



Republic of the Philippines  
**Supreme Court**  
 Manila

**THIRD DIVISION**

**CHRISTOPHER PACU-AN,**  
*Petitioner,*

**G.R. No. 237542**

Present:

- versus -

LEONEN, J.,  
 Chairperson,  
 HERNANDO,\*  
 INTING,  
 DELOS SANTOS, and  
 LOPEZ, J., JJ.

Promulgated:

**PEOPLE OF THE PHILIPPINES,**  
*Respondent.*

June 16, 2021

*MistDCBatt*

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**DECISION**

**DELOS SANTOS, J.:**

**The Case**

Before the Court is a Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court assailing the Decision<sup>2</sup> dated September 29, 2017 and the Resolution<sup>3</sup> dated February 9, 2018 of the Court of Appeals (CA) in CA-G.R. CR No. 38325 which held Christopher Pacu-an (petitioner) guilty beyond reasonable doubt of the crime of Homicide punishable under Article 249 of the Revised Penal Code (RPC).

\* On official leave.

<sup>1</sup> *Rollo*, pp. 12-33.

<sup>2</sup> *Id.* at 35-57; penned by Associate Justice Maria Filomena D. Singh, with Associate Justices Ramon R. Garcia and Edwin D. Sorongon, concurring.

<sup>3</sup> *Id.* at 59-62.

### The Facts

In an Information dated July 31, 2003, petitioner and co-accused Peter Romer Abao (Rommel) were charged with homicide for the death of Zaldy Milad (Zaldy). The Information reads:

That on or about the 29<sup>th</sup> of JULY 2003, at Tibag, Barangay San Lorenzo, Gapan City, Province of Nueva Ecija, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, armed with a knife and a stone, conspiring, confederating and mutually aiding one another, did then and there willfully, unlawfully and feloniously attack, assault, stab and hit one Zaldy Milad with the said knife and stone inflicting upon him laceration 6 cms. long, occipito-parietal area right, laceration, 2 cms. long, occipito-parietal area left, stab wound, 1.8 cms. diameter, penetrating, left chest medial side, about the level of nipple, superficial stab wound, 1.8 cms. diameter, left axillary area and laceration, 2 cms. long, wrist area left, which caused his death, to the damage and prejudice of his heirs.

CONTRARY TO LAW.<sup>4</sup>

Petitioner voluntarily surrendered to the police authorities. On December 18, 2003, petitioner was arraigned and entered a plea of *not guilty*. On March 18, 2004, Rommel was arraigned and entered a plea of *not guilty*. Pre-trial was terminated on June 15, 2004 and trial on the merits ensued.<sup>5</sup>

### The Version of the Prosecution

The prosecution presented three witnesses, namely: (1) Alicia Milad (Alicia), the wife of Zaldy; (2) Alvin Milad (Alvin), the son of Zaldy and; (3) Dr. Robert P. Marcelo (Dr. Marcelo), the medico-legal expert.<sup>6</sup>

Alicia testified that on July 29, 2003, at around 8:30 p.m., she was at Delos Reyes Street, Tibag, calling her son to go home. While at a nearby alley, Alicia heard a commotion at her house. She then went back to her house and saw petitioner stabbing somebody. When the man fell on the ground, she recognized that it was Zaldy. She then shouted and told them to stop but the group of men including Rommel did not heed and hit Zaldy's head. She approached Zaldy and turned his body over. She cried for help and somebody responded. Together, they brought Zaldy to the Good Samaritan Hospital where Zaldy was pronounced dead on arrival.<sup>7</sup>

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<sup>4</sup> Id. at 36.

<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> Id. at 37.

Alicia testified that at the time she saw petitioner stabbing Zaldy, she was five (5) meters away. She identified the double-bladed weapon which measured about a foot. She alleged that the location where the incident happened was illuminated because there was light coming from the front door and from the house of a neighbor. She testified that Zaldy was buried five days after the incident and she incurred ₱35,000.00 as funeral expenses, ₱20,000.00 as burial expenses, ₱20,000.00 as additional expenses for the wake, ₱10,000.00 legal expenses and ₱500.00 appearance fee for the prosecution of the case. On cross-examination, Alicia testified that she recognized Zaldy lying on the ground because of the shirt he was wearing. When Alicia turned Zaldy over, she saw Zaldy's face and blood coming out from Zaldy's chest.<sup>8</sup> She said that the distance from where Zaldy's body was located to petitioner's house was about two (2) meters.<sup>9</sup> Alicia further related that at the time of the stabbing incident, she came from Delos Reyes Street which was 10 meters away from petitioner's house.

Alvin testified that on July 29, 2003, at around 8:00 p.m. to 9:00 p.m., he was in front of the house of Rey Cabatuando (Rey) who was living across petitioner's house when a commotion ensued. Alvin claimed he saw petitioner holding a knife and running towards the small alley. He also saw his father, Zaldy, lying on the ground covered in blood while being held by his mother, Alicia. Alicia then asked him to call his aunt to bring his father to the hospital. Alvin then called his aunt, Rebecca Milad (Rebecca). Zaldy was then brought to the hospital by Macoy Ordoñez and Michael Ordoñez (Michael) in an owner-type jeep owned by Michael. In the hospital, Zaldy was pronounced dead on arrival. Alvin described that the place of the incident was illuminated by a light coming from the house of Rey and from the door of the house of petitioner. According to Alvin, the light was coming from inside the house of petitioner because the front door was open.<sup>10</sup>

Dr. Marcelo, the medico-legal expert, testified that he conducted an autopsy on Zaldy. Dr. Marcelo confirmed the findings of his report which include the following: (1) laceration, 6 centimeters long, occipito-parietal area, right, on the upper back portion of Zaldy's head; (2) laceration 2 centimeters long, occipito-parietal area, left, on the upper back portion of Zaldy's head; (3) stab wound, 1.8 centimeters in diameter, penetrating Zaldy's left chest; (4) superficial stab wound, 1.8 centimeters in diameter, left axillary area, pointing to the left lower side near the armpit; (5) laceration 2 centimeters long, wrist area, on the inner side of the left wrist. Dr. Marcelo stated that the wounds could have been caused by a sharp bladed pointed weapon which may probably be a kitchen knife. According to Dr. Marcelo, stab wound number "3" found on Zaldy's chest was the

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<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Id. at 39.

cause of his death as such caused an injury to the aorta and right auricle of the heart.<sup>11</sup>

On cross-examination, Dr. Marcelo testified that it was possible that the weapon used may have been a fan knife because of the diameter of the wound. Dr. Marcelo said that he cannot give an estimate of the maximum length or width of the pointed weapon used, only the minimum length of about around four (4) inches. Based on Dr. Marcelo's findings, the assailant was at the back of Zaldy when wound nos. 1 and 2 were inflicted because the injuries sustained were located at the back portion of Zaldy's head.<sup>12</sup>

### Version of the Defense

The defense presented the following witnesses: (1) Rommel; (2) petitioner; and (3) Jeff Pacu-an (Jeff), petitioner's brother.<sup>13</sup> Rommel testified that petitioner was his friend while Zaldy was petitioner's neighbor. On July 29, 2003, at around 8:00pm, Rommel claimed that he was at the house of petitioner which was ten (10) meters away from the house of Zaldy. Rommel testified that during that night there was a birthday celebration and a drinking spree which was held at the house of petitioner. While drinking, Rommel heard two (2) persons quarreling whom he identified as Aldy, the son of Zaldy and Alicia. Aldy wanted to bring out the tricycle but his father, Zaldy would not allow him to. Aldy then went outside of their house and proceeded to the alley but did not stop at petitioner's house. Zaldy then followed Aldy when petitioner halted Zaldy. Rommel testified that petitioner approached Zaldy and said, "*Kuya Zaldy tama na po.*" To which Zaldy replied, "*Putang ina mo Cris wag kang makialam sa amin.*" Petitioner then did not mind Zaldy and went back to the house. Rommel said that Alicia went to petitioner's house to apologize and petitioner said that it was alright.<sup>14</sup>

Rommel then claimed that Zaldy was drunk when he proceeded to petitioner's house and uttered, "*Putang ina mo Cris mayabang ka.*" Rommel claimed that petitioner did not reply and that Zaldy grazed them with a knife to which all of them stood up. Zaldy then stabbed Jeff, petitioner's brother, at the left side of his body. Rommel then, together with petitioner, approached Jeff and carried him to the street. Rommel and petitioner brought Jeff to the hospital in Gapan City. On cross-examination, Rommel denied that there was an altercation between Zaldy and petitioner.<sup>15</sup>

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<sup>11</sup> Id. at 40.

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Id. at 41.

<sup>15</sup> Id. at 42.



Petitioner testified and confirmed that he and Rommel were friends. He averred that on July 29, 2003, at about 8:00 p.m., he heard Zaldy and Aldy quarelling. He tried to stop Zaldy but the latter replied, “*bakit ba ang yabang mo*” which made him go back to his house. Zaldy then went to his house and wielded a knife at him and his companions. Zaldy then stabbed Jeff and attacked their other companions, Loloy and Jojo. Petitioner alleged that, together with Rommel, they brought Jeff to the hospital. While at the hospital, petitioner claimed that he surrendered to David Cabantuando (David) because his aunt informed him that a murder case was already filed against him by Alicia. Petitioner claimed that he surrendered at the Gapan Police Station.<sup>16</sup> Petitioner claimed that it was Loloy and Jojo who killed Zaldy but he was the one charged with murder because he was the one who quarreled with Zaldy.<sup>17</sup>

Jeff testified that during that night Zaldy went to petitioner’s house and was very angry. Zaldy then took out a knife from his waist while being held by their neighbor, Rey. The people in the house then ran away upon seeing Zaldy wielding a knife. Zaldy then approached petitioner and he tried to pacify the two. Zaldy then stabbed him and he suffered a four (4) inch wound. Jeff testified that it was petitioner and Rommel who brought him to the street to find a vehicle. Jeff testified that the commotion continued after being brought to the hospital by tricycle.<sup>18</sup>

### **The Ruling of the Regional Trial Court (RTC)**

In a Decision<sup>19</sup> dated November 2, 2015, the RTC of Gapan City, Branch 35, acquitted Rommel and convicted petitioner. The RTC found petitioner guilty beyond reasonable doubt of the crime of homicide. The RTC found that the information only charged Rommel and petitioner. The two other persons identified by petitioner as the ones who could have killed Zaldy were not indicted. The RTC held that from the testimony of Alicia, particularly her cross-examination, there exists reasonable doubt that Rommel was the one who hit Zaldy with a stone. Notwithstanding, Alicia and Alvin categorically stated seeing petitioner fleeing the scene with a knife on his hand. Alicia testified that petitioner was the one whom she saw stabbing someone who later turned out to be Zaldy, her husband. The RTC held that petitioner was entitled to the mitigating circumstance of voluntary surrender and sufficient provocation on the part of the victim.

The dispositive portion of the RTC Decision provides:

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<sup>16</sup> Id. at 44.

<sup>17</sup> Id. at 45.

<sup>18</sup> Id. at 47.

<sup>19</sup> Id. at 78-91; penned by Judge Mildred S. Villaroman-Hernal.

WHEREFORE, the Court finds Peter Romer Abao a.k.a Rommel Abao NOT GUILTY of the crime of Homicide and is hereby ACQUITTED. On the other hand **CHRISTOPHER PACU-AN is found GUILTY beyond reasonable doubt of the crime of HOMICIDE and is hereby sentenced to two (2) years and four (4) months of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum, with whatever imprisonment he has already served fully credited in the service of this sentence.**

By way of civil liability, the accused Christopher Pacu-an is condemned to pay the heirs of the late Zaldy Milad the following:

1. The sum of Php50,000.00 as **civil indemnity**; and
2. The sum of Php25,000.00 as reimbursement for the burial expenses.

In addition, the accused Christopher Pacu-an is ordered to pay Alicia Milad the sum of P50,000.00 as moral damages.

Finally, interest at the rate of six percent (6%) per annum shall applied to the award of civil indemnity and moral damages from the finality of judgment until fully paid

**SO ORDERED.**<sup>20</sup>

### **The Ruling of the CA**

In a Decision dated September 29, 2017, the CA affirmed the Decision of the RTC in convicting petitioner of the crime of Homicide. The CA ruled that the testimonies of Alicia and Alvin are credible enough to warrant petitioner's conviction. The CA held that the inconsistencies in Alicia's *Sinumpaang Salaysay* and her direct testimony were explained by Alicia during her cross-examination. Hence, the discrepancy in Alicia's statements does not diminish its probative value. The CA ruled that as between a sworn statement and an open court testimony, courts must always give more weight to open court declarations. The CA held that the defenses of denial and alibi of petitioner must necessarily fail against the positive identification of witnesses. As regards the mitigating circumstances, the CA modified the ruling of the RTC and ruled that petitioner is only entitled to one mitigating circumstance of voluntary surrender. The CA also deleted the award of ₱25,000.00 burial expenses because there was no evidence to prove the same. In lieu of the actual expenses that were unsubstantiated, the CA awarded ₱50,000.00 temperate damages.

The dispositive portion of the CA Decision provides:

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<sup>20</sup> *Id.* at 90-91.

**WHEREFORE**, the appeal is hereby **DENIED**. The Decision of the Regional Trial Court, Branch 35, Gapan in Criminal Case No. 11443-03 is **AFFIRMED with MODIFICATIONS**.

Accused-Appellant CHRISTOPHER PACU-AN is hereby sentenced to an indeterminate sentence of imprisonment of eight (8) years of *prision mayor*, as minimum, up to twelve (12) years and one (1) day of *reclusion temporal*, as maximum.

The accused-appellant Christopher Pacu-an is held additionally liable to the heirs of Zaldy aside from the civil indemnity *ex delicto* and moral damages awarded by the RTC, in the amount of P50,000.00 as temperate damages. The award of P25,000.00 for burial expenses is deleted.

All the amounts awarded, including the temperate damages, shall earn an interest of 6% per annum from date of finality of this Decision, until full payment.

SO ORDERED.<sup>21</sup>

In a Resolution dated February 9, 2018,<sup>22</sup> the CA denied petitioner's Motion for Reconsideration. Petitioner then filed a Petition for Review on *Certiorari* before the Court.

### Issue

Whether petitioner is guilty of the crime charged.

### The Ruling of the Court

In the instant Petition for Review on *Certiorari*, petitioner argues that the CA gravely erred when it upheld his conviction despite weak, inconsistent and unreliable identification by the prosecution's witnesses.<sup>23</sup> He claims that the inconsistent statements given by Alicia should not be considered as a mere inconsistency that can be lightly overlooked.<sup>24</sup> He argues that the said inconsistency points to the identity of Zaldy's assailant which, like the elements of the crime of Homicide under the RPC, ought to be proven beyond reasonable doubt.<sup>25</sup> Particularly, petitioner points to the inconsistency in Alicia's *Sinumpaang Salaysay* taken during the night Zaldy was stabbed where Alicia stated that a witness informed her that petitioner was the one who stabbed Zaldy.<sup>26</sup> However, in her open court examination,

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<sup>21</sup> Id. at 56.

<sup>22</sup> Id. at 59-62.

<sup>23</sup> Id. at 19.

<sup>24</sup> Id.

<sup>25</sup> Id.

<sup>26</sup> Id. at 48.

Alicia testified that she herself saw petitioner stab Zaldy.<sup>27</sup>

A careful review of the testimony of Alicia shows that the said discrepancy in Alicia's statements in her *Sinumpaang Salaysay* and her open court testimony was explained by Alicia during her cross-examination, to wit:

(ATTY. ROMANO)

Q: To the question of the police appearing on Question No. 6, you gave the following answer "*ayon po sa nakasaksi, ang sumaksak ay si Christopher Pacu-an at pinalo ng bato ni Rommer Abao na naging dahilan ng kanyang kamatayan*" do you recall having given that answer to the question of the police I mentioned a while ago?

x x x x

A: Yes, sir.

Q: As a matter of [fact] before you affixed your signature on Exh. "A", you read and understand the same?

A: Yes, sir.

Q: Who is that witness that you mentioned in your answer, because you said "*ayon sa nakasaksi*" who is that witness?

A: Rey Cabatuando

x x x x

Q: How were you able to talk to him and how were you able to ascertain that this witness is Rey Cabantuando?

A: He told it to me, sir.

Q: When did Rey [Cabatuando] tell you that he [witnessed] the incident?

A: Also on the same night, sir.

x x x x

Q: After the incident in question you mean you went back to your house and it [was] then Rey Cabatuando informed you that he allegedly [witnessed] the incident?

A: It was not a long conversation, it was just for a while, sir.

Q: But before you gave your statement to the police?

A: Yes, sir.

Q: And that your basis in saying that "*ayon po sa nakasaksi*", you were thinking of Rey Cabatuando who informed about what he allegedly saw, am I correct?

A: Yes, sir.

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<sup>27</sup> Id.



**Q: No other person except Rcy Cabatuando?**

**A: I, sir. I witness it.**

**Q: What did you witness, Madam Witness?**

**A: I saw Christopher stabbing somebody.**<sup>28</sup> (Emphasis and underscoring supplied)

We sustain the finding of the CA that the discrepancy in Alicia's statement in her *Sinumpaang Salaysay* did not diminish the probative value of her open court testimony in positively identifying petitioner as the perpetrator of the crime of Homicide. In *Madali v. People*,<sup>29</sup> the Court held that slight inconsistencies in the declarations of witnesses hardly weaken the probative value of the witnesses' open court testimony, thus:

**Given the natural frailties of the human mind and its incapacity to assimilate all material details of a given incident, slight inconsistencies and variances in the declarations of a witness hardly weaken their probative value.** It is well settled that immaterial and insignificant details do not discredit a testimony on the very material and significant point bearing on the very act of accused-appellants.<sup>30</sup> (Emphasis supplied)

In *Avelino v. People*,<sup>31</sup> the Court reiterated the ruling in *Madali v. People* and held that “[a]s long as the testimonies of the witnesses corroborate one another on material points, minor inconsistencies therein cannot destroy their credibility. Inconsistencies on minor details do not undermine the integrity of a prosecution witness.”<sup>32</sup> In *People v. Manigo*,<sup>33</sup> the Court ruled that as between a sworn statement or affidavit and an open court testimony, courts must always give more weight to the open court declarations since “affidavits being taken *ex-parte* are usually incomplete and inaccurate.”<sup>34</sup> Furthermore, in *People v. Dayaday*,<sup>35</sup> the Court ruled that sworn statements taken *ex parte* are, as a general rule, considered to be inferior to the testimony given in open court, to wit:

A sworn statement or an affidavit does not purport to contain a complete compendium of the details of the event narrated by the affiant. Sworn statements taken *ex parte* are generally considered to be inferior to the testimony given in open court.

x x x x

<sup>28</sup> Id. at 50-51.

<sup>29</sup> 612 Phil. 582 (2009).

<sup>30</sup> Id. at 604, citing *People v. Emoy*, 395 Phil. 371, 383 (2000).

<sup>31</sup> 714 Phil. 322 (2013).

<sup>32</sup> Id. at 334.

<sup>33</sup> 725 Phil. 324 (2014).

<sup>34</sup> Id. at 333, citing *People v. Villanueva, Jr.*, G.R. No. 187152, July 22, 2009, 593 SCRA, 523, 542.

<sup>35</sup> 803 Phil. 263 (2017).

The discrepancies in [the witness]'s testimony do not damage the essential integrity of the prosecution's evidence in its material whole. Instead, **the discrepancies only erase suspicion that the testimony was rehearsed or concocted. These honest inconsistencies serve to strengthen rather than destroy [the witness]'s credibility.**<sup>36</sup> (Emphasis supplied)

In *People v. Eling*,<sup>37</sup> the Court held that the finding of the trial court on the matter of credibility of witnesses are entitled to the highest degree of respect and are entitled to great weight, to wit:

The trial court has the best opportunity to observe the demeanor of witnesses while on the stand, it can discern whether or not they are telling the truth. The unbending jurisprudence is that its findings on the matter of credibility of witnesses are entitled to the highest degree of respect and will not be disturbed on appeal. It is well to remind appellant that when the trial court's findings have been affirmed by the Court of Appeals, as in the case at bar, these are generally binding and conclusive upon this Court. The jurisprudential doctrine that great weight is accorded to the factual findings of the trial court particularly on the ascertainment of the credibility of witnesses can only be discarded or disturbed when it appears in the record that the trial court overlooked, ignored or disregarded some fact or circumstance of weight or significance which if considered would have altered the result.

The Court finds no cogent reason to disturb the findings of both the CA and RTC as to the credibility of Alicia as a witness. The CA was correct in sustaining the ruling of the RTC regarding the probative value of Alicia's testimony in positively identifying petitioner as the perpetrator of the crime. The Court agrees that the minor inconsistencies in Alicia's *Sinumpaang Salaysay* were not sufficient to damage the essential integrity of the prosecution's evidence in its material whole. Alicia's positive identification prevails over petitioner's defenses of denial and alibi since the latter can be easily fabricated and is essentially unreliable.<sup>38</sup> Further, Alicia's positive identification was duly corroborated by Alvin's testimony in which Alvin narrated the he saw petitioner holding a knife and running towards the alley. In fact, in his testimony, Alvin even described what petitioner was wearing during the incident.

### ***Penalty imposed***

Under Article 249 of the RPC, the penalty prescribed for the crime of Homicide is *reclusion temporal*, the duration of which is from twelve (12) years and one (1) day to twenty (20) years. The RTC appreciated two mitigating circumstances in favor of petitioner: (1) voluntary surrender; and

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<sup>36</sup> Id. at 373, citing *Mercado v. People*, 615 Phil. 434, 448 (2009).

<sup>37</sup> 576 Phil. 665 (2008).

<sup>38</sup> *People v. Ramos*, 715 Phil. 193, 207 (2013).



(2) sufficient provocation on the part of Zaldy. The CA reversed the finding of the RTC and only appreciated the mitigating circumstance of voluntary surrender in favor of petitioner. In so ruling, the CA held that the utterances made by Zaldy against petitioner cannot be considered sufficient provocation as petitioner himself categorically testified that he did not get mad at Zaldy because of these utterances.

We modify the ruling of the CA and hold that petitioner is entitled to both mitigating circumstances of voluntary surrender and sufficient provocation on the part of Zaldy. Under Article 13, paragraph 4 of the RPC, the accused is entitled to the mitigating circumstance of sufficient provocation if “x x x sufficient provocation or threat on the part of the offended party immediately preceded the act” of the accused. Sufficient provocation refers to “any unjust or improper conduct or act of the victim adequate enough to excite a person to commit a wrong, which is accordingly proportionate in gravity.”<sup>39</sup> Provocation on the part of the victim must, thus, be sufficient and should immediately precede the act of the offender. The Court rules that there was sufficient provocation on the part of Zaldy. Zaldy exhibited violent behavior of cursing at petitioner immediately prior to the commotion. In Rommel’s testimony, Zaldy entered petitioner’s house, cursed at petitioner and wielded a knife at petitioner and his companions immediately right before Zaldy was stabbed. Zaldy’s actions amount to sufficient provocation or unjust or improper conduct adequate enough to impel petitioner to commit the crime of homicide.

Article 64 of the RPC 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 provisions of Articles 76 and 77, the court 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

5. When there are two or more mitigating circumstances and no aggravating circumstances are present, the court shall impose the penalty next lower to that prescribed by law, in the period that it may deem applicable, according to the number and nature of such circumstances.

Applying Article 64, paragraph 5 of the RPC, the imposable penalty would, thus, be the **next lower penalty** prescribed for Homicide or *prision*

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<sup>39</sup> *Cruz v. People*, G.R. No. 216642, September 8, 2020, citing *Miranda v. People*, G.R. No. 234528, January 23, 2019.

*mayor*. Applying the Indeterminate Sentence Law, petitioner's prison term ranges from *prision correccional* as minimum to *prision mayor* as maximum. Thus, as modified, petitioner is hereby sentenced to suffer the indeterminate penalty of two (2) years, four (4) months and one (1) day of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum. The Court sustains the award of damages by the CA.

**WHEREFORE**, premises considered, the Petition for Review on *Certiorari* is **DENIED**. The Decision dated September 29, 2017 and the Resolution dated February 9, 2018 of the Court of Appeals in CA-G.R. CR No. 38325 is **AFFIRMED** with **MODIFICATION**. Petitioner Christopher Pacu-an is hereby declared **GUILTY** beyond reasonable doubt of the crime of Homicide under Article 249 of the Revised Penal Code and is sentenced to suffer the prison term ranging from two (2) years, four (4) months and one (1) day of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum.

Petitioner Christopher Pacu-an is **ORDERED** to pay the heirs of Zaldy Milad ₱50,000.00 civil indemnity *ex delicto*, ₱50,000.00 moral damages and ₱50,000.00 temperate damages. All the amounts awarded shall earn an interest of 6% *per annum* from date of finality of this Decision, until full payment.


**SO ORDERED.**

  
**EDGARDO L. DELOS SANTOS**  
Associate Justice

**WE CONCUR:**

  
**MARVIC MARIO VICTOR F. LEONEN**  
 Associate Justice  
 Chairperson

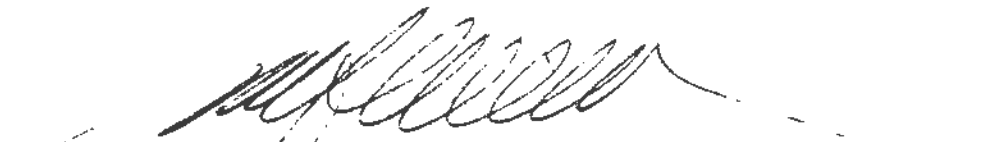
(On Official Leave)  
**RAMON PAUL L. HERNANDO**  
 Associate Justice

  
**HENRI JEAN PAUL B. INTING**  
 Associate Justice

  
**JHOSEP LOPEZ**  
 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.

  
**MARVIC MARIO VICTOR F. LEONEN**  
 Associate Justice  
 Chairperson, Third Division

**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.

  
**ALEXANDER G. GESMUNDO**  
 Chief Justice