



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

**DOMINGO NAAG, JR., MARLON
 U. RIVERA and BENJAMIN N.
 RIVERA,**

G.R. No. 228638

Petitioners,

Present:

- versus -

PERALTA, *CJ., Chairperson,*
 CAGUIOA,
 REYES, J. JR.,
 LAZARO-JAVIER, *and*
 LOPEZ, *JJ.*

PEOPLE OF THE PHILIPPINES,
 Respondent.

Promulgated:

JUL 13 2020

X-----X

DECISION

REYES, J. JR., *J.*:

Assailed in the instant Petition¹ for Review on *Certiorari* are the February 29, 2016 Decision² and November 29, 2016 Resolution³ of the Court of Appeals (CA) in CA-G.R. CR No. 36273 affirming the November 7, 2013 Decision⁴ of the Regional Trial Court (RTC) of Naga City, Branch 21 in Criminal Case No. RTC-2009-0462 finding petitioners Domingo Naag, Jr. (Domingo), Marlon U. Rivera (Marlon), and Benjamin N. Rivera (Benjamin; collectively, petitioners) guilty beyond reasonable doubt of the crime of Frustrated Homicide.

The Facts

On October 5, 2009, petitioners were charged in an Information that reads as follows:

¹ *Rollo*, pp. 12-36.
² Penned by Associate Justice Ramon A. Cruz, with Associate Justices Marlene Gonzales-Sison and Henri Jean Paul B. Inting (now a Member of this Court), concurring; *id.* at 38-58.
³ *Id.* at 60.
⁴ Penned by Judge Pablo Cabillan Formaran III; *id.* at 81-95.

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That on November 21, 2008 at around 12:30 a.m. in Magarao, Camarines Sur and within the jurisdiction of the Honorable Court, the above-named accused, conspiring with one another and with intent to kill, did then and there willfully, unlawfully and feloniously attack and assault by striking with iron pipes one JOSEPH CEA hitting the latter on the head thereby sustaining fatal injuries that could have cause[d] his death if not for the timely medical treatment rendered, to the damage and prejudice of herein private complainant.

CONTRARY TO LAW.⁵

When arraigned on January 14, 2010, petitioners pleaded not guilty to the charge, and, during the pre-trial, interposed the justifying circumstance of self-defense. Thus, a reverse trial ensued.⁶

Version of the Defense

The combined testimonies of petitioners and defense witnesses Wilson Alaya (Wilson), Ramon Roja, Jr. (Ramon), and Rommel Girao (Rommel), all of whom were employees of Metro Naga Water District (MNWD), sought to prove the following facts:

On November 20, 2008, from 6:00 p.m. until 12:00 a.m., eight employees of the MNWD conducted emergency water flushing operations on three fire hydrants located in Magarao, Camarines Sur. At half past midnight, Domingo and Marlon were closing off a fire hydrant situated in Barangay Sto. Tomas when a certain "Igan" came running to inform them that *Tropang Asero* was approaching. Suddenly, six men appeared and began hitting them. Domingo recognized one of the attackers as private complainant Joseph Cea⁷ (Joseph) whom he personally knew as "Pading Ope." Marlon was smacked at the back of his head with a rock and fell unconscious. Domingo fought back and yelled for assistance. Benjamin arrived and, upon seeing his son Marlon on the ground, turned to face the aggressors. Joseph then swung a baseball bat at Benjamin but the latter was able to dodge so Domingo's left ear was hit instead. Thereafter, Benjamin punched Joseph and succeeded to wrestle the baseball bat from him. Moments later, policemen arrived and brought Marlon, Domingo, and Benjamin to the police station after they received medical treatment at the Bicol Medical Center (BicolMed) in Naga City.

Wilson, Ramon, and Rommel corroborated the material parts of petitioners' testimonies.

Version of the Prosecution

The prosecution, through the testimonies of Joseph, Joven Alfie Ciudadano (Joven), Brylle Sinfuego (Brylle), and Dr. Juan Carlos Marzan (Dr. Marzan), presented a totally different version.

⁵ Id. at 81.

⁶ Id. at 82.

⁷ Also referred to as "Joseph Cea y San Buenaventura" in some parts of the *rollo*.

Joseph claimed that on November 21, 2008 he attended a birthday party with Brylle and Ricky Mendoza (Ricky). They left the party at around 12:30 a.m. and met Joven on their way home. While passing by a bridge, Joseph approached a group of men who were talking loudly and said to them “*Boss, mga taga saen kamo.*” Domingo angrily replied, “*Anong problema mo, Noy?*” to which Joseph answered, “*Dai man, mga tanod kami igdi?*” and told the group that they were not looking for trouble. Benjamin then asked Joseph, “*Kaya mo na Noy ang buhay?*” but before the latter could give a reply, Marlon punched him on his right cheek causing him to fall down on the ground. Joseph, upon noticing that Domingo and Benjamin got a pipe wrench from a motorcycle, immediately got up, scampered away with his friends, and retreated to Joven’s nipa hut. Thereafter, Domingo, together with Ramon and one other unidentified man, pounded on the walls of the nipa hut and called out Joseph’s name. Fearing for his life, Joseph ran out the back door of the nipa hut and descended towards the bridge. There, he was able to evade Benjamin and Marlon but Domingo caught up to him and whacked him on the forehead with a pipe wrench rendering him unconscious on the ground.⁸

On December 5, 2008, Joseph regained consciousness at the BicolMed where he was confined for 15 days incurring medical expenses in the amount of ₱58,922.10. As indicated in a Medical Certificate dated November 26, 2008 issued by Dr. Harold G. Esparcia, Joseph suffered from T/C diffuse axonal injury and subarachnoid hemorrhage fracture, left frontal and medial wall of left orbit.⁹

The foregoing declaration was corroborated by the testimonies of Brylle and Joven. Dr. Marzan confirmed that: 1) the phrase “Subarachnoid Hemorrhage” means that there is bleeding in that part of the brain; 2) the term “Diffuse Axonal Injury” or “*nabugbog*” in tagalog, refers to an internal injury inside the brain; 3) the words “Fracture Left Frontal and Medial of the Left Orbit” simply means a crack sustained in the skull or forehead; 4) the laceration on the left frontal area could have been caused either by a blunt object, like a pipe wrench, or a vehicular accident; and finally, 5) the said injuries were all fatal and could lead to death if not given timely medical attention.¹⁰

The RTC Ruling

In its Decision dated November 7, 2013, the RTC found petitioners guilty as charged and sentenced each of them to an indeterminate prison term from two years, four months, and one day of *prision correccional* medium, as minimum, to eight years and one day of *prision mayor* medium, as maximum.¹¹ It likewise ordered petitioners to jointly and severally pay Joseph the amount of ₱58,922.10 as actual damages with an interest of 12% *per annum* from the finality of said Decision until fully paid.¹²

⁸ Id.

⁹ Id.

¹⁰ Id. at 105-106.

¹¹ Id. at 95.

¹² Id.

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The RTC refused to give credence to petitioners' claim of self-defense, pointing out that their testimonies evince material loopholes and that there was no solid evidence of unlawful aggression on the part of Joseph.

The CA Ruling

Upon appeal, the CA, in the herein assailed Decision dated February 29, 2016 affirmed petitioners' conviction agreeing with the RTC that the existence of unlawful aggression was not satisfactorily proven. It emphasized that, indeed, petitioners' plea of self-defense was self-serving, it being uncorroborated by credible testimony or evidence. The decretal portion of the CA Decision reads:

WHEREFORE, premises considered, the appeal is **DISMISSED**. The Decision dated November 7, 2013 rendered by the [RTC] of Naga City, Branch 21, in Criminal Case No. RTC 2009-0462 is **AFFIRMED**.

SO ORDERED.¹³

Petitioners filed a Motion for Reconsideration¹⁴ but the same was denied in a Resolution dated November 29, 2016.

Hence, the instant appeal contending that the CA erred in sustaining the verdict of the RTC considering that: 1) petitioners' acts were completely justified under the circumstances; and 2) the element of intent to kill and conspiracy were not duly established.

In its Comment¹⁵ dated August 7, 2017, respondent, through the Office of the Solicitor General (OSG), prayed that the assailed CA ruling be affirmed since: 1) petitioners unsuccessfully invoked the justifying circumstance of self-defense, there being no unlawful aggression; and 2) all the elements of frustrated homicide were found present in this case.

Petitioners, in their Reply¹⁶ dated November 27, 2017, reiterated that they simply defended themselves from six malefactors who unexpectedly attacked them.

The Issue

The sole issue for the Court's resolution is whether or not the CA correctly upheld petitioners' conviction for Frustrated Homicide.

The Court's Ruling

The petition is bereft of merit.

¹³ Id. at 56.

¹⁴ Id. at 113-120.

¹⁵ Id. at 132-143.

¹⁶ Id. at 152-159.

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Notably, the errors raised by the petitioners are all factual or “appreciation of evidence” errors which are not within the purview of a petition for review on *certiorari* under Rule 45 of the Rules of Court – which mandates that only questions of law may be set forth, *viz.*:

Section 1. *Filing of petition with Supreme Court.* — A party desiring to appeal by *certiorari* from a judgment, final order or resolution of the Court of Appeals, the Sandiganbayan, the Court of Tax Appeals, the Regional Trial Court or other courts, whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition may include an application for a writ of preliminary injunction or other provisional remedies and **shall raise only questions of law, which must be distinctly set forth.** The petitioner may seek the same provisional remedies by verified motion filed in the same action or proceeding at any time during its pendency.¹⁷ (Emphasis supplied)

In the case at bench, the submitted errors, requiring as they do a re-appreciation and re-examination of the trial evidence, are evidentiary and factual in nature.¹⁸ The petition must perforce be denied on this basis because “*one*, the petition for review thereby violates the limitation of the issues to only legal questions, and, *two*, this Court, being a non-trier of facts, will not disturb the factual findings of the CA, unless they were mistaken, absurd, speculative, conflicting, tainted with grave abuse of discretion, or contrary to the findings reached by the court of origin,” which was not the case here.¹⁹

At any rate, the Court finds that the CA correctly affirmed the RTC's conviction of petitioners for frustrated homicide, which has the following for its elements: (1) the accused intended to kill his victim, as manifested by his use of a deadly weapon in his assault; (2) the victim sustained fatal or mortal wound/s but did not die because of timely medical assistance; and (3) none of the qualifying circumstance for murder under Article 248 of the Revised Penal Code (RPC) is present.²⁰

The foregoing elements were duly established during trial. Noticeably, the parties presented two disparate versions of what really happened during the wee hours of November 21, 2008. Be that as it may, the Court agrees with both the RTC's and CA's observation that the narrative of the prosecution anchored mainly on the testimony of Joseph, was highly credible than that of petitioners. *First*, direct and positive testimonies of prosecution witnesses established that Joseph suffered a heavy blow on the head caused by a blunt object like a pipe wrench.²¹ Certainly, the nature of the head injury sustained by him demonstrate petitioners' intent to kill. *Second*, the blunt force trauma sustained by Joseph was fatal. In technical medical terms, Joseph was found to have endured “T/C Diffuse Axonal Injury and Subarachnoid Hemorrhage Fracture, Left Frontal and Medial of Left Orbit Secondary to Mauling.” In plain terms, “*nabugbog*”; an internal brain injury. The blow was so sharp and serious that Joseph laid unconscious in the hospital for

¹⁷ *Roque v. People*, G.R. No. 193169 (Resolution), April 6, 2015.

¹⁸ *Batistas v. People*, 623 Phil. 246, 255 (2009).

¹⁹ *Id.*

²⁰ *Josue y Gonzales v. People*, 700 Phil. 782 (2012).

²¹ See TSN dated February 7, 2013, pp. 7-8.

14 days. As testified to by Dr. Marzan, Joseph would have succumbed to death due to the said head trauma if not for the timely medical attention.²² *Third*, no qualifying circumstance for murder was alleged in the Information whereby petitioners were formally charged.

Neither is there any reason for the Court to depart from the common findings of the RTC and the CA that petitioners' claim of self-defense crumbles in the face of the fact that there was no unlawful aggression²³ at all on the part of Joseph which petitioners were impelled to repel. As succinctly explained by the CA, a simple question of "*Boss, mga taga saen kamo?*" could hardly constitute unlawful aggression.²⁴ Verily, the circumstances in this case make out a case for frustrated homicide as petitioners performed all the acts necessary to kill Joseph – who only survived due to timely medical intervention.

Nonetheless, the Court modifies the award of damages granted and legal interest imposed by the RTC, as affirmed by the CA. *People v. Jugueta*,²⁵ instructs that where the crime of frustrated homicide is committed, moral damages as well as civil indemnity should be awarded to the victim in the amount of ₱30,000.00 each. Thus, the Court rules that Joseph is entitled to recover moral damages and civil indemnity in the amount of ₱30,000.00 each, in addition to the award of actual damages in the amount of ₱58,922.10. The monetary awards shall earn interest at the rate of 6% per annum from the date of finality of this Decision until fully paid.²⁶

WHEREFORE, the present Petition is **DENIED**. The Decision dated February 29, 2016 and the Resolution dated November 29, 2016 of the Court of Appeals in CA-G.R. CR No. 36273, are hereby **AFFIRMED** with **MODIFICATION** in that petitioners Domingo Naag, Jr., Marlon U. Rivera, and Benjamin N. Rivera are also ordered to pay private complainant Joseph Cea: (1) civil indemnity in the amount of ₱30,000.00; (2) moral damages of ₱30,000.00; and that (3) the said awards shall be subject to interest at the legal rate of 6% per annum from the date of finality of this Decision until fully paid.

SO ORDERED.


JOSE C. REYES, JR.
Associate Justice

²² Id.

²³ ART. 11. *Justifying circumstances*. — The following do not incur any criminal liability:
1. Any one who acts in defense of his person or rights, provided that the following circumstances concur:

First. Unlawful aggression.

Second. Reasonable necessity of the means employed to prevent or repel it.

Third. Lack of sufficient provocation on the part of the person defending himself. (RPC)

²⁴ *Rollo*, p. 51.

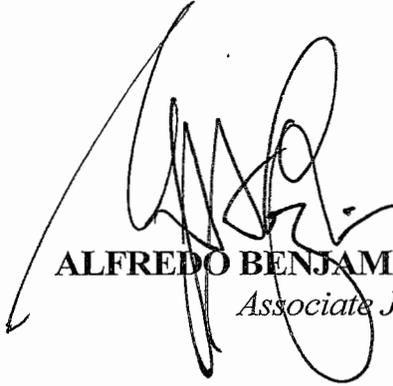
²⁵ G.R. No. 202124, April 5, 2016.

²⁶ *Tiña v. People*, G.R. No. 231437 (Notice), September 6, 2017.

WE CONCUR:



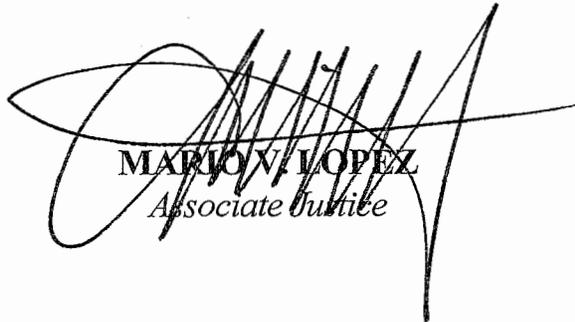
DIOSDADO M. PERALTA
Chief Justice
Chairperson



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



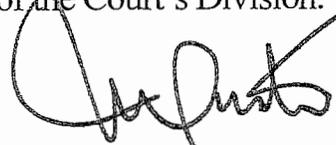
AMY C. LAZARO-JAVIER
Associate Justice



MARIO V. LOPEZ
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.



DIOSDADO M. PERALTA
Chief Justice

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