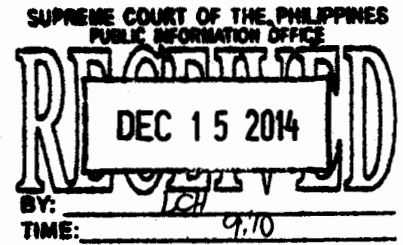


G. Pio



Republic of the Philippines  
Supreme Court  
Manila  
FIRST DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **November 17, 2014** which reads as follows:

**“G.R. No. 213799 – JAIME O. PATRICIO, *Petitioner* v. PEOPLE OF THE PHILIPPINES, *Respondent*.**- The petitioner’s motion for an extension of thirty (30) days within which to file a petition for review on certiorari is **GRANTED**, counted from the expiration of the reglementary period.

The present Petition for Review on *Certiorari* under Rule 45 of the Rules of Court seeks the reversal and the setting aside of the Court of Appeals Decision<sup>1</sup> dated 18 March 2014 in CA-G.R. CR No. 00864 **affirming** the Regional Trial Court<sup>2</sup> (RTC) Decision<sup>3</sup> dated 29 December 2009 in Criminal Case No. 2802, convicting the herein petitioner Jaime O. Patricio (Jaime) of the crime of homicide **with the modifications** on the penalty imposed and the award of civil indemnity. Assailed as well is the Court of Appeals Resolution<sup>4</sup> dated 28 July 2014 denying petitioner’s Motion for Reconsideration thereof.

Petitioner was charged with homicide in an Information dated 27 July 2006 for the killing of Diosdado Patricio (Diosdado), which specifically states:

- over – five (5) pages .....

<sup>1</sup> Penned by Associate Justice Edgardo T. Lloren with Associate Justices Marie Christine Azcarraga-Jacob and Edward B. Contreras, concurring. *Rollo*, pp. 88-101.  
<sup>2</sup> Tacurong City, Branch 20.  
<sup>3</sup> Penned by Assisting Judge German M. Malcampo. *Rollo*, pp. 26-63.  
<sup>4</sup> Id. at 106-107.

That on or about 6:45 o'clock in the evening of [3 August 2005], at *Barangay Kalanawi 2*, Municipality of Pres. Quirino, Province of Sultan Kudarat, Philippines, and within the jurisdiction of this Honorable Court, the said [herein petitioner], armed with Caliber .30 M1 Carbine rifle; with intent to kill, did then and there, wil[l]fully, unlawfully and feloniously shoot one DIOSDADO PATRICIO inflicting upon the latter gunshot wound which caused his instantaneous death.

CONTRARY TO LAW, particularly Article 249 of the Revised Penal Code of the Philippines.<sup>5</sup>

When arraigned, petitioner pleaded not guilty to the crime charged.

In petitioner's Pre-Trial Brief dated 24 July 2007, he alleged self-defense or defense of relative. Thus, on 13 September 2007, the trial court issued an order for reverse trial.<sup>6</sup> Trial on the merits, thereafter, ensued.

The defense presented the following witnesses: (1) Elizabeth Patricio-Arriola (Elizabeth), petitioner's sister and second cousin of the deceased victim; (2) Antonio Yacan, *Barangay* Chairman of Kalanawi 2, President Quirino, Sultan Kudarat, and grandfather of the deceased victim; (3) Senior Police Officer 4 Jimmy Villa, retired police officer assigned at President Quirino Police Station, who was present thereat when the petitioner voluntarily surrendered; (4) Senior Police Officer 1 Fred Opiaza, who was also presented as witness for the prosecution; and (5) petitioner, himself, who admitted that he shot the deceased victim but invoked self-defense.<sup>7</sup>

For its part, the prosecution presented the following witnesses: (1) Rodolfo Apolonio, brother-in-law and the nearest person to the deceased victim when the latter was shot; (2) Donna Mae Patricio-Reyes, daughter of the deceased victim, who testified on the expenses incurred by their family during the hospitalization and burial of the deceased victim; and (3) Gideon P. Apolonio, nephew of the deceased victim.<sup>8</sup>

The facts, as summarized by the Court of Appeals, are:

[Herein petitioner Jaime] admitted that he used a carbine rifle to shoot the victim [Diosdado] at about 6:45 o'clock in the evening of [3 August 2005], at *Barangay Kalanawi 2*, President Quirino, Sultan Kudarat. [Petitioner] voluntarily surrendered to the police station of President Quirino, Sultan Kudarat[,] on the night of the incident, and told the police officers on duty that he shot [the victim] without giving any explanation or reason. Thus, the police blotter only showed that [petitioner] surrendered in connection with the shooting incident on the said date. The incident led to the death of [the victim]

<sup>5</sup> Id. at 25.

<sup>6</sup> Court of Appeals Decision dated 18 March 2014. Id. at 89.

<sup>7</sup> Id. at 89-91.

<sup>8</sup> Id. at 92-93.

on [5 August 2005] after being confined for treatment at the Davao Medical Center, Davao City. [Petitioner] claimed thereafter that he shot [the victim] by reason of self-defense because the latter allegedly attacked him after threatening [petitioner's] sister, Elizabeth.<sup>9</sup>

After considering the testimonies of both parties, the trial court rendered its Decision dated 29 December 2009 convicting the petitioner for homicide and sentencing him to suffer an indeterminate sentence of 10 years of *prision mayor*, as minimum, to 14 years, 8 months and 1 day of *reclusion temporal*, as maximum. The petitioner was likewise ordered to pay the heirs of the deceased victim the amount of ₱50,000.00 as death or civil indemnity; ₱50,000.00 as moral damages; ₱30,000.00 as exemplary damages; ₱38,843.40 by way of actual damages, representing the actual expenses incurred for the emergency treatment of the deceased victim at the Sultan Kudarat Doctor's Hospital, Tacurong City, for transportation expenses in bringing the victim to the Davao Medical Center, Davao City, for appropriate medical treatment, for medicine purchases, for the embalmment, coffin, delivery services of the cadaver of the deceased victim from Davao City to Tacurong City, and funeral expenses, as well as for such other miscellaneous expenses for the burial of the deceased victim; and to pay the costs.<sup>10</sup>

On appeal, the Court of Appeals affirmed petitioner's conviction but modified the penalty and the award of civil indemnity as follows: 1) petitioner is sentenced to suffer an indeterminate penalty of imprisonment ranging from 6 years and 1 day of *prision mayor* minimum, as minimum, to 12 years and 1 day of *reclusion temporal* minimum, as maximum, taking into account the mitigating circumstance of voluntary surrender; and (2) the award of civil indemnity is increased from ₱50,000.00 to ₱75,000.00.<sup>11</sup>

Petitioner moved for the reconsideration of his conviction but it was denied in a Resolution dated 28 July 2014.

Hence, this Petition raising the lone issue of whether or not the drawing of a gun by the deceased victim and pointing it at petitioner during altercation and immediately after the former challenged and disputed the reputation of the latter's family is not sufficient to constitute unlawful aggression.<sup>12</sup>

This Court sustains petitioner's conviction but **modifies the award of moral damages.**

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<sup>9</sup> Id. at 89.

<sup>10</sup> RTC Decision dated 29 December 2009. Id. at 61-62.

<sup>11</sup> Court of Appeals Decision dated 18 March 2014. Id. at 99-100.

<sup>12</sup> Petition for Review on *Certiorari*. Id. at 18.

It is a hornbook doctrine that the findings of fact of the trial court are entitled to great weight on appeal and should not be disturbed except for strong and valid reasons since the trial court is in a better position to examine the demeanor of the witnesses while testifying.<sup>13</sup> This rule finds an even more stringent application where said findings are sustained by the Court of Appeals,<sup>14</sup> as in this case.

Here, there is no compelling reason to deviate from the lower courts' findings that petitioner failed to meet all the essential elements of the justifying circumstance of self-defense, thus, he is ultimately liable for the crime of homicide for killing the victim. As aptly observed by the Court of Appeals:

The essential elements of the justifying circumstance of self-defense, which the [herein petitioner] must prove by clear and convincing evidence are: (a) unlawful aggression on the part of the victim; (b) reasonable necessity of the means employed by the accused to prevent or repel the unlawful aggression; and (c) lack of sufficient provocation on the part of the accused defending himself. The first element of unlawful aggression is a condition *sine qua non*. There can be no self-defense unless there was unlawful aggression from the person injured or killed by the accused; for otherwise, there is nothing to prevent or repel.

The [petitioner] failed to prove the existence of the above-cited elements. He stated in his direct testimony that it was merely his perception which arose from his apprehension that he might be shot by [the victim] should he not shoot the latter first. Secondly, record shows that the whereabouts of the firearm allegedly carried by the deceased were also not found or recovered in the scene of the crime. Thus, the existence of the deceased Diosdado's firearm is highly doubtful, considering that no other witnesses attested to its existence except the [petitioner] and his sister, Elizabeth.

Moreover, defense witness [Elizabeth's] testimony does not coincide with that of her brother [petitioner's testimony] that he shot [the victim] because he defended her (Elizabeth). Elizabeth testified that she heard a gunshot but did not know that [petitioner] shot the deceased victim Diosdado until after the investigating policemen informed her about the fact x x x.<sup>15</sup>

Now, as to the award of moral damages, this Court finds it proper to modify the same in order to conform to this Court's rulings, the recent of which is *Barut v. People*.<sup>16</sup> Thus, the award of moral damages is increased from ₱50,000.00 to ₱75,000.00. Also, the interest at the rate of 6% per annum shall be imposed on all damages awarded from the date of the finality of this judgment until fully paid.<sup>17</sup>

<sup>13</sup> *People v. Apattad*, G.R. No. 193188, 10 August 2011, 655 SCRA 335, 349 citing *Tayco v. Heirs of Concepcion Tayco-Flores*, G.R. No. 168692, 13 December 2010, 637 SCRA 742, 750.

<sup>14</sup> *People v. Campomanes*, G.R. No. 187741, 9 August 2010, 627 SCRA 494, 504.

<sup>15</sup> Court of Appeals Decision dated 18 March 2014. *Rollo*, pp. 96-97.

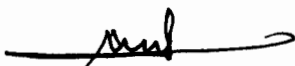
<sup>16</sup> G.R. No. 167454, 24 September 2014.

<sup>17</sup> *People v. Linsie*, G.R. No. 199494, 27 November 2013.

**WHEREFORE**, the instant Petition is **DENIED**. The Decision and Resolution of the Court of Appeals in CA-G.R. CR No. 00864 dated 18 March 2014 and 28 July 2014, respectively, are **AFFIRMED with the MODIFICATIONS**: (1) increasing the award of moral damages from ₱50,000.00 to ₱75,000.00; and (2) imposing 6% interest per annum on all damages awarded from the date of the finality of this judgment until fully paid.

**SO ORDERED.**” **BERSAMIN, J.**, on official travel; **VELASCO, JR., J.**, designated acting member per S.O. No. 1870 dated November 4, 2014.

Very truly yours,

  
**EDGAR O. ARICHETA**  
Division Clerk of Court *m 12/17*  
**11**

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(CA-G.R. CR No. 00864-MIN)

The Solicitor General (x)  
Makati City

The Hon. Presiding Judge  
Regional Trial Court, Br. 20  
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(Crim. Case No. 2802)

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