

THIRD DIVISION

[G.R. No. 169425, March 04, 2008]

**ROBERTO LICYAYO, Petitioner, vs. PEOPLE OF THE PHILIPPINES,
Respondent.**

D E C I S I O N

CHICO-NAZARIO, J.:

In this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, ^[1] petitioner Roberto Licayayo prays for the reversal of the Decision dated 6 May 2005^[2] and Resolution dated 12 August 2005^[3] of the Court of Appeals in CA-G.R. CR No. 27359, affirming with modification the Decision^[4] dated 20 February 2003 of the Regional Trial Court (RTC) of Lagawe, Ifugao, Branch 14, in Criminal Cases No. **819** and **820**, convicting petitioner of Homicide under Article 249 of the Revised Penal Code in Criminal Case No. **819** while dismissing Criminal Case No. **820** for Direct Assault as regards him.^[5]

The factual antecedents are as follows:

On 1 February 1993, an Information^[6] in Criminal Case No. **8a** was filed before the RTC charging petitioner, his brother Aron Licayayo (Aron), Paul Baguilat (Paul) and Oliver Buyayo (Oliver) with Homicide under Article 249 of the Revised Penal Code quoted as follows:

The undersigned Provincial Prosecutor, hereby accuses ROBERTO LICYAYO, OLIVER BUYAYO, ARON LICYAYO, and PAUL BAGUILAT, of the crime of HOMICIDE and committed as follows:

That on or about the 16th day of February, 1992, in the Municipality of Kiangnan, Ifugao, and within the jurisdiction of this Honorable Court, the above-named accused conspiring, confederating and mutually helping one another and with intent to kill, DID then and there willfully, unlawfully and feloniously attack, assault one Rufino Guay, stabbing him with the use of a double bladed weapon, thereby inflicting upon the victim several stab wounds which directly caused his death.

On 11 May 1993, an Amended Information^[7] in Criminal Case No. **820** was filed before the RTC accusing petitioner of Direct Assault under Article 148 of the Revised Penal Code, viz:

That on or about the 16th of February 1992, in the Municipality of Kiangnan, Ifugao, and within the jurisdiction of this Honorable Court, the above-named accused, DID then and there willfully, unlawfully and feloniously attack and assault PO3 Miguel Buyayo with the use of a

bladed weapon while the victim was in the performance of his official duties as a policeman which fact was known to the accused.

Subsequently, these cases were consolidated for joint trial. In Criminal Case No. 819, petitioner, Aron and Paul pleaded "Not Guilty" to the charge of homicide,^[8] while the other accused, Oliver, was not arraigned.^[9] With respect to Criminal Case No. 820, petitioner was not arraigned.^[10] Thereafter, trial on the merits ensued.

The prosecution presented as witnesses three members of the Philippine National Police (PNP), Kiangnan, Ifugao, namely, Joseph Danglay (Officer Danglay), Miguel Buyayo (Officer Buyayo) and Alfonso Baguilat (Officer Baguilat); and three other persons namely, Jeffrey Malingan (Jeffrey), Jimmy Guay (Jimmy), and Jose Guay (Jose). Their testimonies, woven together, bear the following:

On 16 February 1992, victim Rufino Guay (Rufino), along with his friends, Jeffrey and a certain Joel Dumangeng (Joel) attended a wedding at Mabbalat, Kiangnan, Ifugao. Petitioner, together with his friends, Paul and Oliver, were also present at the same wedding. After the wedding reception, Rufino, Jeffrey and Joel went to Natama's Store at the Kiangnan Public Market and ordered two bottles of gin. While the three were drinking gin at the said store, petitioner, Paul and Oliver arrived and likewise ordered bottles of gin. Later, petitioner, Paul and Oliver left the store. Subsequently, Rufino, Jeffrey and Joel likewise adjourned their drinking session and left the store.^[11]

Rufino, Jeffrey and Joel dropped by at Famorca's Store. Petitioner and his brother, Aron, as well as Paul and Oliver, were also present therein. While Jeffrey was talking to the store's owner, Larry Famorca (Larry), a brawl suddenly occurred between Rufino and Aron. As a consequence thereof, Rufino fell to the ground. Aron thereafter placed himself on top of Rufino and punched the latter several times. Jeffrey approached the two and tried to pacify them. Paul entered the scene and punched Jeffrey on the head. Thereupon, a scuffle followed.^[12]

Officers Danglay, Buyayo and Baguilat were on their way home from the Kiangnan Police Station when they heard some individuals calling for police assistance regarding the commotion. The three officers rushed to the scene. Upon arriving thereat, they saw petitioner holding a six-inch double-bladed knife and walking towards Rufino and Aron who were then wrestling with each other. Officer Buyayo, then wearing only civilian clothes and unarmed, approached petitioner and held the latter's back collar to prevent him from joining the fray. Petitioner turned around, faced Officer Buyayo, and tried to stab the latter but he missed. Officer Buyayo retreated. The officers introduced themselves to petitioner as policemen and pleaded with him to put down the knife. Petitioner ignored the officers' pleas.^[13]

Afterwards, petitioner approached Rufino, who was then wrestling with Paul, and stabbed Rufino in different parts of the body.^[14] Officer Baguilat fired a warning shot while Officer Danglay immediately pounced on petitioner and disarmed the latter.^[15] Petitioner was brought to the Kiangnan Police Station while Rufino was taken to a nearby hospital where he later died due to stab wounds.^[16]

The prosecution also presented documentary and object evidence to bolster the

testimonies of its witnesses, to wit: (1) sworn statements of Officer Danglay, Officer Buyayo, Officer Baguilat, Jeffrey, Jimmy, Jose and Arsenio;^[17] (2) death certificate of Rufino;^[18] (3) certification from the Ifugao General Hospital stating that Rufino sustained several stab wounds which directly caused his death;^[19] and (4) the knife used by the petitioner in stabbing Rufino.^[20]

For its part, the defense proffered the testimonies of petitioner and his corroborating witnesses -- Daniel Cayong (Daniel), Aron, and Paul -- to refute the foregoing accusations. Their version of the incident is as follows:

On the morning of 16 February 1992, petitioner attended a wedding at Mabbalat, Kiangnan, Ifugao. After the wedding, petitioner met Paul and they proceeded to the Kiangnan Public Market where they chanced on Oliver, a certain Kimayong and Fernando who invited them for a drink in one of the stores near the market. Later, Rufino, Jeffrey and Joel entered the store where petitioner's group was drinking and occupied a separate table. Jeffrey and Joel approached petitioner's group and sat at their table. Jeffrey shook and pressed hard the hand of Oliver. The storeowner signalled petitioner's group to pay its bills and leave. Petitioner brought out his wallet to pay their bills but Jeffrey, who was still holding and pressing Oliver's hand, told him to buy another bottle. Petitioner pleaded with Jeffrey to let go of Oliver's hand because the latter is his friend. Jeffrey, however, warned him not to interfere if he did not want to get involved. Petitioner glanced at the store's door and saw Rufino standing therein. Thereafter, Jimmy passed by in front of the store and made a signal to Rufino, Jeffrey and Joel. Petitioner, Paul and Oliver paid their bills, left the store and proceeded to Sakai Store.^[21]

Subsequently, Jeffrey and a companion went to Famorca's Store and saw Aron and Daniel seated in one of the benches outside the store. Jeffrey then told his companion "*Can you tackle his brother?*" Sensing that he was the brother being referred to by Jeffrey and a trouble might occur, Aron went inside the store but Jeffrey followed him. Thus, Aron went outside the store and sat on one of the benches nearby. Afterwards, Rufino arrived at the store and approached Aron. Rufino held the collar of Aron's shirt and punched the latter on the left cheek. Jeffrey also approached Aron and grabbed the latter's arm. Aron fought back but he fell to the ground.^[22]

Daniel immediately proceeded to Sakai Store and told petitioner that Aron was being mauled. Petitioner went to the scene and saw Rufino and Jeffrey punching Aron who was sprawled on the ground. Petitioner pushed Jeffrey away but the latter's other companions suddenly arrived and started hitting him. Petitioner fought back but he was overpowered. Petitioner cannot recall anymore the subsequent events that transpired.^[23]

After trial, the RTC rendered a Decision dated 20 February 2003, finding petitioner guilty of homicide in Criminal Case No. **819**. It acquitted Aron and Paul because the prosecution failed to prove the existence of conspiracy. It did not rule on the liability of Oliver because he was not arraigned in the said case. Further, it dismissed Criminal Case No. **820** for direct assault because petitioner was not arraigned therein.^[24]

The dispositive portion of the decision in Criminal Case No. 819 reads:

WHEREFORE, premises considered, accused Roberto Licyayo is hereby found GUILTY beyond reasonable doubt of the crime of Homicide under Article 249 of the Revised Penal Code. Applying the provisions of the Indeterminate Sentence Law and there being no aggravating circumstances, he is hereby sentenced to suffer the penalty of 8 years of prision mayor as minimum to 15 years of *reclusion temporal* medium as maximum.

Further, accused is hereby ordered to pay the victim's heirs the amount of P50,000.00 as civil indemnity for the death of Rufino Guay. "Per prevailing jurisprudence, death indemnity is fixed in the sum of P50,000.00. This kind of civil indemnity is separate and distinct from other forms of indemnity for damages and is automatically awarded without need of further proof other than the fact of death and that the accused is responsible therefore." (People v. Julius Kinok, G.R. No. 104629, November 13, 2001; Case Digest of Supreme Court Decisions; vol. 53, No. 2).

Likewise, accused is ordered to pay the victim's heirs another P50,000.00 as moral damages. "This award is mandatory and does not require proof other than the death of the victim." (People v. Mariano Pascua, Jr., G.R. No. 130963, November 27, 2001; Case Digest of Supreme Court Decisions; vol. 53, No. 2).

But the Court cannot award actual damages as testified to by the victim's father, Jose Guay, in the amount of P12,000.00 since the same were not covered by receipts. The same goes true with the alleged annual income of the deceased in the amount of P30,000.00. "Well-entrenched is the doctrine that actual, compensatory and consequential damages must be proved, and cannot be presumed." (Ibid.).^[25]

Petitioner appealed to the Court of Appeals. On 6 May 2005, the appellate court promulgated its Decision affirming with modifications the RTC decision. In addition to the civil indemnity and moral damages awarded by the RTC, the appellate court also ordered petitioner to pay for the loss of earning capacity of Rufino in the amount of P580,050.00 and temperate damages in the amount of P25,000.00. Thus:

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court, Branch 14 of Lagawe, Ifugao in Criminal Cases Nos. 819 and 820 is hereby AFFIRMED with MODIFICATION as to the award of damages, in that accused- appellant is also ordered to pay the victim's heirs the following:

(a) the amount of P25,000.00 as temperate damages; and

(b) the amount of P580,050.00 for lost earnings.^[26]

Petitioner filed a Motion for Reconsideration which the appellate court denied. Hence, petitioner elevated the instant case before us on the following grounds:

I.

THE INFORMATION FILED IS NOT SUFFICIENT AS IT DID NOT SPECIFICALLY CHARGED PETITIONER FOR THE CRIME OF "HOMICIDE" DEFINED AND PENALIZED UNDER ARTICLE 249 OF THE REVISED PENAL CODE; HENCE, PETITIONER COULD NOT BE VALIDLY CONVICTED FOR SAID CRIME.

II.

GRANTING THAT THE INFORMATION IS SUFFICIENT, PETITIONER IS ENTITLED TO THE MITIGATING CIRCUMSTANCES OF SUFFICIENT PROVOCATION AND INTOXICATION. [27]

Anent the first issue, petitioner points out that the Information does not specifically mention the law which he allegedly violated and for which he was charged. Although the information accuses him of the crime of homicide, it does not categorically state that he is being charged with homicide, *as defined and penalized under Article 249 of the Revised Penal Code*. According to him, the information should have been more explicit by stating that he is being indicted for homicide *as defined and penalized under Article 249 of the Revised Penal Code*. He argues that the specification in the information of the law violated is necessary to enable him to adequately prepare for his defense, and that to convict him under such defective information would violate his constitutional and statutory right to be informed of the nature and cause of the accusation against him. [28]

Section 6, Rule 110 of the Revised Rules of Criminal Procedure provides that an information is sufficient if it states the name of the accused; the designation of the offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed.

With particular reference to the designation of the offense, Section 8, Rule 110 of the Revised Rules of Criminal Procedure merely directs that the information must state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances.

The information in the instant case contains the foregoing required statements. The information mentions the name of petitioner as the accused, the name of Rufino as the offended party, the date and place of the commission of the crime, and designates the crime committed by petitioner as homicide. It also alleges the act of petitioner constituting homicide which is the unlawful stabbing of Rufino with the use of a bladed weapon. [29]

The fact that the information does not specifically mention Article 249 of the Revised Penal Code as the law which defines and penalizes homicide, does not make it defective. There is nothing in the afore-quoted Rules which specifically requires that the information must state the particular law under which the accused is charged in order for it to be considered sufficient and valid. What the Rules merely require, among other things, is that the information must designate the offense charged and aver the acts constituting it, which in this case, were obviously done. *People v.*