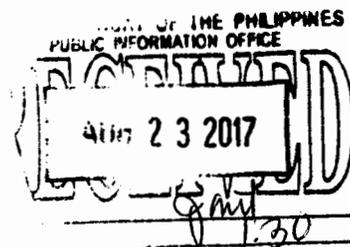




Republic of the Philippines
 Supreme Court
 Manila



FIRST DIVISION

**ROBLE BARBOSA and
 RAMDY BARBOSA,**
Petitioners,

G.R. No. 207193

Present:

- versus -

SERENO, *C.J.*, Chairperson,
 LEONARDO-DE CASTRO,
 DEL CASTILLO,
 PERLAS-BERNABE, *and*
 CAGUIOA, *JJ.*

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:
JUL 24 2017

X-----X

RESOLUTION

DEL CASTILLO, J.:

This Petition for Review assails the February 22, 2012 Decision¹ of the Court of Appeals (CA) in CA-G.R. CEB-CR No. 00686 which affirmed the September 20, 2006 Decision² of the Regional Trial Court (RTC), Branch 66, Barotac Viejo, Iloilo, finding petitioners Roble Barbosa (Roble) and Ramdy Barbosa (Ramdy) guilty beyond reasonable doubt of the crime of homicide.

The facts of the case are as follows:

An Information³ for murder was filed against petitioners for the death of Artemio Betita, Jr. (the victim). Petitioners pleaded “not guilty” during their respective arraignments.

¹ CA *rollo*, pp. 117-127; penned by Associate Justice Ramon Paul L. Hernando and concurred in by Associate Justices Edgardo L. Delos Santos and Victoria Isabel A. Paredes.

² Records, pp. 518-522; penned by Judge Rogelio J. Amador.

³ The accusatory portion reads:

That on or about May 16, 1998, in the Municipality of Carles, Province of Iloilo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and working together, armed with firearms, with deliberate intent and with decided purpose to kill and by means of treachery, did then and there willfully, unlawfully and feloniously shoot Artemio Betita, Jr. with the firearms which the accused were then provided, hitting the victim in his left eyebrow medial-entrance which caused his death. *Id.* at 1.

The prosecution established that at 2:45 p.m. on May 16, 1998, Arnem Betita (Betita) was inside their family home when she heard her father, the victim, mumbling the words: “*Nagsalig lang na sila, kay mahisaon nga mga tawo*” (They are confident of themselves, and they are envious people). Minutes later, she heard a man outside their house shouting “Get out”. Her father responded to the challenge and stepped out of their house. Three gunshots erupted, which prompted Betita to investigate. When she went outside, she saw petitioner Ramdy running away with a gun in his hand. She also noticed petitioner Roble on the terrace of his house holding a long firearm. Betita rushed towards her wounded father who was slumped on the floor. She knelt and embraced him, then shouted to Roble “*tama na, tama na*” (that’s enough, that’s enough). The victim’s mother and neighbors arrived and brought him to the hospital where he was pronounced “dead on arrival”. The autopsy on the cadaver of the victim revealed that his death was due to a gunshot wound in his left eyebrow caused by a bullet fired from a caliber .25 firearm.

Petitioners, on the other hand, manifested that they would not present evidence and submitted the case for decision.

Ruling of the Regional Trial Court

In its Decision dated September 20, 2006, the RTC ruled that while prosecution witness Betita was unable to actually see the person who shot the victim, there were several pieces of evidence sufficient to prove that petitioners were guilty beyond reasonable doubt of killing him. The RTC held that the circumstantial evidence, when combined, constituted an unbroken chain that warranted a conclusion that petitioners were responsible for the killing. The RTC considered the following: (1) the houses of the victim and petitioners were adjacent and separated only by a wall; (2) they were business rivals in hauling and trucking; (3) prior to the incident, petitioners and the victim had an altercation regarding a cargo; (4) petitioner Roble was angered and mauled the driver of the victim’s truck; (5) the victim was heard murmuring “they are confident of themselves and they are envious people” in response to petitioner’s mauling of the driver while inside his house a few minutes before he was killed; (6) someone outside the victim’s house challenged the victim to “get out!” and show himself; (7) when the victim emerged from his house, three gunshots erupted; (8) after the victim fell from a fatal bullet wound, petitioner Roble was seen on the terrace of his house holding a long firearm while petitioner Ramdy was at the post at the concrete wall near the crime scene also holding a firearm; (9) petitioner Ramdy ran away thereafter; and (10) the petitioners are father and son.

The RTC ruled that conspiracy was evident from the fact that petitioners: (1) were both armed during the incident; (2) were strategically positioned while waiting for their prey; (3) were both near the victim during the incident; and (4)



desisted after the victim's daughter pleaded for them to stop. However, the RTC held that the prosecution failed to prove the qualifying circumstance of treachery since the victim had been forewarned of the impending assault of the petitioners by accepting the challenge for him to get out of his house.

Thus, the RTC convicted petitioners only of homicide and sentenced each one to suffer an indeterminate prison term of 8 years and 1 day of *prision mayor*, as minimum, to 14 years and 8 months of *reclusion temporal*, as maximum. It also ordered petitioners to pay the heirs of the victim the amounts of ₱50,000.00 as civil indemnity, ₱200,000.00 as actual expenses spent for the wake and burial of the victim, attorney's fees, litigation expenses, and costs of suit.

Ruling of the Court of Appeals

In its Decision dated February 22, 2012, the CA affirmed the RTC's ruling that petitioners are guilty beyond reasonable doubt of homicide. It concurred with the findings of the RTC that the evidence were sufficient to establish that petitioners were responsible for the shooting incident that resulted in the death of the victim.

Dissatisfied, petitioners file a Petition for Review under Rule 45. They insist that the testimony of Betita should not be considered against them for being unreliable and insufficient. Petitioners contend that there was no conspiracy between them since nobody actually saw the commission of the crime.

Our Ruling

The Petition lacks merit.

The prosecution successfully established the elements of the crime of homicide, which are: (1) a person was killed; (2) the accused killed that person without justifying circumstance; (3) the accused had the intention to kill, which is presumed; and (4) the killing was not attended by any of the qualifying circumstances of murder, or that of parricide or infanticide.⁴ The Certificate of Death of Artemio Betita, Jr.⁵ shows that the underlying cause of his death was a gunshot wound. Petitioners were seen holding firearms immediately after the victim was shot and his fatal injury was caused by a bullet fired from one of the firearms of petitioners. Petitioners' criminal intent is conclusively presumed due to the death of the victim. They only desisted from further shooting the victim after Betita pleaded for them to stop. In the absence of any of the qualifying

⁴ *Wacoy v. People*, 761 Phil. 570, 578 (2015).

⁵ Records, p. 41.

circumstances of murder, parricide and infanticide, treachery having been properly disregarded by the courts below, the crime committed by petitioners was homicide.

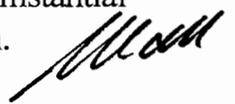
The guilt of the petitioners was sufficiently established by circumstantial evidence, which has the following requisites: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all circumstances is such as to produce a conviction beyond reasonable doubt.⁶ There are several pieces of circumstantial evidence in this case that form an unbroken chain leading to a fair and logical conclusion that petitioners committed the crime of homicide.

First, when the victim arrived in his house, he was heard murmuring the words: "They are confident of themselves and they are envious people". Second, within a few minutes, a man challenged the victim to come out of his house. Third, when the victim emerged from his house, three gunshots were fired. Fourth, when Betita went out to investigate, she found the victim's body slumped on the ground. Fifth, petitioners were holding firearms and both were within the vicinity of the crime scene. Betita saw petitioner Ramdy near the concrete wall of their house holding a gun. She also saw petitioner Roble holding a rifle at the terrace of his house. Sixth, petitioners were inexplicably holding firearms. Seventh, petitioners were the only persons seen at the scene of the crime. Taken together, these circumstantial evidence lead to an acceptable inference that petitioners perpetrated the crime.

The RTC and the CA were correct in ruling that petitioners were in conspiracy in killing the victim. The circumstantial evidence showed that petitioners are father and son, and both carried firearms when they confronted the victim. During the confrontation, three gunshots were heard, which made it possible that both of them fired a gun. Petitioner Roble was at the terrace of his house while petitioner Ramdy sought cover at the wall which was closer to the victim. Their assault ceased after the victim's daughter pleaded for them to stop. After shooting the victim, Ramdy fled while Roble sought refuge inside his house instead of lending assistance to the victim. They clearly acted in unison to achieve the common objective of killing the victim.

There is also nothing in the records that would show that Betita was actuated by improper motive, and absent any compelling reason to conclude otherwise, her testimony will be given full faith and credence. Her positive identification of petitioners as the persons last seen with the victim immediately after the commission of the crime combined with other pieces of circumstantial evidence were sufficient to establish that petitioners fatally shot the victim.

⁶ RULES OF COURT, Rule 133, Sec. 4.



The CA was therefore correct in affirming the RTC's Decision finding petitioners guilty beyond reasonable doubt of homicide and sentencing them accordingly.

However, the maximum period of the indeterminate penalty imposed upon petitioners must be modified to 14 years, 8 months **and 1 day** of *reclusion temporal*. The award of ₱200,000.00 as actual damages must be deleted. "To justify an award of actual damages, there must be competent proof of the actual amount of loss. Credence can be given only to claims which are duly supported by receipts."⁷ In lieu of actual damages, temperate damages in the amount of ₱50,000.00 is awarded.⁸ Temperate damages are awarded due to the loss suffered, even if the amount cannot be ascertained.⁹ On the other hand, attorney's fees and litigation expenses can only be recovered when a separate civil action to recover civil liability has been filed or when exemplary damages are awarded.¹⁰ It was therefore incorrect for the RTC to award attorney's fees and litigation expenses since these circumstances do not exist in this criminal action for homicide. The award of ₱50,000.00 as civil indemnity was proper. Moral damages in the amount of ₱50,000.00 must also be awarded pursuant to prevailing jurisprudence.¹¹ Moreover, an interest at the rate of 6% *per annum* must also be imposed on all amounts of damages from the date of finality of this Resolution until fully paid.

WHEREFORE, the Petition for Review is **DENIED**. The assailed February 22, 2012 Decision of the Court of Appeals in CA-G.R. CEB-CR No. 00686 is **AFFIRMED with MODIFICATIONS** that petitioners shall suffer the indeterminate penalty of imprisonment of eight (8) 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. The award of ₱200,000.00 as actual damages, is deleted. Temperate damages in the amount of ₱50,000.00 shall be awarded in lieu thereof. The awards for attorney's fees and litigation expenses are likewise deleted for lack of basis. Aside from the award of ₱50,000.00 as civil indemnity, an award of ₱50,000.00 as moral damages is also proper. An interest of 6% *per annum* shall be imposed on damages awarded from the finality of this Resolution until fully paid.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

⁷ *People v. Villar*, 757 Phil. 675, 684 (2015). Citation omitted.

⁸ *People v. Jugueta*, G.R. No. 202124, April 5, 2016, 788 SCRA 331, 388.

⁹ *Seven Brothers Shipping Corporation v. DMC-Construction Resources, Inc.*, 748 Phil 692, 702 (2014).

¹⁰ *Heirs of Raymundo Castro v. Bustos*, 136 Phil. 553, 562 (1969).

¹¹ *People v. Jugueta*, supra at 386.

WE CONCUR:



MARIA LOURDES P. A. SERENO

Chief Justice

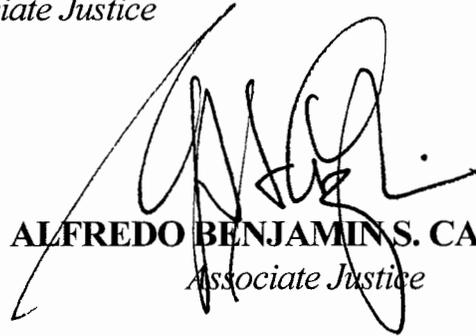
Chairperson

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO

Associate Justice

Estela M. Perlas-Bernabe
ESTELA M. PERLAS-BERNABE

Associate Justice



ALFREDO BENJAMINS S. CAGUIOA

Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO

Chief Justice

