



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEPE GUMAWID @ KAPPIT, G.R. No. 248311
Petitioner,

Present:

- versus -

GESMUNDO, C.J., Chairperson,
CAGUIOA,
INTING,
GAERLAN, and
DIMAAMPAO, JJ.

PEOPLE OF THE Promulgated:
PHILIPPINES, Respondent. MAR 23 2022

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DECISION

INTING, J.:

Before the Court is a Petition for Review¹ on *Certiorari* assailing the Decision² dated November 14, 2018 and the Resolution³ dated July 9, 2019 of the Court of Appeals (CA) in CA-G.R. CR No. 39834. The CA affirmed the Decision⁴ dated March 6, 2017 of Branch 52, Regional Trial Court (RTC), Tayug, Pangasinan in Criminal Case No. T-5777 that found Pepe Gumawid @ Kappit (petitioner) guilty beyond reasonable doubt of Homicide penalized under Article 249 of the Revised Penal Code (RPC) but acquitted Ronaldo⁵ Balingit @ Tonga (Ronaldo), his co-accused, for insufficiency of evidence.

¹ *Rollo*, pp. 9-18.

² *Id.* at 23-35; penned by Associate Justice Eduardo B. Peralta, Jr., with Associate Justices Ramon R. Garcia and Geraldine C. Fiel Macaraig, concurring.

³ *Id.* at 40-41.

⁴ *Id.* at 42-48; penned by Judge Emma S. Ines-Parajas.

⁵ Also spelled as "Ronald" in some parts of the *rollo*.

The Antecedents

The case stemmed from an Information that charged petitioner and Ronaldo with Homicide, the accusatory portion of which reads:

“That on or about 10:00 o’clock in the evening of October 23, 2013 at Brgy. Esperanza, [M]unicipality of Umingan, [P]rovince of Pangasinan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, conspiring and helping one another, did then and there willfully, unlawfully and feloniously attack, held the two hands and stabbed two (2) times one BELLO BUCSIT y JOVES, inflicting upon him two (2) stab wounds on his left chest (Diagnosis: hemorrhagic shock), which caused his instantaneous death, to the damage and prejudice of the heirs of BELLO BUCSIT y JOVES.”⁶ (Italics and emphasis omitted.)

Upon arraignment, both petitioner and Ronaldo pleaded not guilty to the crime charged.⁷

Trial ensued.

Version of the Prosecution

The prosecution presented two eyewitnesses: (1) Lydia Bucsit (Lydia), mother of the victim Bello Bucsit (Bello); and (2) Jamaica Bucsit (Jamaica), Bello’s daughter.⁸

At around 10:00 p.m., Bello, his brother Hayde, and Jamaica attended the wake of one Yolanda Poserio. While thereat, Bello and Hayde played a card game of Lucky 9. After a while, the other players started to accuse Hayde of stealing ₱300.00 from the money bet; thus, Bello told Hayde that they should go home. When they were about to leave, petitioner punched Bello on his back. At that point, Bello told his daughter Jamaica to leave. Hayde followed Jamaica in going home.⁹

Upon reaching home, Jamaica immediately told her grandmother, Lydia, that petitioner and Bello had a fight. After a while, Bello arrived

⁶ As culled from the Decision dated November 14, 2018 of the Court of Appeals, *id.* at 24.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 25.

home; but unknown to them, petitioner and Ronaldo followed Bello. From the outside of the house, petitioner shouted: “*Alaek diay suklik* (I will get my chan[g]e).” Petitioner and Ronaldo then started throwing stones at the house which prompted Bello to go outside and hit petitioner with a steel pipe. When petitioner fell, Ronaldo held Bello’s hands. At that instance, petitioner stood up and stabbed Bello twice. Bello’s family thereafter brought him to the hospital; unfortunately, he eventually died.¹⁰

Bello’s family incurred the following expenses for his wake and funeral duly supported by receipts: ₱25,000.00 for the coffin, ₱500.00 for the funeral mass, and ₱20,000.00 for two pigs.¹¹

Version of the Defense

In their defense, both petitioner and Ronaldo denied the charge against them. According to petitioner, on October 23, 2013, he was attending a wake and betting in a card game of Lucky 9. When he asked for his winnings, someone answered that Bello’s brother Hayde took the money. Bello got mad and as a result, petitioner punch Bello. Thereafter, Bello and Hayde went home. After an hour, petitioner and Donato Barnachea (Donato) also went home. While they were passing by Bello’s house, Bello appeared and suddenly struck petitioner’s nape that caused him to lose consciousness. When he regained his consciousness, he was already on his sister’s bamboo bed near the wake. He learned that a certain Macky assisted him in going to his sister’s place.¹²

Jomel¹³ Abalos (Jomel), Donato, and Al Bucsit (Al) corroborated petitioner’s testimony.

Jomel testified that Bello struck petitioner with a steel pipe and as a result, petitioner lost consciousness. He stated that neither petitioner nor Hayde stabbed Bello.¹⁴

Al testified that he saw Jomel assist petitioner at the crime scene. When he asked Jomel what happened, the latter replied, “*naulaw ni*

¹⁰ *Id.* at 25-26.

¹¹ *Id.* at 26.

¹² *Id.*

¹³ Sometimes referred as “Jonel” in some parts of the *rollo*.

¹⁴ *Rollo*, p. 26.

Manong Cappet, Kagawad" (Manong Cappet felt dizzy, Kagawad). Then, he proceeded to Bello's house where he saw Bello lying near a coconut tree. He helped bring Bello to the hospital, but the latter was declared dead on arrival.¹⁵

Donato testified that from the wake, he went home together with petitioner. While they passed by the house of Bello, the latter and Hayde went out of their house. Suddenly, Bello hit petitioner with a steel pipe that caused petitioner to fall. Hayde then swung a knife, and thereafter, he heard sounds coming from Bello who was apparently hurt.¹⁶

Ronaldo denied the accusation against him which was corroborated by Mercedes Ortiz (Mercedes). She testified that she was with him at the time of the alleged commission of the crime and that she even instructed him to get the telephone number of the police from her niece.¹⁷

Mary Ann Gumawid also testified that she was just outside her house when she heard someone shout: "*Natayen!*" (*Patay na!*). She immediately proceeded to the wake where she saw Ronaldo and Mercedes, and informed both of the incident. Mercedes instructed Ronaldo to get the patrol car.¹⁸

The RTC Ruling

In the Decision¹⁹ dated March 6, 2017, the RTC found petitioner guilty beyond reasonable doubt of Homicide. It sentenced him to suffer an indeterminate penalty of imprisonment ranging from ten (10) years and one (1) day of *prision mayor*, as minimum, to seventeen (17) years and four (4) months of *reclusion temporal*, as maximum. It likewise ordered petitioner to pay Bello's heirs ₱45,500.00 as compensatory damages, ₱50,000.00 as civil indemnity, and ₱50,000.00 as moral damages, plus 6% interest *per annum* on all monetary awards from the finality of the decision until fully paid. However, it acquitted Ronaldo for insufficiency of evidence.²⁰

¹⁵ *Id.*

¹⁶ *Id.* at 26-27.

¹⁷ *Id.* at 27.

¹⁸ *Id.*

¹⁹ *Id.* at 42-48.

²⁰ *Id.* at 47-48.

The RTC gave credence to the testimonies of Lydia and Jamaica. It held: (1) that the prosecution witnesses' categorical and positive identification prevails over the defenses of denial and alibi;²¹ (2) that the prosecution was able to establish that petitioner inflicted two stab wounds on Bello which caused his death;²² and (3) there was no evidence of Ronaldo's knowledge that petitioner was armed with a knife and that the petitioner had the intention to kill Bello.²³ It ruled that conspiracy between petitioner and Ronaldo was absent because there was no evidence that Ronaldo knew of petitioner's purpose in going to Bello's house.²⁴

Aggrieved, petitioner appealed to the CA.

The CA Ruling

In the assailed Decision²⁵ dated November 14, 2018, the CA denied the appeal and affirmed the RTC Decision.²⁶ It held that: (1) the inconsistencies cited by petitioner in the testimonies of Lydia and Jamaica refer to minor matters which do not affect the latter's credibility as eyewitnesses;²⁷ (2) whether Hayde or a certain Romy was present during the incident was immaterial to the commission of the crime;²⁸ and (3) Lydia and Jamaica were certain and straightforward that it was petitioner who stabbed the victim twice, causing the latter's death.²⁹

Petitioner moved for reconsideration, but the CA denied it in its Resolution³⁰ dated July 9, 2019.

Hence, the instant petition.

Petitioner avers that Lydia's testimony that she went outside of their house and saw him stab Bello contradicts Jamaica's statement that Lydia was inside the house when the incident happened. He insists that

²¹ *Id.* at 46.

²² *Id.*

²³ *Id.* at 46-47.

²⁴ *Id.*

²⁵ *Id.* at 23-35.

²⁶ *Id.* at 34.

²⁷ *Id.* at 30-31.

²⁸ *Id.* at 28-29.

²⁹ *Id.* at 29-30.

³⁰ *Id.* at 40-41.

Lydia could not have possibly seen the stabbing incident.³¹ Further, he argues that the statements of the defense witnesses that he lost consciousness when Bello attacked him using a steel pipe are consistent with human nature. Moreover, he concludes that he could not have stabbed Bello as he lost consciousness after Bello hit him with a steel pipe.³²

In the Comment,³³ respondent, through the Office of the Solicitor General, prays that the petition be dismissed for lack of merit. It asserts that: (1) petitioner's guilt was proven beyond reasonable doubt;³⁴ (2) the inconsistencies cited by petitioner in the testimonies of the prosecution witnesses refer to minor matters which do not affect their credibility as witnesses;³⁵ and (3) petitioner's defense of denial is weak and self-serving and cannot prevail over the positive declarations of the prosecution witnesses that he killed the victim.³⁶

The Issue

Whether the CA correctly affirmed petitioner's criminal conviction for Homicide.

Our Ruling

The petition is without merit.

In *Estrella v. People*,³⁷ the Court reiterated this well settled rule in jurisdiction, viz.:

The well-settled rule in this jurisdiction is that the matter of ascribing substance to the testimonies of witnesses is best discharged by the trial court, and the appellate courts will not generally disturb the findings of the trial court in this respect. Findings of the trial court which are factual in nature and which involve the credibility of witnesses are accorded with respect, if not finality by the appellate court, when no glaring errors, gross misapprehension of facts, and

³¹ *Id.* at 15-16.

³² *Id.* at 16.

³³ *Id.* at 80-90.

³⁴ *Id.* at 83-84.

³⁵ *Id.* at 84.

³⁶ *Id.* at 87-88.

³⁷ G.R. No. 212942, June 17, 2020.

speculative, arbitrary, and unsupported conclusions can be gathered from such findings. The reason is quite simple: the trial judge is in a better position to ascertain the conflicting testimonies of witnesses after having heard them and observed their deportment and mode of testifying during the trial.³⁸

After a judicious perusal of the records of the instant petition, the Court finds no compelling reason to depart from the uniform factual findings of the RTC and the CA. Thus, the Court affirms petitioner's conviction.

Petitioner was indicted for Homicide under Article 249 of the RPC, as amended, which provides as follows:

Art. 249. *Homicide*. — Any person who, not falling within the provisions of Article 246, shall kill another without the attendance of any of the circumstances enumerated in the next preceding article, shall be deemed guilty of homicide and be punished by *reclusion temporal*.

The elements of the crime of Homicide are the following: “(a) a person was killed; (b) the accused killed him/her without any justifying circumstance; (c) the accused had the intention to kill, which is presumed; and (d) the killing was not attended by any of the qualifying circumstances of murder, or by that of parricide or infanticide.”³⁹

In the case, the prosecution was able to establish all of the elements specified above: (1) Bello was killed; (2) the prosecution witnesses positively and categorically identified petitioner as the person who stabbed Bello to death; (3) petitioner had the intention to kill Bello, as shown by the fact that after punching the victim at the wake, he followed him to the latter's house, shouted at him, hurled stones at his house, and stabbed him twice on the left chest;⁴⁰ (4) the killing was not attended by any qualifying circumstances of murder, parricide, or infanticide.

³⁸ *Id.*, citing *People v. Aspa, Jr.*, 838 Phil. 302, 311-312 (2018) and *People v. Villamin*, 625 Phil. 698, 713 (2010).

³⁹ *Anisco v. People*, G.R. No. 242263, November 18, 2020, citing *Ambagan, Jr. v. People*, 771 Phil. 245, 270 (2015), further citing *Villanueva v. Caparas*, 702 Phil. 609, 616 (2013).

⁴⁰ *Rollo*, p. 43.

an indeterminate sentence, the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code, and to a minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense.⁵³

Moreover, paragraph 1, Article 64 of the RPC provides:

ART. 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 courts shall observe for the application of the penalty the following rules, according to whether there are or are not mitigating or aggravating circumstances:

1. *When there are neither aggravating nor mitigating circumstances, they shall impose the penalty prescribed by law in its medium period.* (Italics supplied.)

One degree lower than *reclusion temporal* is *prision mayor* which has a medium period of eight (8) years and one (1) day to ten (10) years. On the other hand, the medium period of *reclusion temporal* is fourteen (14) years, eight (8) months and (1) day to seventeen (17) years and four (4) months.

Applying the Indeterminate Sentence Law and there being no modifying circumstance, it is proper to sentence petitioner to suffer the penalty of imprisonment for the indeterminate period of eight (8) 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.⁵⁴

⁵³ Section 1, Act No. 4103 provides:

SECTION 1. Hereafter, in imposing a prison sentence for an offense punished by acts of the Philippine Legislature, otherwise than by the Revised Penal Code, the court shall order the accused to be imprisoned for a minimum term, which shall not be less than the minimum term of imprisonment provided by law for the offense, and for a maximum term which shall not exceed the maximum fixed law; and where the offense is punished by the Revised Penal Code, or amendments thereto, the court shall sentence the accused to such maximum as may, in view of the attending circumstances, be properly imposed under the present rules of the said Code, and to a minimum which shall not be less than the minimum imprisonment period of the penalty next lower to that prescribed by said Code for the offense. Except as provided in section two hereof, any person who shall have been so convicted and sentenced and shall have served the minimum sentenced imposed hereunder, may be released on parole in accordance with the provisions of this Act.

⁵⁴ See *People v. Cortez*, G.R. No. 239137, December 5, 2018.

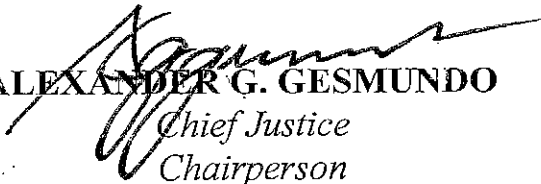
Finally, the Court finds that the amounts awarded are in conformity with jurisprudence.⁵⁵ The RTC correctly awarded ₱45,500.00 as compensatory damages, ₱50,000.00 as civil indemnity, and ₱50,000.00 as moral damages. All damages awarded to the heirs of the victim should earn legal interest at the rate of 6% *per annum* from the date of finality of this Decision until full payment.⁵⁶

WHEREFORE, the petition is **DENIED**. The Decision dated November 14, 2018 and the Resolution dated July 9, 2019 of the Court of Appeals in CA-G.R. CR No. 39834 are **AFFIRMED** with **MODIFICATION** in that petitioner Pepe Gumawid @ Kappit is sentenced to suffer the indeterminate penalty of eight (8) 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 he is **ORDERED** to pay the heirs of Bello Bucsit y Joves the following amounts: ₱45,500.00 as compensatory damages, ₱50,000.00 as civil indemnity, and ₱50,000.00 as moral damages. All the damages awarded shall earn legal interest rate of 6% *per annum* from the finality of this decision until fully paid.

SO ORDERED.

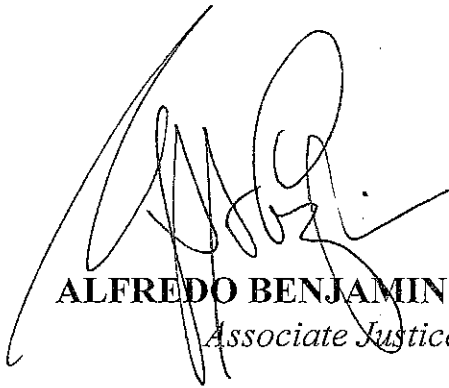

HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:

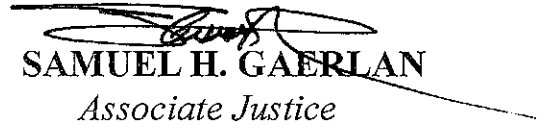

ALEXANDER G. GESMUNDO
Chief Justice
Chairperson

⁵⁵ See *People v. Jugueta*, 783 Phil. 806 (2016).


⁵⁶ *Id.* at 852.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



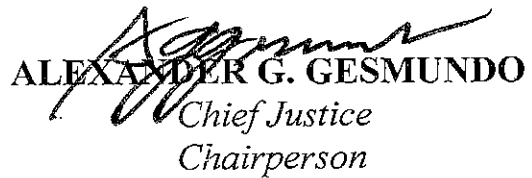
SAMUEL H. GAERLAN
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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
Chairperson

