

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. FLOR CARIAGA, ACCUSED-APPELLANT.

Ponente: LIBREA-LEAGOGO, C.C., J.

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LIBREA-LEAGOGO, C.C., J.:

Before this Court is an appeal from the Decision[1] dated 04 October 2012 of the Regional Trial Court, Second Judicial Region, Branch 22, Cabagan, Isabela in the case entitled “The People of the Philippines v. Flor Cariaga” docketed as Criminal Case No. 22-2427, finding accused-appellant guilty beyond reasonable doubt of the crime of homicide, the dispositive portion of which reads:

“WHEREFORE, premises considered, the court hereby finds the accused Flor Cariaga GUILTY beyond reasonable doubt of the crime of Homicide and accordingly sentences him to an indeterminate sentence of Eight (8) Years and One (1) Day as minimum to Fourteen (14) Years, Eight (8) Months and One (1) Day as maximum.

Further, the accused is hereby ordered to pay the Heirs of Joel Mendoza the following:

1. Seventy Five Thousand Pesos on (sic) Civil Indemity; 2. Fifty Thousand Pesos as Moral Damages; (and) 3. Twenty Five Thousand Pesos as Temperate Damages.

SO DECIDED.”[2]

Accused-appellant filed his Brief[3] dated 23 September 2014. Plaintiff-appellee also filed its Brief[4] dated 26 January 2015. Accused-appellant filed a Manifestation[5] dated 05 February 2015 that he would no longer file a reply brief. Thus, the appeal is submitted for decision.

FACTUAL ANTECEDENTS

The accused Flor Cariaga was charged with homicide in an Information[6] dated 22 March 2010, docketed as Criminal Case No. (22)-2427, and filed with the Regional Trial Court of Cabagan, Isabela and raffled off to Branch 22, the accusatory portion of which reads:

“That on or about the 25[th] day of May, 2009, in the municipality of Delfin Albano, province of Isabela, Philippines and within the jurisdiction of this Honorable Court, the said accused, with intent to kill and without any just motive, did then and there, willfully, unlawfully and feloniously, assault, attack and maul with a piece of wood one Joel Mendoza y Mercado, inflicting upon him, acute epidural hematoma (L) temporal convexity, subarachnoid hemorrhage, intraparenchymal bleed (L) temporal and front area, which directly caused his death.

Contrary to law.”[7]

The trial court issued an Order of Arrest[8] dated 13 May 2010 fixing the bail at Forty Thousand Pesos (Php40,000.00). In the Commitment for Detention Prisoner, etc.[9] dated 28 May 2010, the accused was committed to the Provincial Warden of the Provincial Jail of Ilagan, Isabela. Accused posted a cash bond under

Official Receipt No. 3553017, and in an Order[10] dated 01 June 2010, the trial court ordered his release.

When arraigned on 27 July 2010, the accused entered a plea of not guilty to the crime charged.[11] Pre-trial was held and a Pre-trial Order[12] dated 10 August 2010 was issued, which stated, inter alia, that the parties admitted the identity of the accused.

Trial ensued.

The prosecution presented the following witnesses: Clarita Mendoza ("Clarita," for brevity), Dr. Pinky Beran ("Dr. Beran," for brevity), Maritess Montilla ("Montilla," for brevity), Jose Suanson ("Suanson," for brevity), SPO2 Alan Galapon ("SPO2 Galapon," for brevity), SPO2 Reynaldo Rabara ("SPO2 Rabara," for brevity), and PO2 Samson Bilgera ("PO2 Bilgera," for brevity).

Witness Clarita, testified, inter alia, that: the victim Joel Mendoza ("Joel," for brevity) was her son; Joel died on 25 May 2009; at around 8:00 in the evening of 25 May 2009, she was in their house at Barangay Visitacion, Delfin Albano, Isabela; she received a cellphone call from Elmer Baysa, her nephew, telling her to come to the emergency hospital at Delfin, Albano because Joel met an accident and he was injured; she immediately went to the Delfin Albano Rural Health Unit where she saw her son Joel comatose and bloodied; Joel had no upper garment and was wearing bloodied long pants; the doctor advised them to bring Joel home, which they heeded; the following morning, they returned Joel to the hospital but the doctor advised them to proceed to Tuguegarao for CT Scan; they proceeded to Tuguegarao at the Cagayan Valley Medical Center ("CVMC," for brevity); when they arrived, they were immediately referred to the Saint Paul Hospital for CT Scan; they brought Joel to the latter hospital where the CT Scan was conducted; when they got the result, they immediately scheduled the operation on Joel's head, which was injured; Joel was operated on the night of 26 May 2009; the doctor told them that if Joel would not be conscious within 72 hours, then he would die; the following day, Joel's head swelled and he died; Joel was born on 31 December 1973 and was thirty five (35) years old when he died;[13] prior to his death, Joel was employed as a contractor, farmer and driver; in the year 2008, her son earned more or less Twenty Thousand Pesos (Php20,000.00) from farming; the steady work of Joel was as contractor and driver; as contractor, his income was Three Hundred Fifty Pesos (Php350.00) per day and his monthly income was Six Thousand Pesos (Php6,000.00) to Seven Thousand Pesos (Php7,000.00); he started working as a contractor in 2006; being a driver was only his extra work, where he earned One Thousand Pesos (Php1,000.00) per day of driving; according to the witnesses, the person who assaulted her son was accused Cariaga, who she pointed to at the gallery; prior to 25 May 2009, she does not know accused Cariaga;[14] she was living with Joel and his wife Julienel Cariaga under one roof; the spouses have children; she has no copy of his certificate of employment as a driver or contractor; her son did not file any income tax return;[15] her son was not a licensed contractor; he supervised his men and there was a group of laborers who worked under him to implement his contract; and he was a specialty contractor who put up or constructed walls, ceilings and even tiles, where he was paid on a daily basis.[16]

The competence of witness Dr. Beran was admitted by the defense.[17] She testified, inter alia, that: in May 2009, she was already a doctor at CVMC; on 26 May 2009, she attended to a patient named Joel Mendoza; when the latter was brought by his relative at the emergency room, he had severe headache; he was guarded and could not stand alone; he underwent CT Scan which revealed an intraparenchymal hemorrhage or blood clot; he was operated on immediately; he died on the third day after his operation; a Medico- Legal certificate was issued, which she identified in open court; the Medico-Legal Certificate that she issued has three findings for the surgical procedure that they conducted; he had acute epidural hematoma (102-CC), left temporal convexity, which means that one of the blood clot seen from the patient had a 102-CC volume; the blood clot to the skull may be due to a blow which could be done by a strong strike (malakas na pagpalo), vehicular accident and bumping (nauntog); this blood clot ruptured blood vessels in the brain; he had subarachnoid hemorrhage, another type of blood clot

within the skull, which means that the covering of the brain also bled; he had intraparenchymal bleeding, left temporal and frontal area (3.64-CC), which indicated blood clot within the brain tissue; the first two findings were within the skull but outside the brain, while the third one was within the brain tissue; it is possible that these were caused by one severe blow to the head and could have been caused by one trauma directed to the head; the Medico-Legal Certificate indicates three entries in the cause of death; one of these is brain herniation, meaning deviation of the brain from its normal position, thus, it was displaced from its original position which was made by the blood clot found therein; the next entry is acute epidural hematoma; the other entry is mauling, based on the information relayed to her by those who accompanied the patient to the hospital; she issued a Certificate of Death, which she identified in court;[18] she was on duty at the time of the operation but she was not the one who conducted the surgical operation; she was also not the one who conducted the CT Scan; she only attended to the patient after the operation;[19] the craniotomy procedure was made immediately on the first day of the admission; it was only after the craniotomy procedure was undertaken that she came in with respect to the further management of the patient; and she likewise took over the management of the patient on the first day of the admission, with the supervision of Dr. Salvador, who did the operation.[20]

Witness Montilla testified, inter alia, that: on 25 May 2009, she was a resident of Villaluz, Delfin Albano, Isabela; she knew Joel because he was a farm worker of her husband Pedro Montilla, Jr.; Joel resided at Visitacion, Delfin Albano, Isabela; Villaluz is far from the Municipal Hall of Delfin Albano, but she does not know how far exactly; he knows accused Cariaga; she identified Cariaga in open court; she already knew the accused on 25 May 2009; she knew accused Cariaga because her husband was the farm worker of the latter's father; the last time that she saw Joel alive was when the latter came to their house begging for help at 7:30 in the evening; she observed that Joel was bleeding so they rushed him to the hospital at Delfin Albano, Isabela; she, her husband, and their neighbor Vicente Angui ("Angui," for brevity), a kagawad, brought Joel to the hospital with the use of a police car of Delfin Albano; Angui was there when Joel arrived at their house; she recognized those on board the police car to be police officers but she does not know their names; they were with Joel inside the police car going to the Emergency Hospital of Delfin Albano; they boarded the police car without talking to the police officers therein; after bringing Joel to the hospital, they went home to their respective houses and Joel was brought home by his mother; when they brought Joel to the hospital, they called his mother, who then went to the hospital; she affixed her signature to the sworn statement at the police station; her only purpose in coming to court is to tell the matter that she only rushed Joel to the hospital and nothing more; she did not honor the subpoena previously served upon her because Joel's mother told her not to involve herself in the case because she does not know anything about the case;[21] when they were about to rush Joel to the hospital, the police arrived and when she asked them about the person they were going to arrest, they answered Joel because he was causing trouble at the house of Nida Villaverde ("Nida," for brevity); she told the police officers that Joel was bloodied, and the police agreed to bring the latter to the hospital; the house of Nida is about three (3) hectares from their house; the four (4) policemen, Galapon, Subia, Adan and Rabara, were on board the police car with them when they brought Joel to the hospital; Rabara was the one who took her statement on 17 June 2009; she met accused Cariaga on May 27 at 9:00 in the morning at the house of Nida, the former's sister; she went there to confront Nida because the latter was saying that she (Montilla) was spreading rumors that Joel was hiding at Cauayan; she asked Nida as to why there were rumors when in fact, Joel was already in a critical condition; she asked accused Cariaga why he pushed Joel; accused Cariaga was "repentful (magsisi)", but it was already done as he was not able to control his temper; their confrontation happened prior to the date when they went to Joel's wake;[22] she is close to the accused and his family; it was her first time to see accused Cariaga on 27 May 2009, and she recognized him; she talked to accused in Ilocano dialect and the latter answered using the same dialect; she uttered to accused Cariaga, "Why did you not just box him? Why did you struck (sic) him?"; and she is testifying without being partial.[23]

Witness Suanson testified, inter alia, that: Joel's wife was his cousin; the police asked him questions regarding the death of Joel, but he does not know how to read and he can barely write his name; the signature on the sworn statement is not his; when he went out of the house of Nida, he saw Joel along the road, lying face down; his house is far from the house of Nida; Joel dropped by his house alone at around 6:00 in the afternoon, riding a motorcycle; Joel told him that the two (2) of them would go to the house of Nida in Villaluz; when they arrived at Nida's house, accused Cariaga was at the kitchen, which is annexed to the house; Joel and accused Cariaga had a conversation at the kitchen; while the two were talking, they were inside the house of Nida, watching television; the kitchen was about six (6) to seven (7) meters away from where he was watching television with Willie, Nida and the latter's husband; Willie is the brother of Nida, who was with him and Joel when they went to Nida's house; while they were watching television, Joel went out and he heard the latter start the engine of the motorcycle, and told him (Suanson) that they were going home; however, Joel dropped to the ground together with the motorcycle; he went out with Willie and they saw Joel lying face down, bloodied and the motorcycle was already on the ground; he saw accused Cariaga holding a piece of wood; when the latter was about to strike Joel, he covered Joel with his body; he helped Joel to stand and the latter ran away towards the east; blood came out of Joel's head; when he saw accused Cariaga holding a wooden club, he was 2 1/2 meters away; the engine of the motorcycle was turned off already; the wooden club was about a meter long; he covered Joel with his body that was why accused Cariaga did not continue to strike the latter as he would be the one to be hit; Joel ran towards the east, giving him a hand signal that he was going home; he and Willie then went home; the motorcycle of Joel was left at the house of Nida; he no longer saw Joel after that; and accused Cariaga is his cousin.[24]

Witness SPO2 Galapon testified, inter alia, that: on 25 May 2009 at around 7:00 to 8:00 in the evening, they received a report about a mauling incident that transpired at the house of Nida at Villaluz, Delfin Albano, Isabela; Villaluz is more or less three (3) kilometers away from the police station; upon receiving the report, four (4) of them responded by immediately proceeding to the house of Nida using the police car; when they arrived at Nida's house, they were informed that Joel was injured; they immediately proceeded to the house of Montilla; he could no longer remember who informed them that Joel was hurt; they saw Joel bloodied outside the house of Montilla, thus, they immediately brought him to the Rural Health Hospital, which is more or less three (3) kilometers away from the house of Montilla; after they brought him to the hospital, they immediately went back to the house of Nida to gather information, but there were no other persons there; they looked for accused Cariaga because according to their informant, he was the one who injured Joel; even before proceeding to the place of Nida, they already have information that it was accused Cariaga who inflicted the injuries of Joel; they were not successful in locating accused Cariaga, thus, they went back to the police station;[25] and they received the confidential information through a phone call.[26]

SPO2 Rabara testified, inter alia, that: he reported for duty on 17 June 2009 at the police station of Delfin Albano; he was the duty investigator at that time; he conducted an investigation with regard to the death of Joel and took the statement of Montilla at their office; the latter came to their office to give her statement about what she knew regarding the mauling incident; Montilla was summoned by their Chief of Police; Montilla gave her statement before him, which he reduced into writing; he identified Montilla's written statement in court; Montilla signed the same in his presence and he was the one who propounded the questions to Montilla;[27] he came to know Montilla when she went to their office; and the only thing that he did was to take the testimony of Montilla.[28]

PO2 Bilgera testified, inter alia, that: on 22 September 2009, he reported for duty and was directed to take the statement of Suanson; he took the statement of Suanson and reduced the same into writing; he identified the sworn statement and the signature of Suanson because he was present when the latter affixed the same; he propounded the questions to Suanson; SPO4 Bernardino Subia ("SPO4 Subia," for brevity), their Deputy Chief of Police at that time, was the one who directed him to take the statement of Suanson, and the former was also

present when Suanson affixed his signature on the written statement.[29]

The prosecution filed its Offer of Documentary Evidence[30] dated 08 September 2011, offering Exhibits “A” to “E” to which the accused filed his Opposition[31] dated 14 September 2011. In its Order[32] dated 19 September 2011, the trial court admitted Exhibits “A” to “E” inclusive of submarkings.

The defense presented its lone witness, accused Flor Cariaga y Subia. He testified, inter alia, that: on 25 May 2009, at around 7:30 in the evening, he was at the house of his sister Leonida Cariaga, as he went to visit them; Joel arrived at the house of his sister, very drunk and was challenging him to a fight because he wanted to borrow Twenty Thousand Pesos (Php20,000.00) from his sister, the wife of Joel; the latter was his brother-in-law; at that time, they were along the road, going to the yard of his sister; he was supposed to box Joel, but the latter ran outside and boarded his motorcycle; Joel boarded the motorcycle and was about to start its engine when he fell to the ground; because of the loud scream of the motorcycle's engine, Suanson went out; he was about to struck Joel, but Suanson attacked the latter; Joel was saying bad words to him and was very drunk; he asked him why he was borrowing money from his sister when she already has a family, to which he responded that he was just borrowing money; Joel got angry with him then Joel went outside; they were running because of the accident wherein Joel fell from the motorcycle; he was two (2) to three (3) meters away when Joel fell from the motorcycle; Suanson held Joel and the latter ran towards the cornfield; Joel fell with the motorcycle (nadaganan); at that time, his sister Nida was inside the house watching television with her husband; when Joel fell to the ground, Nida and her husband were still inside the house; before Joel arrived at Nida's house, Suanson, Willie, Nida and May Villaverde were already there; only Suanson helped Joel when the latter fell to the ground; nothing more happened after Joel ran to the cornfield; he was surprised when the family of Joel filed a case of homicide against him because what happened was an accident; at that time, Joel's wife was in Italy;[33] on 25 May 2009, he was residing at Pampanga; he arrived at Delfin Albano on 25 May 2009 at around 4:00 in the afternoon; he was supposed to borrow money from his elder sister Nida and his other sister, Joel's wife, that is why he went directly to the house of Nida; he left Delfin Albano in the afternoon of 26 May 2009; during his entire stay, he was at the house of his elder sister; there were police officers who went to the place of his sister Nida after the incident involving him and Joel; the police officers patrolled there, and at that time, he was inside the house of Nida; he did not know that Joel sustained an injury and was brought to the hospital because he did not go out of the house; Nida's house is isolated and has a fence; the house nearest to Nida's is owned by Ador Suanson, cousin of Jose Suanson; he did not know that his sister and Joel were married; he just learned about the marriage from his siblings; prior to 25 May 2009, he does not know Joel because he was not present during the latter's wedding to his sister; he did not try to inform the immediate relatives of Joel regarding the latter sustaining an injury; he left Delfin Albano at 2:00 in the afternoon of 26 May 2009; he relayed the incident to his sister but did not inform the latter that Joel's family must be informed thereof; Joel's right hand down to his right foot were covered by the motorcycle and he hit his head; the place where Joel fell from the motorcycle was about six (6) to seven (7) meters away from Nida's house, outside the fence; the motorcycle which fell on Joel was the one used by the latter when he arrived at Nida's house; when Joel arrived, he was at the back of the kitchen of Nida, which is adjacent to but separate from the house; when Joel arrived, he left the motorcycle along the road and entered the house of Nida alone; Joel called upon Nida and then proceeded to the kitchen, cursing him (accused Cariaga); Suanson was with his (accused Cariaga) elder brother, and when he (accused Cariaga) arrived from Pampanga, Joel was not yet there; Joel arrived, then proceeded immediately to where he was staying in a hammock and was cursing him; Joel said, “Where is Kuya Flor?”, then said “PUTANG INA”; he was surprised because he had never seen Joel; and he got angry because Joel was cursing him.[34]

The assailed Decision[35] dated 04 October 2012 was promulgated on 17 October 2012,[36] finding the accused guilty of homicide, the decretal portion of which was earlier quoted.[37]

Accused filed a Notice of Appeal[38] dated 17 October 2012, which was given due course in the Order[39] dated 22 October 2012. In its subsequent Order[40] dated 24 October 2012, the trial court denied the cancellation of the bailbond of accused Cariaga, who would be out on bail pending appeal of his judgment of conviction.

RULING

Accused-appellant assigns a lone error, viz:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT OF THE CRIME BASED ON CIRCUMSTANTIAL EVIDENCE.[41]

Accused-appellant contends, inter alia, that: the evidence proffered by the prosecution failed to prove his guilt beyond reasonable doubt; he is innocent of the crime charged; not all the elements to warrant conviction based on circumstantial evidence is present in the case at bar, hence, he should be acquitted; the trial court gravely erred when it held that there was an argument between him and the victim Joel; a careful reading of the testimonies of prosecution witnesses reveal that nothing was mentioned about him and Joel having an altercation and all that Suanson mentioned was that he and Joel were talking; the narration of Suanson negates the presence of an argument, a circumstance cited by the trial court in convicting him; talking is different from arguing; furthermore, if he and Joel were arguing, it would not be left unnoticed to those who were watching television, who were just six (6) meters away from them; Joel tried to leave in haste and informed Suanson that they were leaving; the mere fact that Joel told Suanson that they were leaving negates the presence of the argument cited by the trial court; if there was indeed an argument, it would have caught the attention of those watching television because they would have been required to pacify the two of them; as to the second circumstantial evidence cited by the trial court, while it may be true that he was about to strike Joel, such act does not necessarily conclude that he was the one who caused the earlier injury of Joel; as succinctly phrased by the court a quo, “about to strike” means it was about to happen and was not yet consummated, hence, he could not be held liable for something which has not yet materialized; as to the third circumstantial evidence that Joel was already on the ground bloodied, it is worth emphasizing that it was because he tried to leave in haste, causing his motorcycle to tilt, pinning him down on the ground; with respect to the fourth circumstance that it was Joel who fled after the attack, accused-appellant begs to differ from such findings; Suanson testified that it was accused-appellant who left ahead of Joel; there was no reason for Joel to flee since he left ahead of him; as to the last circumstance that the head injuries were caused by a hard object such as wood, it was not proven with certainty that it was accused-appellant who caused the same; according to the doctor who examined the victim, the blood clot in the skull could have been caused by a strong strike, vehicular accident or bumping of the head; he was convicted based on circumstantial evidence because no one really witnessed what actually transpired; Suanson testified that all he ever saw was that Joel was pinned to the ground, by his motorcycle, face down and bloodied; the requisites to sustain a conviction based on circumstantial evidence were not present in the case at bar, hence, he should be acquitted; and every circumstance that tends to favor his innocence must be appreciated and evidence against him must survive the test of reason.

Plaintiff-appellee ripostes, inter alia, that: the prosecution convincingly proved accused-appellant's guilt by circumstantial evidence; the trial court identified the circumstances proving that accused-appellant killed Joel; it was only accused-appellant who was at the crime scene holding a club and was trying to attack Joel while the latter was lying bloodied and unarmed; the incident was preceded by a talk; there were no other people involved prior to and after the incident except Joel and accused-appellant; it can be gleaned that there was an unbroken chain of events which can reasonably lead to the conclusion pointing to the accused-appellant, to the exclusion of all others, as the author of the crime; if the version of the accused-appellant that Joel's injury was caused by the impact of the motor vehicle that fell is correct, he would have helped Joel considering that they were brothers-in-law; instead, he tried to hit Joel with a wooden club; also worth noting is the fact that Joel opted to

flee and sought the help of others rather than of his in-laws; the action of Joel is contrary to human experience; if it were true that he accidentally fell from the motorcycle, he would have sought the help of the people within the immediate vicinity rather than flee from them; accused-appellant's version is highly dubious for being contrary to human nature and experience; on the other hand, the testimonies of the prosecution witnesses Suanson, Montilla, SPO2 Galapon, SPO2 Raborra and Dr. Baran were straightforward and consistent with one another; the most incriminating piece of evidence against accused-appellant is Suanson's testimony that he saw accused-appellant holding a wooden club while Joel was bloodied on the floor and when accused-appellant was about to strike, he (Suanson) rushed to shield Joel from the attack; there is no evidence on record of any ill motive of the witnesses against accused-appellant; in fact, Suanson and Montilla testified under compulsory process; accused-appellant merely offered denial as defense, which clearly fails to cast doubt on the continuous chain of circumstances established by the prosecution; accused-appellant was positively identified as the last person with Joel before and after the incident; this positive identification forms part of circumstantial evidence; and clearly, the circumstantial evidence offered by the prosecution, when viewed in its entirety, were as convincing as direct evidence and as such, negated the innocence of accused-appellant.

The appeal is bereft of merit.

It is a fundamental rule in criminal procedure that the State carries the onus probandi in establishing the guilt of the accused beyond a reasonable doubt, as a consequence of the tenet *ei incumbit probatio, qui dicit, non qui negat*, which means that he who asserts, not he who denies, must prove, and as a means of respecting the presumption of innocence in favor of the man or woman on the dock for a crime. Accordingly, the State has the burden of proof to show: (1) the correct identification of the author of a crime, and (2) the actuality of the commission of the offense with the participation of the accused.[42]

A conviction in a criminal case must be supported by proof beyond reasonable doubt, which means a moral certainty that the accused is guilty; the burden of proof rests upon the prosecution.[43] The constitutional presumption of innocence of the accused demands no less than a moral certainty of his guilt free of reasonable doubt. xxx (T)he prosecution evidence must stand or fall on its own merits, and cannot be allowed to draw strength from the weakness of the defense.[44] (I)n a criminal case, an appeal, as in this case, throws open the entire case xxx for review, and the appellate court can correct errors, though unassigned, that may be found in the appealed judgment.[45]

Article 249 of the Revised Penal Code provides:

ART. 249. Homicide.— Any person who, not falling within the provisions of Article 246, shall kill another without the attendance of any of the circumstances enumerated in the next preceding article, shall be deemed guilty of homicide and be punished by reclusion temporal.

(T)he crime of homicide is committed when: (1) a person is killed; (2) the accused killed that person without any 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 by that of parricide or infanticide.[46]

Here, the prosecution was able to establish the elements of the crime of homicide, beyond reasonable doubt, viz: the victim Joel was killed; accused-appellant killed the victim; and the killing was not attended by any of the qualifying circumstances of murder. Also, prosecution witnesses Montilla[47] and Suanson[48] identified accused-appellant in open court.

It is well-settled that, in a criminal case, factual findings of the trial court are generally accorded great weight and respect on appeal, especially when such findings are supported by xxx evidence on record. It is only in exceptional circumstances, such as when the trial court overlooked material and relevant matters that this Court

will (recalibrate) and evaluate the factual findings of the court below.[49] Here, We find no reason to depart from the findings of the trial court.

In the instant case, there was no eyewitness account to the incident. Indeed, no prosecution witness had actually seen the commission of the crime. But jurisprudence tells us that direct evidence of the crime is not the only matrix from which a trial court may draw its conclusion and finding of guilt. The rules on evidence allow a trial court to rely on circumstantial evidence to support its conclusion of guilt. The lack of direct evidence does not ipso facto bar the finding of guilt against the appellant. As long as the prosecution establishes the appellant's participation in the crime through credible and sufficient circumstantial evidence that leads to the inescapable conclusion that the appellant committed the imputed crime, the latter should be convicted.[50]

Section 4, Rule 133 of the Rules of Court provides:

SEC. 4. Circumstantial Evidence, when sufficient. Circumstantial evidence is sufficient for conviction if:

- (a) There is more than one circumstance;
- (b) The facts from which the inferences are derived are proven; and
- (c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

The settled rule is that a judgment of conviction based purely on circumstantial evidence can be upheld only if the following requisites concur: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce conviction beyond reasonable doubt.[51] The peculiarity of circumstantial evidence is that the series of events pointing to the commission of a felony is appreciated not singly but collectively. The guilt of the accused cannot be deduced from scrutinizing just one (1) particular piece of evidence. They are like puzzle pieces which when put together reveal a convincing picture pointing to the conclusion that the accused is the author of the crime.[52] (C)onviction based on circumstantial evidence can be upheld provided that the circumstances proved constitute an unbroken chain which leads to one fair and reasonable conclusion that points to the (accused-appellant), to the exclusion of all others, as the guilty person.[53]

The trial court found that the following circumstances prove that accused-appellant killed the victim Joel, to wit: (1) accused-appellant and the victim Joel had an argument immediately before the incident; (2) the accused-appellant was seen about to attack the victim Joel with a piece of wood; (3) the victim Joel was on the ground and bloodied when accused-appellant was prevented by Suanson from attacking the victim Joel; (4) the victim Joel left for the cornfield after the attack, thus, leaving behind his assailant, accused-appellant; and (5) the victim Joel died from head injuries which are consistent with those caused by a hard object such as a piece of wood.[54] We have no cogent reason to depart from the same as these circumstances reveal a convincing picture pointing to the conclusion that accused-appellant is the author of the crime of homicide. These circumstantial evidence constitute an unbroken chain which lead to accused-appellant, to the exclusion of all others, as the person who killed the victim Joel.

Accused-appellant contends that the trial court erred when it held that an argument ensued between him and the victim Joel, as the testimonies of prosecution witnesses reveal that the two of them were only talking. We are not swayed.

It is true that prosecution witness Suanson testified that the victim Joel dropped by his house around 6:00 in the evening and told him that they were going to the house of Nida, using the former's motorcycle; and when they arrived thereat, the victim Joel and accused-appellant talked at the kitchen which is annexed to Nida's house.[55] However, accused-appellant himself revealed that an altercation ensued between him and the victim Joel when he

testified that: on 25 May 2009, at around 7:30 in the evening, his brother-in-law Joel arrived at the house of accused-appellant's sister Leonida, drunk and challenging him to a fight because accused-appellant wanted to borrow Php20,000.00 from his other sister, who is Joel's wife; Joel was telling him bad words and asked him why does the latter have to borrow money from his sister when the latter already has a family; Joel got angry at him; he was supposed to box Joel but the latter ran outside and boarded his motorcycle;[56] when the victim Joel entered the house, the latter immediately proceeded to where accused-appellant was and the victim Joel was cursing; Joel said, "Where is Kuya Flor?" followed by "Putang Ina"; he got angry because the victim Joel was cursing him.[57] Thus, it is clear from the testimony of accused-appellant that there was an altercation or argument between him and the victim Joel prior to the incident that was witnessed by Suanson. Therefore, there was no error on the part of the trial court when it found that accused-appellant and the victim Joel had an argument immediately before the incident.

Accused-appellant posits that: the while it may be true that he was about to attack the victim Joel, it does not necessarily conclude that he was the one who caused the earlier injury of Joel because the phrase "about to strike" means that it was not yet consummated; and the victim Joel was on the ground bloodied due to the latter's haste in leaving which caused his motorcycle to tilt and pin him on the ground.

We are unconvinced.

Suanson testified that: when he went out, he saw the victim Joel already on the ground, with the motorcycle; the latter was lying face down and bloodied; he saw accused-appellant holding a piece of wood; accused-appellant was about to strike the victim Joel but he (Suanson) covered the latter with his body; he helped the victim Joel to stand and the latter ran away;[58] and when he covered the victim Joel with his body, accused-appellant did not strike the victim as he would be one that will be hit.[59]

Therefore, based on the testimony of Suanson, the phrase "about to attack" refers only to the incident as seen by the latter when he went out, and does not necessarily mean that there was no previous attack made by accused-appellant that caused the victim Joel to fall to the ground with his motorcycle. As keenly pointed out by the OSG, if indeed accused-appellant's version that Joel's injury was caused by the impact of the motorcycle that fell is correct, he would have helped the victim Joel, who was his brother-in-law, instead of trying to hit him with a wooden club; Joel opted to flee instead of seeking the help of his in-law; and if it were true that he accidentally fell from the motorcycle, then he would have sought the help of the people in the immediate vicinity rather than flee from them.[60]

Moreover, witness Montilla testified that when he saw accused-appellant on 27 May 2009, she asked him why he did not just push Joel, and accused-appellant told her that he was not able to hold his temper; he was the one who did it; and he was "repentful (magsisi)."[61]

Accused-appellant asserts that it was not true that it was the victim Joel who fled after the attack because based on the testimony of Suanson, it was he (accused-appellant) who left ahead of the victim Joel.

We are unpersuaded.

Accused-appellant himself testified that after the victim Joel fell to the ground, Suanson helped Joel and the latter ran towards the cornfield.lxii Thus, accused-appellant was still there when Suanson helped the victim Joel because if it were true that he left ahead of the victim Joel, then he could not have seen what he testified to.

Accused-appellant claims that it was not proven with certainty that he caused the head injuries of the victim Joel.

We do not agree.

In the instant case, there was no eyewitness because when the incident transpired, only accused-appellant and the victim Joel were present. However, the circumstances before and after the incident establish accused-appellant's guilt, and the same were incompatible with his self-professed innocence.

The time-honored test in determining the value of the testimony of a witness is its compatibility with human knowledge, observation and common experience of man. Thus, whatever is repugnant to the standards of human knowledge, observation and experience becomes incredible and must lie outside judicial cognizance.[63] Here, if indeed the injuries of the victim Joel were due to an accident as claimed by accused-appellant, then the latter's failure to help the victim after he fell to the ground[64] is contrary to human experience, considering that the victim Joel was his brother-in-law.[65] As testified to by Suanson[66] and accused-appellant,[67] it was only Suanson who helped the victim Joel. Likewise, the act of the victim Joel after he fell to the ground with his motorcycle, of fleeing from the house of Nida is likewise contrary to human experience. As aptly pointed out by the trial court, if an accident caused the victim's injury, then the latter would not have ran to the cornfields and should have instead sought the assistance of his in-laws, including accused-appellant, who were then present; instead, as it actually happened, the victim Joel had to leave the scene of the attack for the nearby cornfields in order to escape the attack with a piece of wood by the accused-appellant.[68]

Moreover, the Medico-Legal Certificate[69] (Exhibit "C") dated 10 June 2009 issued by Dr. Beran, states that the cause of death of the victim Joel is (a) brain herniation, (b) acute epidural hematoma, subarachnoid hemorrhage, intraparenchymal bleed, and (c) mauling. Also, the Certificate of Death[70] (Exhibit "D") of Joel states the same causes of death. (A) death certificate issued by a municipal health officer in the regular performance of his duty is prima facie evidence of the cause of death of the victim.[71]

Here, accused-appellant's defense consists merely of denial. Indeed, denial is an intrinsically weak defense which must be buttressed with strong evidence of non-culpability to merit credibility,[72] which accused-appellant failed to adduce. In the instant case, the primary witness for the prosecution Suanson is accused-appellant's cousin,[73] and accused-appellant failed to present any evidence showing ill motive on the part of Suanson to falsely testify against him.

We now review the penalty imposed by the trial court.

The trial court imposed upon accused-appellant the indeterminate sentence of eight (8) years and one (1) day, as minimum, to fourteen (14) years, eight (8) months and one (1) day ,as maximum.

We affirm.

In convictions for homicide, Article 249 of the Revised Penal Code (RPC) prescribes the penalty of reclusion temporal, which ranges from twelve (12) years and one (1) day to twenty (20) years. In the absence of any modifying circumstances, the penalty should be imposed in its medium period, or from fourteen (14) years, eight (8) months and one (1) day to seventeen (17) years and four (4) months. Applying the Indeterminate Sentence Law, the maximum of the penalty to be imposed on the accused-appellant shall be within the range of reclusion temporal medium, and the minimum shall be within the range of the penalty next lower to that prescribed by the RPC for the offense, or prision mayor in any of its periods, which ranges from six (6) years and one (1) day to twelve (12) years.[74] In the instant case, there being no mitigating or aggravating circumstance, the trial court correctly imposed the indeterminate penalty 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.

As to damages, the trial court ordered the accused-appellant to pay the heirs of the victim the amount of Php75,000.00 as civil indemnity, Php50,000.00 as moral damages and Php25,000.00 as temperate damages.

We affirm the award of moral damages in the amount of Php50,000.00 in line with recent jurisprudence,[75] as well as the amount of Php25,000.00 as temperate damages. Said award of temperate damages in homicide xxx is proper when no evidence of the said expenses is presented during the trial. Under Article 2224 of the Civil Code, temperate damages may be recovered since it cannot be denied that the heirs of the victim suffered pecuniary loss, though the exact amount was not proven.[76]

However, We reduce the amount of civil indemnity imposed by the trial court in the amount of Php75,000.00 to Php50,000.00 in conformity with recent jurisprudence.[77] In addition and in conformity with current policy, interest at the legal rate of 6% per annum is imposed on all the monetary awards for damages from date of finality of this judgment until fully paid.[78]

WHEREFORE, premises considered, the appeal is DENIED. The Decision dated 04 October 2012 of the Regional Trial Court, Second Judicial Region, Branch 22, Cabagan, Isabela in Criminal Case No. 22-2427 finding accused-appellant Flor Cariaga guilty beyond reasonable doubt for the crime of Homicide under Article 249 of the Revised Penal Code and sentencing him to suffer an 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, and to pay the heirs of the victim Joel Mendoza the amounts of Php50,000.00 as moral damages and Php25,000.00 as temperate damages is AFFIRMED with MODIFICATION, in that the amount of civil indemnity is reduced to Php50,000.00, and accused-appellant is further ordered to pay interest at the rate of 6% per annum on all damages, from the date of finality of this judgment until fully paid.

SO ORDERED. Lazaro-Javier, and Sadang, JJ., concur.

[1] Rollo, pp. 61-67, penned by Hon.Felipe Jesus Torio II

[2] Id. at 66-67

[3] Id. at 46-60

[4] Id. at 86-94

[5] Id. at 98-101

[6] Recod, pp. 12-13

[7] Id. at 12

[8] Id. at 14

[9] Id. at 27

[10] Id. at 28

[11] Id. at 31, 33

[12] Id. at 36-37

[13] TSN, 09 November 2010, pp. 4-14

[14] TSN, 23 November 2010, pp. 7, 12-18

[15] Id. at 23-26

[16] Id. at 27

- [17] TSN, 29 June 2011, p. 4
- [18] Id. at 5-12
- [19] Id. at 14-15
- [20] Id. at 16
- [21] TSN, 10 August 2011, pp. 4-10, 14-22, 25-30
- [22] TSN, 16 August 2011, pp. 4-11
- [23] TSN, 23 August 2011, pp. 8-11, 21
- [24] Id. at 24-33, 41-51
- [25] TSN, 07 September 2011, pp. 7-14
- [26] Id. at 15
- [27] Id. at 17-21
- [28] Id. at 22
- [29] Id. at 24-27
- [30] Record, pp. 121-124
- [31] Id. at 125
- [32] Id. at 126
- [33] TSN, 18 October 2011, pp. 3-9
- [34] Id. at 10-27
- [35] Record, pp. 161-168
- [36] Id. at 170
- [37] Supra note 2
- [38] Record, p. 171
- [39] Id. at 172
- [40] Id. at 173
- [41] Rollo, p. 46
- [42] Cf. People of the Philippines v. Gilbert Reyes Wagas, G.R. No. 157943, 04 September 2014
- [43] Cf. People of the Philippines v. Felimon Patentes y Zamora, G.R. No. 190178, 12 February 2014
- [44] Cf. People of the Philippines v. Rolando Rondina, G.R. No. 207763, 30 June 2014
- [45] Cf. People of the Philippines v. Armando Dionaldo y Ebron, et al., G.R. No. 207949, 23 July 2014
- [46] Rodolfo Guevarra, et al. v. People of the Philippines, G.R. No. 170462, 05 February 2014
- [47] TSN, 10 August 2011, p. 8

- [48] TSN, 23 August 2011, p. 33
- [49] *People of the Philippines v. Jerusalem Esteban y Ballesteros*, G.R. No. 200920, 09 June 2014
- [50] *People of the Philippines v. Benjie Consorte y Franco*, G.R. No. 194068, 09 July 2014
- [51] *Miguel Cirera y Ustelo v. People of the Philippines*, G.R. No. 181843, 14 July 2014, citing *Trinidad v. People*, G.R. No. 192241, 13 June 2012, 672 SCRA 486
- [52] *Alberto Almojuela y Villanueva v. People of the Philippines*, G.R. No. 183202, 02 June 2014 citing *People v. Galvez*, G.R. No. 157221, 548 Phil. 436 (2007)
- [53] *Jose Espineli a.k.a. Danilo Espineli v. People of the Philippines*, G.R. No. 179535, 09 June 2014
- [54] Record, p. 166-167
- [55] TSN, 23 August 2011, pp. 29-30, 33, 41
- [56] TSN, 18 October 2011, pp. 4-6
- [57] Id. at 25-27
- [58] TSN, 23 August 2011, p. 45
- [59] Id. at 48
- [60] Rollo, p. 90
- [61] TSN, 16 August 2011, pp. 9, 11
- [62] TSN, 18 October 2011, pp. 7, 9
- [63] Cf. *People of the Philippines v. Felimon Patentes y Zamora*, *supra*
- [64] TSN, 18 October 2011, p. 9
- [65] Id. at 5
- [66] TSN, 23 August 2011, p. 45
- [67] TSN, 18 October 2011, p. 9
- [68] Record, p. 166
- [69] Id. at 6
- [70] Id. at 7
- [71] *People of the Philippines v. Jenny Likiran alias "Loloy"*, G.R. No. 201858, 04 June 2014
- [72] *People of the Philippines v. Benjie Consorte y Franco*, *supra*
- [73] TSN, 23 August 2011, p. 51
- [74] *People of the Philippines v. Jenny Likiran alias "Loloy"*, *supra*
- [75] Id.
- [76] *Alberto Almojuela y Villanueva v. People of the Philippines*, *supra*

[77] People of the Philippines v. Jenny Likiran alias “Loloy”, supra

[78] Jose Espineli a.k.a. Danilo Espineli v. People of the Philippines, supra

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