinion, who were 2 to 3 m apart from each other, when he heard a gunshot. He looked back and saw PO1 Pinion with both hands on his face, bloodied and lying prostate on the ground.¹²

Saluta, on the other hand, denied the charges against him and maintained that PO1 Pinion committed suicide. He said that while they were lifting PO1 Pinion, he saw the latter's service firearm so he picked it up and placed it on the holster then carried it, and later gave it to PO1 Pinion's younger sister.¹³

In the autopsy conducted on the cadaver of PO1 Pinion, the Medico-legal Officer noted that PO1 Pinion's cause of death was hemorrhage, severe, secondary to gunshot wound of the head.¹⁴

On October 20, 1997, a paraffin test was conducted on the hands of PO1 Pinion, Saluta and Abella. The result of the paraffin test on the hands of PO1 Pinion showed negative results for the presence of nitrates, while the test conducted on Saluta and Abella yielded positive results for gunpowder burns.¹⁵

Meanwhile, the Ballistic Report confirmed that the slug lodged on PO1 Pinion's head and the empty bullet shell recovered was fired from the .38 caliber pistol owned by PO1 Pinion. It was also established that PO1 Pinion was left-handed.¹⁶

Ruling of the RTC

After trial, the RTC rendered Judgment¹⁷ on November 20, 2001 convicting Saluta of the felony charged and sentenced him to suffer imprisonment of six (6) years and one (1) day of *prision mayor* to fourteen (14) years and eight (8) months of *reclusion temporal* as maximum and to

¹⁰ Id. at 82.
¹¹ Id.
¹² Id. at 81.
¹³ Id.
¹⁴ Id. at 82-83.
¹⁵ Id. at 83-84.
¹⁶ Id. at 84-85.
¹⁷ Id. at 31-43.

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pay the heirs of PO1 Pinion ₱150,000.00. The RTC, however, acquitted Abella upon finding no sufficient evidence against the latter. The *fallo* of the judgment reads:

WHEREFORE, the Court hereby finds [Saluta] guilty beyond reasonable doubt of the crime charged and appreciating in his favor the mitigating circumstance of voluntary surrender as he had been in the custody of the Police before the case was filed, and applying the Indeterminate Sentence Law hereby imposes upon him the penalty of six (6) years [and one] (1) day of prision mayor to fourteen (14) years [and] eight (8) months o[f] Reclusion Temporal as maximum[,] and to indemnify the heirs of [PO1 Pinion] the sum of P150,000[.00] and to pay the costs.

Exhibits "G" (Firearm) to "G-4" are hereby ordered forfeited in favor of the Government.

[Saluta] shall however be credited in the service of his sentence with 4/5 of his time during which he has undergone preventive imprisonment, there being no proof that he has voluntarily agreed in writing to abide by the same disciplinary rules imposed upon convicted prisoners.

There being no sufficient evidence against [ABELLA], he is hereby ACQUITTED.

SO ORDERED.¹⁸

Ruling of the CA

On appeal, the CA affirmed the conviction of Saluta with modification as to the penalty and awards imposed, *viz.*:

WHEREFORE, the instant appeal is **DISMISSED** for lack of merit and the Decision dated 20 December 2001 of the [RTC] is **AFFIRMED WITH MODIFICATION**. It shall now read as follows:

WHEREFORE, the Court hereby finds [SALUTA] guilty beyond reasonable doubt of the crime charged and appreciating in his favor the mitigating circumstance of voluntary surrender as he has been in the custody of the Police before the case was filed, and applying the Indeterminate Sentence Law hereby imposes upon him the penalty of six (6) years and one (1) day of prision mayor to fourteen (14) years and eight (8) months of Reclusion Temporal as maximum and to indemnify the heirs of [PO1 Pinion] the amount of P 50,000.00 as civil indemnity

¹⁸ Id. at 43.



ex-delicto, P 50,000.00 as moral damages and P 25,000.00 as temperate damages. Costs against [Saluta].

Exhibit “G” (Firearm) to “G-4” are hereby ordered forfeited in favor of the government.

[Saluta] shall however be credited in the service of his sentence with 4/5 of his time during which he has undergone preventive imprisonment, there being no proof that he has voluntarily agreed in writing to abide by the same disciplinary rules imposed upon convicted prisoners.

There being no sufficient evidence against [ABELLA], he is hereby ACQUITTED.

SO ORDERED.¹⁹

Issue Presented

WHETHER THE GUILT OF SALUTA FOR THE CRIME CHARGED HAS BEEN PROVEN BEYOND REASONABLE DOUBT BY CIRCUMSTANTIAL EVIDENCE.

Ruling of the Court

The Court affirms the conviction of Saluta.

To begin with, it must be stressed that “a petition for review on *certiorari* under Rule 45 of the Rules of Court shall raise only questions of law.”²⁰ The Court is not a trier of facts, and it is not the function of the Court to re-examine the evidence submitted by the parties.²¹ Since the CA and the trial court unanimously found that Saluta is guilty as charged, it consequently falls down on Saluta to come forward with a good reason or cause to have the Court depart from the age-old rule of according conclusiveness to the findings of the trial courts, which the CA affirmed. But that convincing demonstration was not done by Saluta, thus, his guilt was sufficiently proven by the prosecution.

Based on the records and the evidence adduced by both parties, it is indisputable that no direct evidence points to Saluta as the one who killed PO1 Pinion. Consequently, the courts below were forced to rely on circumstantial evidence to support its conclusion of guilt. Under Section 4,

¹⁹ Id. at 95-96.

²⁰ *Natividad v. Mariano, et al.*, 710 Phil. 57, 68 (2013).

²¹ *Metropolitan Bank & Trust Co. v. Sps. Miranda*, 655 Phil. 265, 271 (2011).

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Rule 133 of the Rules of Court, circumstantial evidence would be 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.²² Thus, “[c]onviction 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.”²³

Applying these parameters, the Court is convinced that the circumstantial evidence relied upon by the lower courts sufficiently support Saluta’s conviction. As found by the trial court, the following circumstantial evidence established by the prosecution was sufficient to convict Saluta of the crime charged:

1. There were only three of them present at the place of the incident[;]
2. [Saluta], upon seeing the parents of [PO1 Pinion] begged for forgiveness;
3. The paraffin test shows that Saluta is positive of nitrates or gunpowder on both hands, indicative of his firing the lethal weapon holding the handle with both hands;
4. [PO1 Pinion] is negative of nitrates or gunpowder burns. Hence, he has not fired the firearm;
5. The findings of Medico-legal Officer Tammy Uy, to wit:

“**GUNSHOT WOUND, ENTRANCE:** 0.9x1 cms.; ovoid; with contusion collar and with charred edges:”

These findings indicate that the wound of entrance is not the result of contact fire or fired at close range, otherwise the area of wound would have powder burns[; and]

6. As earlier stated, it is highly improbable for [PO1 Pinion] to be using his right hand in shooting himself for human nature and common sense dictate that a person committing suicide resorts to the most convenient and feasible means.²⁴

Similarly, the CA also summarized the facts on the following unbroken chain of circumstances to justify Saluta’s conviction:

²² *Espineli v. People*, G.R. No. 179535, June 9, 2014, 725 SCRA 365, 375.

²³ *Almojuela v. People*, 734 Phil. 636, 646 (2014).

²⁴ *Rollo*, p. 42.

First, We observe that the incident took place when [PO1 Pinion] had two companions and while in the streets. As indicated, a suicidal death ordinarily takes place in a close room or if in open space, in isolated or uninhabited place.

Second, the gunshot wound sustained was on [PO1 Pinion's] head where death will develop almost instantaneously. If suicidal, [PO1 Pinion] would have been found or seen with the grip of the firearm (cadaveric spasm) firmly held in the palm of the wounding hand. But as testified by [Abella], a defense witness, after hearing the shot he turned around and saw [PO1 Pinion] with both hands on his bloodied face. The nature of the wound sustained, which could produce an instantaneous death and the shocking effect of the injury producing a sudden loss of consciousness, would have precluded [PO1 Pinion], after shooting himself, from dropping first the wounding gun and then place his hands on his bloodied face. This testimony of [Abella] is one of the critical clues that the death of [PO1 Pinion] could not have been suicide but homicide.

Third, the examination of [PO1 Pinion's] hands did not show the presence of gunpowder. Instead, it was on [Saluta's] hand that specks of gunpowder nitrates were found.

Lastly, the records do not show that [PO1 Pinion] had a personal history that reveal social, economic, business or marital problem which [PO1 Pinion] cannot solve.

Taking into consideration the place and circumstances of the incident, [PO1 Pinion] could not have thought of committing suicide in the streets and where the two others, [Saluta] and [Abella], were present. Even then, [Saluta], who was said to be walking with [PO1 Pinion] side-by-side, could have amply narrated in court the precedent acts of [PO1 Pinion] just before he shot himself. But [Saluta] and [Abella] did not do this, seeming a strategy to talk less for less mistakes.²⁵

Taken together, the above-enumerated circumstances form a solid unbroken chain of events which ties Saluta to the crime beyond moral certainty leading to the reasonable conclusion that he is the perpetrator of the crime.

In attempting to escape liability, Saluta posits that: (1) the body of PO1 Pinion was found negative for nitrate simply because the Diphenylamine paraffin tests upon PO1 Pinion was conducted after the latter's body was already washed;²⁶ (2) the presence of the nitrate powder in his hands does not conclusively prove that he shot PO1 Pinion considering that Abella was also found positive for nitrate powder;²⁷ and (3) it was not improbable for PO1 Pinion, a left-handed, to commit suicide using his right hand since he had undergone several years of training as a police officer;

²⁵ Id. at 90-91.

²⁶ Id. at 19.

²⁷ Id. at 20.

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hence, it is possible that he already learned, if not mastered, firing his gun with the use of his right hand.²⁸

Contrary to Saluta's arguments, the Forensic Chemist testified that gunpowder nitrates found on the superficial portions of the skin may be washed away but not traces of gunpowder nitrates embedded under the skin. Hence, the fact that the cadaver was already cleaned, could not have removed the gunpowder nitrates that was embedded under the skin.²⁹ Although the positive finding of gunpowder residue does not conclusively show that Saluta indeed fired a gun, the finding serves to corroborate the other pieces of evidence presented by the prosecution.

Moreso, the result of the paraffin test eliminates the theory of suicide since there is no evidence of smudging and tattooing on the wound of PO1 Pinion which is an indication that the wound was not a contact wound and that the gun was fired at a distance.

The Court also sustains the finding of the lower courts that there was no sufficient evidence against Abella to warrant neither his conviction nor the conclusion that there exists a conspiracy between him and Saluta. Saluta's implication to a crime does not necessarily result in Abella's incrimination as well.

Clearly, Saluta cannot isolate and single out the circumstances in this case to justify his innocence. The combination of the circumstances attendant in this case was duly proven and forms an unbroken chain leading to the infallible conclusion that Saluta shot PO1 Pinion using the latter's firearm. His bare denial and unsubstantiated assertion and claim that PO1 Pinion committed suicide do not meet the legal standards to prevail over the strength of the prosecution's circumstantial evidence against him.

Furthermore, the elements necessary to sustain a conviction for homicide were positively established by the prosecution, to wit: (1) PO1 Pinion was killed; (2) Saluta killed him without any justifying circumstance; (3) Saluta 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.³⁰

²⁸ Id. at 22.

²⁹ Id. at 93.

³⁰ *Villanueva, et al. v. Caparas*, 702 Phil. 609, 616 (2013).

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In sum, the totality of the circumstantial evidence presented in this case supports the conclusion that Saluta ended the life of PO1 Pinion and not the latter taking away his own life. Indeed, when there is no eyewitness to a crime, resort to circumstantial evidence is inevitable.³¹

With regard to the penalty and awards imposed, the Court affirms the finding of the CA that the mitigating circumstance of voluntary surrender should be appreciated in favor of Saluta as it was clear that he willingly gave himself up to the authorities.

While the CA correctly imposed the amount of civil indemnity and moral damages, the award of temperate damages to the heirs of PO1 Pinion, however, should be increased to ₱50,000.00. This award is mandatory without need of allegation and proof other than the death of the victim, owing to the fact of the commission of homicide as it cannot be denied that the heirs of the victim suffered pecuniary loss although the exact amount cannot be proved.³² Lastly, interest at the rate of six percent (6%) *per annum* shall be imposed on all damages awarded reckoned from the date of finality of this Decision until fully paid.³³

WHEREFORE, the petition is **DENIED**. The Decision dated November 29, 2006 and the Resolution dated December 11, 2007 of the Court of Appeals in CA-G.R. CR No. 26663 are **AFFIRMED** with **MODIFICATION** that petitioner Mario Saluta is ordered to pay the heirs of PO1 Tom Pinion ₱50,000.00 as temperate damages, as well as interest on all the damages awarded at the legal rate of six percent (6%) *per annum* from the date of finality of this Decision until fully paid.

SO ORDERED.



BIENVENIDO L. REYES
Associate Justice

³¹ *Trinidad v. People*, 687 Phil. 455, 456 (2012).


³² *People of the Philippines v. Ireneo Jugueta*, G.R. No. 202124, April 5, 2016.

³³ *People v. Cabungan*, 702 Phil. 177, 190 (2013).

WE CONCUR:



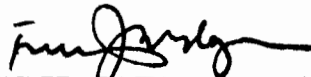
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice




JOSE PORTUGAL PEREZ
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

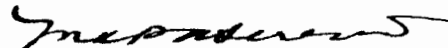


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice

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WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

SEP 05 2016

