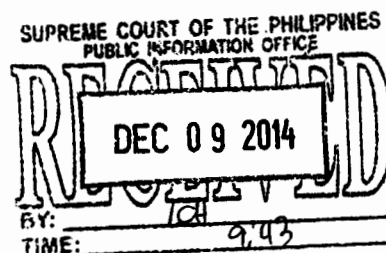




Republic of the Philippines
Supreme Court
Manila



FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **October 22, 2014** which reads as follows:*

“G.R. No. 213866 - (GEORGE AGUIRRE, petitioner vs. PEOPLE OF THE PHILIPPINES, GLORIA DAGANTA AND HEIRS OF BALDOMERO DAGANTA, respondents.)

This is a petition for review on certiorari of the Decision¹ and Resolution² dated March 27, 2014 and July 22, 2014, respectively, of the Court of Appeals (CA) in CA-G.R. CR No. 34637.

In the information in Criminal Case Nos. 17550 and 17551 of the Regional Trial Court (RTC) of Palawan and Puerto Princesa City, Branch 47, George Aguirre and his co-accused Narino Abog were both charged with two (2) counts of Frustrated Murder for allegedly conspiring with each other in the shooting of complainant Gloria Daganta (Gloria) in Criminal Case No. 17550, and the hacking of complainant Baldomero Daganta (Baldomero) in Criminal Case No. 17551. The criminal Informations are as follows:

- over – six (6) pages

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¹Penned by CA Associate Justice Florito S. Macalino, with Associate Justices Sesinando E. Villon and Eduardo B. Peralta Jr., concurring, *rollo* pp. 24-37.

²*Id* at 48-50.

CRIMINAL CASE NO. 17550:

That on or about the 4th day of May 2002, more or less 1:00 o'clock in the morning, at Barangay Tigman, Municipality of Aborlan, Province of Palawan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conspiring, confederating and mutually helping each other by means of treachery did then and there willfully, unlawfully and feloniously, with intent to kill, attack, assault and use personal violence upon the person of GLORIA DAGANTA by then and there shooting her with a firearm of unknown caliber, thereby inflicting upon her a fatal wound in her chest thus performing all the acts of execution which would produce a crime of Murder, as a consequence, but nevertheless did not produce it by reason of causes independent of the will, that is, by the timely able medical assistance rendered to Gloria which prevented her death.

CRIMINAL CASE NO. 17551:

That on or about the 4th day of May 2002, more or less 1:00 o'clock in the morning, at Barangay Tigman, Municipality of Aborlan, Province of Palawan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conspiring, confederating and mutually helping each other by means of treachery did then and there willfully, unlawfully and feloniously, with intent to kill, attack, assault and use personal violence upon the person of BALDOMERO DAGANTA by then and there hacking him with a bolo, thereby inflicting upon him a fatal wound in her chest thus performing all the acts of execution which would have produced the crime of Murder, as a consequence, but nevertheless did not produce it by reason of causes independent of the will, that is by the timely able medical assistance rendered to Baldomero Daganta which prevented his death.³


After a full blown trial on the merits, the RTC rendered a decision dated August 26, 2011, the dispositive portions of which read as follows:

WHEREFORE, premises considered, the prosecution having successfully proven the guilt of the accused beyond reasonable doubt for Two (2) counts of Frustrated Murder, accused NARINO ABOG and GEORGE AGUIRRE are hereby found GUILTY OF TWO (2) COUNTS OF FRUSTRATED MURDER under Article 248 in relation to Articles 50 and 250 of The Revised Penal Code (RPC), and are hereby sentenced as follows:

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³*Id* at 51-52.



FOR CRIMINAL CASE NO. 17550: Narino Abog and George Aguirre are each sentenced to suffer the indeterminate penalty of from SIX (6) YEARS and ONE DAY, which is the minimum *prision correccional*, as MINIMUM, to FOURTEEN (14) YEARS AND FOUR (4) MONTHS, which is the medium of *prision mayor*, as MAXIMUM.

Narino Abog and George Aguirre are likewise ordered to indemnify the victim GLORIA DAGANTA, to whom the two (2) accused shall be severally liable, in the sum of FORTY THREE THOUSAND, SEVEN HUNDRED FOUR (P43,704.00) PESOS, as actual damages; and the sum of TEN THOUSAND (P10,000.00), as moral damages.

FOR CRIMINAL CASE NO. 17551: Narino Abog and George Aguirre are each sentenced to suffer the indeterminate penalty of from SIX (6) YEARS and ONE DAY, which is the minimum *prision correccional*, as MINIMUM, to FOURTEEN (14) YEARS AND FOUR (4) MONTHS, which is the medium of *prision mayor*, as MAXIMUM.

Narino Abog and George Aguirre are likewise ordered to indemnify the HEIRS OF BALDOMERO DAGANTA, to whom the two (2) accused shall be severally liable, in the sum of SIX HUNDRED FIFTY SIX (P656.00) PESOS, as actual damages; and the sum of TEN THOUSAND (P10,000.00), as moral damages.⁴

Disagreeing with the RTC decision, both Aguirre and co-accused Narino Abog appealed to the CA.

The CA rendered the Decision dated March 27, 2014, affirming the Decision dated August 26, 2011 of the RTC, with very slight modification in the maximum of the penalty imposed. Thus:

WHEREFORE, premises considered, the instant appeal is hereby **DENIED**. The Decision dated August 26, 2011 of the Regional Trial Court of Palawan and Puerto Princesa City, Branch 47, in Crim. Case Nos. 17550 and 17551, is hereby **AFFIRMED** with the following modifications:

1. In Crim. Case No. 17550, the Accused-Appellants are each sentenced to suffer the indeterminate penalty of imprisonment ranging from six (6) years and one (1) day of *prision mayor*, as minimum, to

⁴ *Id* at 73-74.

fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal*, as maximum. Accused-Appellants are also adjudged severally liable to pay Gloria Daganta the sum of ₱40,000.00 as moral damages and ₱20,000.00 as exemplary damages;

2. In Crim. Case No. 17551, Accused-Appellants are each sentenced to suffer the indeterminate penalty of imprisonment ranging from six (6) 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. Accused-Appellants are further adjudged severally liable to pay the heirs of Baldomero Daganta the sum of ₱40,000.00 as moral damages and ₱20,000.00 as exemplary damages.

Interest at the rate of six percent (6%) per annum shall be imposed on all damages awarded, to earn from the date of the finality of this judgment until fully paid, in line with the prevailing jurisprudence.

The Decision of the RTC is affirmed in all other respects.

SO ORDERED.⁵

Hence, the present petition.

ISSUE BEFORE THE COURT:

Whether the CA committed grave abuse of discretion in a manner amounting to lack or excess of jurisdiction by its unjust and biased weighing of the evidence in favor of conviction of the petitioner.

THE COURT'S RULING

The Court resolves to **DISMISS** appeal, there being no reversible error.

The RTC and the CA have correctly ruled that the prosecution has proven beyond reasonable doubt the guilt of petitioner. Both courts ruled that there is no bias in the testimonies of the prosecution witnesses and that the denial and alibi of petitioner is weak. The CA aptly observed:

⁵ *Id* at 36-37.

For a person to be convicted of the offense of murder, the prosecution must prove that: (1) the offender killed the victim; and (2) that the killing was committed with any of the attendant circumstances under Art. 248 of the RPC, such as treachery. Under Art. 6 of the RPC, a felony is frustrated when the offender performs all acts of execution which would produce the felony but which, nevertheless, do not produce it by reason of causes independent of the will of the perpetrator.

The principal and essential element of frustrated murder is the intent on the part of the assailant to take the life of the person attacked. The intent to kill is often inferred from, among other things, the means the offender used and the nature, location, and number of wounds he inflicted on his victim.

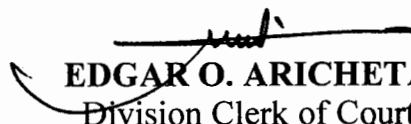
In the case at bench, Accused-Appellants' intent to kill the private complainants could be inferred from the surrounding circumstances.

As established by the prosecution witnesses, Aguirre shot Gloria using a long gun and hit a vital part of the latter's body. As testified to by Dr. Garcia, whose expertise was admitted by the defense, Gloria's gunshot wound could have caused her death had there been no prompt medical intervention. In the same manner, it was proven that Abog hacked Baldomero's arm and forehead using a bolo. Dr. Rivera, whose expertise was likewise stipulated upon, declared that Baldomero's hack wounds could have resulted in his death without the timely medical intervention provided to him. The private complainants did not die from the shooting and hacking incident due to a cause independent of Accused-Appellants' will.⁶

The petitioner's manifestation and submission of the soft copy of the petition and its annexes is **NOTED**.

SO ORDERED."

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court
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Court of Appeals (x)
Manila
(CA-G.R. CR No. 34637)

The Solicitor General (x)
Makati City

⁶ *Id* at 32-33.

Mrs. Gloria Daganta
Respondent
Libery Road, Brgy. Bagong Sikat
5300 Puerto Princesa City

Heirs of Baldomero Daganta
Respondents
Liberty Road, Brgy. Bagong Sikat
5300 Puerteo Princesa City

The Hon. Presiding Judge
Regional Trial Court, Br. 47
5300 Puerto Princesa City
(Crim. Case Nos. 17550 & 17551)

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