

# FIRST DIVISION

[ G.R. No. 205950, January 12, 2021 ]

**RICHARD BALINA Y LANUZO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

## DECISION

**GAERLAN, J.:**

Subject to review under Rule 45 of the Rules of Court at the instance of Richard Balina y Lanuzo (petitioner) is the September 10, 2012 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CR No. 32727, affirming *in toto* the May 16, 2008 Decision<sup>[2]</sup> of the Regional Trial Court (RTC) of Pasig City, Branch 160, finding petitioner guilty beyond reasonable doubt for the crime of Homicide.

### The Case

This case stemmed from an Information<sup>[3]</sup> filed before the RTC, charging petitioner with the crime of Homicide, the accusatory portion of which reads:

On or about June 27, 1998, in Taguig, Metro Manila and within the jurisdiction of this Honorable Court, the said accused, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and employ personal violence upon an unidentified person, by then and there shot him with a gun, however, accused missed him but certain Aileen Nino was hit instead, thereby inflicting upon said Aileen Nino, gun shot [sic] wound, which directly caused her death.

Contrary to law.<sup>[4]</sup>

Upon arraignment, petitioner pleaded not guilty to the crime charged. Thereupon, pre-trial and trial ensued.<sup>[5]</sup>

### The Antecedents

#### *Prosecution's Version of Facts*

On the evening of June 27, 1998, a certain Gilbert Ortacido (Ortacido), together with two others arrived at the Aries Disco Pub located at North Daang Hari, Upper Bicutan, Taguig, Metro Manila. They were ushered by a guest relation officer, Katrina Lovino, also known as "KC". Later that night, petitioner arrived at the bar. While

inside the bar, Ortacido was irked every time KC leaves their table and goes to talk to petitioner. As a result, a quarrel ensued between him and petitioner and they began trading punches. Petitioner, however, found himself unable to hold his own during the fist fight. Thus, petitioner drew his gun and fired a shot at Ortacido. Petitioner missed Ortacido but the bullet hit the victim, Aileen Nino (Aileen), the cashier in the club. Immediately thereafter, Ortacido and his companions fled the scene, while petitioner brought the victim to Pasay General Hospital. At the hospital, Aileen succumbed to her death.<sup>[6]</sup>

#### *Defense's Version of Facts*

At around 3:00 in the morning of June 27, 1998, petitioner, while on his way for work at Fort Sto. Domingo, Santa Rosa, Laguna, was informed by KC that there was a customer who was causing trouble at Aries Disco Pub. Petitioner, after learning that although the incident was already reported to police officers, there was no response from them, went to the bar and there he saw three male customers who were pestering the other customers. Petitioner then sat near their table and he overheard Ortacido, one of the three, telling KC "*wala yan boy lang yan.*" Ortacido was very mad while looking at petitioner and suddenly attacked him. During the fistfight, Ortacido suddenly grabbed his gun. The two wrestled and grappled for the gun. When Ortacido got hold of the gun, petitioner kicked him and that was the time the gun went off. Ortacido then fled from the scene. Petitioner then heard that Aileen was shot. So petitioner picked her up and brought her to the hospital. Aileen was, however, pronounced dead due to excessive blood loss.<sup>[7]</sup>

#### **The RTC Ruling**

The RTC rendered a Decision finding petitioner guilty beyond reasonable doubt for the crime of Homicide. The trial court gave credence to the testimony of the prosecution witnesses, who testified that petitioner tried to shoot Ortacido but missed, hitting Aileen instead. Further, it ratiocinated that although the result of petitioner's wrongful act was different from that which he intended, he is deemed criminally liable for any consequences thereof. Accordingly, the trial court disposed the case in this wise:

WHEREFORE, foregoing considered, accused PO1 Richard Balina is found guilty beyond reasonable doubt of the crime of Homicide and is therefore sentenced to suffer an indeterminate penalty of imprisonment of eight (8) years of prison mayor as minimum to twelve (12) years and one (1) day of reclusion temporal as maximum, the mitigating circumstance of voluntary surrender being appreciated in his favor. Accused is ordered to pay the heirs of the victim Aileen Nino the amount of Seventy[-]Five Thousand Pesos (P75,000.00) as actual damages, Fifty Thousand Pesos (P50,000.00) as civil indemnity for the death of the victim and P50,000.00 as moral damages.

Accused is further ordered to pay the heirs of the victim the amount of P1,296,000.00 for lost earnings.

With costs against the accused.

SO ORDERED.<sup>[8]</sup>

Aggrieved, petitioner appealed to the CA.

### **The CA Ruling**

In a Decision promulgated on September 10, 2012, the CA affirmed the RTC Decision with modifications, as follows:

WHEREFORE, premises considered, the instant appeal is DENIED for lack of merit. The assailed Decision of the RTC of Pasig City, Branch 160 dated May 16, 2008 is hereby AFFIRMED WITH MODIFICATION, in that, appellant is hereby sentenced to suffer the indeterminate penalty of 6 years and 1 day as minimum, to 12 years and 1 day as maximum.

The appealed decision is AFFIRMED in all other respects.

SO ORDERED.<sup>[9]</sup>

Hence, the instant petition assailing the following issues:

### **Issue**

#### **I.**

THE COURT OF APPEALS ERRED IN NOT FINDING THAT THE: A. CONFLICTING VERSIONS OF THE RESPONDENT'S WITNESSES, AND B. THE ACT OF THE PROSECUTION IN CONCEALING AND MANIPULATING EVIDENCE CAST[S] REASONABLE DOUBT ON THE GUILT OF THE PETITIONER; AND

#### **II.**

THE COURT OF APPEALS ERRED IN CONFIRMING AWARD OF ACTUAL AND MORAL DAMAGES AND LOST OF INCOME WITHOUT ANY EVIDENCE AT ALL.<sup>[10]</sup>

### **The Court's Ruling**

The petition is meritorious.

Petitioner argues that reasonable doubt exists as to his guilt considering that one of the prosecution witnesses, Erlon Layson (Layson), as well as the affidavit of Antonio Rocero (Rocero), a janitor in the pub and whose affidavit was the basis of the

prosecution during the preliminary investigation, narrated that petitioner and Ortacido were grappling for the gun before a shot was heard, hitting Aileen; there is, therefore, reasonable doubt that petitioner shot Ortacido; and there is likewise no intent to kill Ortacido. Petitioner also insists that the prosecution deliberately withheld evidence which, if had been presented, would have been beneficial to petitioner.<sup>[11]</sup>

Respondent, on the other hand, claims that the prosecution witnesses' testimony clearly narrated that it was petitioner who shot Ortacido but missed, and instead hit Aileen, causing her death. Finally, respondent avers that the testimony of Layson does not run counter with but supplements the testimonies of the two other prosecution witnesses.<sup>[12]</sup>

After careful review and scrutiny of the records of the case, this Court is inclined to rule in favor of petitioner. In other words, there is reasonable doubt that petitioner committed the crime of homicide.

At the outset, reasonable doubt is defined as that doubt engendered by an investigation of the whole proof and an inability, after such investigation, to let the mind rest easy upon the certainty of guilt.<sup>[13]</sup> The Court had the opportunity to explain the definition of reasonable doubt in the case of *Alcantara v. Court of Appeals*,<sup>[14]</sup> viz.:

x x x Reasonable doubt is that doubt engendered by an investigation of the whole proof and an inability, after such investigation, to let the mind rest easy upon the certainty of guilt. Absolute certainty of guilt is not required by the law to convict of any crime charged but moral certainty is required and this certainty is required to every proposition of proof requisite to constitute the offense. The reasonable doubt should necessarily pertain to the facts constituted by the crime charged. Surmises and conjectures have no place in a judicial inquiry and thus are shunned in criminal prosecution. For the accused to be acquitted on reasonable doubt, it must arise from the evidence adduced or from lack of evidence. Reasonable doubt is not such a doubt as any man may start questioning for the sake of a doubt; nor a doubt suggested or surmised without foundation in facts, for it is always possible to question any conclusion derived from the evidence on record. Reasonable doubt is the state of the case which after a calibration and assessment of the totality of the evidence of the prosecution leaves the mind of the judge in that condition that he cannot say that there is a moral certainty of the truth of the charge.<sup>[15]</sup>

Now, the Court reiterates and adheres to the settled rule that the factual findings of the trial court, its calibration of the testimonies of the witnesses, and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings are accorded respect, if not conclusive effect. This is truer if such findings were affirmed by the appellate court. When the trial court's findings have been affirmed by the appellate court, said findings are generally binding upon the Court.<sup>[16]</sup> But

where some facts are misinterpreted or some details overlooked, the Supreme Court may overturn the erroneous conclusions drawn by the courts *a quo*.<sup>[17]</sup> As this Court has stated in a plethora of cases, "in exceptional circumstances, such as when the trial court overlooked material and relevant matters x x x this Court will recalibrate and evaluate the factual findings of the [lower courts]."<sup>[18]</sup> Where, as in this case, the facts in dispute are crucial to the question of innocence or guilt of the accused, a careful factual reexamination is imperative.

During the trial *a quo*, the prosecution presented three witnesses: Philip Refugio, Jr. (Refugio), Emiliano Lipasan (Lipasan) and Layson, all employees of Aries Disco Pub at the time of the incident. While all of them testified that they are eyewitnesses to the crime, Layson's testimony seems inconsistent with the testimonies of the other witnesses.

Records show that Refugio and Lipasan narrated that during the scuffle between petitioner and Ortacido, the former was no match to the latter. Thus, petitioner drew his gun out and shot Ortacida. He, however, missed his mark and instead hit Aileen, causing her death. Layson's testimony, on the other hand, deviates from the testimonies of his co-witnesses.

Layson testified, during direct and cross-examination, that when petitioner was being outboxed by Ortacido, he pulled out his gun then the two grappled therefor; and during the scuffle, the gun fired hitting Aileen, to wit:

x x x x

ATTY. MISTICA:

Q: You also testified that person... the unidentified person grabbed the gun of the accused when he was about to get his gun from his waist.

A: When Richard Balina pulled out his gun, that's the time they grappled for possession.

Q: While in the act of grappling for the possession of the gun, the gun fired?

A: Yes, sir.

Q: And that was when they were grappling for the possession of the gun. am I correct?

A: Yes, sir.

x x x x<sup>[19]</sup>

Based on the testimony of Layson, it was not clear as to who between Ortacido and petitioner pulled the trigger. Interestingly, the RTC and the CA dispensed with this part of the testimony of Layson on the ground that the testimonies of its two other witnesses were straightforward and unequivocal. By doing so, however, the trial court and the CA admitted, albeit impliedly, that Layson's testimony, the prosecution's very own witness, is inconsistent and adverse to the testimonies of its two other witnesses.