

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

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

Ponente: GAERLAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-205950/>

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[1] of the Court of Appeals (CA) in CA-G.R. CR No. 32727, affirming in toto the May 16, 2008 Decision[2] 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[3] 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.[4]

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

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.[6]

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.[7]

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.[8]

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.[9]

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.[10]

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.[11]

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.[12]

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.[13] The Court had the opportunity to explain the definition of reasonable doubt in the case of *Alcantara v. Court of Appeals*,[14] 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.[15]

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.[16] But where some facts are misinterpreted or some details overlooked, the Supreme Court may overturn the erroneous conclusions drawn by the courts a quo.[17] 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 re-calibrate and evaluate the factual findings of the [lower courts]."[18] 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 Ortacido. 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[19]

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.

It bears stressing that such inconsistency cannot be considered immaterial and insignificant considering that it deals with the identity of the perpetrator of the crime. It will clearly answer who, between petitioner and Ortacido,

pulled the trigger and unintentionally shot Aileen. It will likewise determine if the shooting was intentional or not. Such material inconsistency, without a doubt, dilutes the prosecution witnesses' credibility and the verity of their testimonies. Simply, such inconsistency impairs the essential integrity of the prosecution's evidence as a whole.

Furthermore, it baffles this Court why the original eyewitness, Rocero, was not called to the witness stand to testify on behalf of the prosecution. To recall, it was Rocero who executed an affidavit during the preliminary investigation, and whose affidavit was one of the bases of the prosecutor in filing an information in court. Instead, three alleged eye witnesses, who never executed affidavits during preliminary investigation and who were not specifically identified as possible witnesses in the Information,[20] were presented in court for the prosecution. Interestingly, Rocero's affidavit, which states that petitioner and Ortacido were grappling for the gun when it fired, runs counter to the statement of the two of the prosecution's witnesses who testified that it was petitioner who shot Ortacido.

While this Court adheres to the established rule that the prosecution has the prerogative to choose the evidence or the witnesses it wishes to present[21], the exercise of such prerogative by the prosecution is perplexing and puzzling. It may seem that Rocero's testimony, if given in open court, would be adverse to the case of the prosecution. Hence, Its deliberate omission to present Rocero as one of the prosecution's witness during trial.

The foregoing leads this Court to conclude that the prosecution failed to discharge the burden of proving the guilt of petitioner beyond reasonable doubt for the crime of homicide. It is elementary that the prosecution must rely on the strength of its evidence and not on the weakness of that of the defense.[22] Since in the case at bar the evidence for the prosecution is weak and betrays lack of concreteness, petitioner's defense of denial assumes importance.

At the outset, denial and alibi may be weak but courts should not at once look at them with disfavor. There are situations where an accused may really have no other defenses but denial and alibi which, if established to be the truth, may tilt the scales of justice in his favor, especially when the prosecution evidence itself is weak.[23] In the instant case, petitioner was able to establish his defense of denial by clear and convincing evidence.

To recall, petitioner insists that it was Ortacido who fired the gun when they were wrestling for it.[24] His testimony was corroborated by Maria Rosalinda Aquino (Aquino), a disinterested party, who narrated that the gun fired while petitioner and Ortacido were grappling for its possession, viz.:

ATTY. CRESENCIO:

Q:

Can you describe that trouble that ensued?

A:

Then Gilbert kicked the chair where PO1 Balina was seated and they struggled for the possession of the gun.

Q:

What happened after that?

A:

Then the gun went off.

Q:

At that time, when the gun went off who was holding it?

A:

The two of them, sir, because they were struggling for the possession of the gun.

x x x x[25]

This was likewise the tenor of KC's testimony. She testified that the gun went off while petitioner and Ortacido were grappling for it, thus:

ATTY. CRESENCIO:

Q:

And what happened after that?

A:

I told him that my companion PO1 Balina was a policeman and Gilbert all the more got angry and he grabbed the gun of PO1 Balina.

Q:

Where was the gun of PO1 Balina located then?

A:

It was on his waist, sir.

Q:

So what happened when he grabbed the gun of PO1 Balina?

A:

They grappled for the possession of the gun, sir.

Q:

What happened then, after they grappled for the gun?

A:

The people inside the club scampered away.

Q:

What happened when they scampered away?

A:

After a little while the gun went off, sir.

x x x x[26]

Clearly, the three defense witnesses are one in narrating that the gun fired while petitioner and Ortacido were wrestling to obtain possession thereof. Simply put, their testimonies are consistent. While they are unsure if it was Ortacido or petitioner who pulled the trigger, they are more than certain that the shot was fired during the scuffle. Interestingly, such narration of facts is supported even by a prosecution witness, Layson, and Rocero, the sole eye witness during preliminary investigation who executed an affidavit.

It bears stressing that the two defense witnesses were not related to petitioner. While the prosecution averred that KC was the girlfriend of petitioner, it failed to prove the same. Worse, the prosecution's only basis for claiming that petitioner and KC were lovers is the fact KC called petitioner to pacify Ortacido and his gang inside the club. Such contention, however, is immaterial. Their testimonies, therefore, are not tainted with partiality and bias in petitioner's favor. Hence, the witnesses are deemed credible, as well as their testimonies.

As things are, to successfully prosecute the crime of homicide, the following elements must be proved beyond reasonable doubt: (1) that a person was killed; (2) that the accused killed that person without any justifying circumstance; (3) that the accused had the intention to kill, which is presumed; and (4) that the killing was not attended by any of the qualifying circumstances of murder, or by that of parricide or infanticide.[27]

To recall, while two of the prosecution witnesses positively identified petitioner as the one who drew out the gun and shot Ortacido, the testimony of the other prosecution witness, Layson, casts doubt as to who between petitioner and Ortacido pulled the trigger after narrating that there was a scuffle and grappling for the gun prior to the shooting incident. The defense, on the other hand, was able to show that the gun fired during the scuffle; and Aquino and KC were unsure as to who, between petitioner and Ortacido, pulled the trigger. Since the identity of the accused is unclear, the element of intent to kill is likewise wanting.

Moreover, from the testimonies of all the witnesses, both of the prosecution and the defense, as well as from the affidavit of Rocero, any of the following could have happened: (1) either petitioner or Ortacido may have pulled the trigger; and (2) the gun may have fired accidentally while petitioner and Ortacido were grappling for it. If the testimonies of the witnesses could lead to these different conclusions, this Court cannot conclude that the element of intent to kill is extant in the case.

Finally, this Court has observed the reaction of petitioner, as well as that of Ortacido immediately after the shooting incident. During trial, it has been established that Ortacido, after the gun fired, immediately fled from the scene together with his comrades. Petitioner, on the other hand, after learning that Aileen was shot, immediately brought her to the hospital to seek medical aid.

Now, settled is the rule that flight is indicative of guilt.[28] Flight in criminal law is the evading of the course of justice by voluntarily withdrawing oneself in order to avoid arrest or detention or the institution or continuance of criminal proceedings.[29] As this Court has often quoted: "The wicked flee when no man pursueth but the righteous are as bold as the lion." [30]

From all the foregoing, this Court holds and so rules that the prosecution failed to discharge the burden of proving the guilt of petitioner beyond reasonable doubt for the crime of homicide. The inconsistent statements of the prosecution witnesses as to the material elements of the crime, coupled with the clear and convincing evidence of petitioner lead this Court to no other conclusion but to acquit petitioner for the crime charged.

While this Court strongly condemns the senseless crime and sincerely commiserate with the suffering and emotional stress suffered by the bereaved family of the victim, nevertheless, the Court finds the pieces of evidence insufficient to prove the guilt of petitioner beyond reasonable doubt. They do not pass the requisite moral certainty, as they admit of the alternative inference that other person, Ortacido, not necessarily the petitioner, may have committed the crime. Where the evidence admits of two interpretations, one of which is consistent with guilt, and the other with innocence, the accused must be acquitted. Indeed, it would be better to set free ten men who might be probably guilty of the crime charged than to convict one innocent man for a crime he did not commit.[31]

WHEREFORE, the petition is GRANTED. The September 10, 2012 Decision of the Court of Appeals in CA-G.R.

CRNo. 32727 is REVERSED and SET ASIDE. Petitioner Richard Balina y Lanuzo is ACQUITTED for failure of the prosecution to prove his guilt beyond reasonable doubt. He is ordered immediately RELEASED from detention, unless he is confined for another lawful cause.

Let a copy of this Decision be furnished the Director, Bureau of Corrections, National Bilibid Prison, Muntinlupa City for immediate implementation. The said Director is DIRECTED to report to this Court the action taken within five (5) days from receipt of this Decision.

SO ORDERED.

Peralta, C.J., Caguioa, Carandang, and Zalameda, JJ., concur.

[1] Rollo, pp. 59-80; penned by Associate Justice Sesinando E. Villon, with Associate Justices Florito S. Macalino and Myra V. Garcia-Fernandez, concurring.

[2] Id. at 39-55; penned by Judge Amelia A. Fabros.

[3] Id. at 92-93.

[4] Id. at 92.

[5] Id. at 60.

[6] Id. at 60-61.

[7] Id. at 61-62.

[8] Id. at 55.

[9] Id. at 79-80.

[10] Id. at 16.

[11] Id. at 16-35.

[12] Id. at 411-424.

[13] *People v. Calica*, 471 Phil. 270, 283-284 (2004).

[14] *Alcantara v. Court of Appeals*, 462 Phil. 72 (2003).

[15] Id. at 89-90.

[16] *People v. Arellano*, G.R. No. 231839, July 10, 2019.

[17] *Pomoy v. People*, 482 Phil. 665, 678 (2004).

[18] *People v. Esteban*, 735 Phil. 663, 671 (2014).

[19] Rollo, p. 179.

[20] Id. at 92-93.

[21] *Tanenggee v. People*, 712 Phil. 310, 331 (2013).

[22] *People v. Añora*, 454 Phil. 170, 176 (2003).

[23] *People v. Ladrilio*, 377 Phil. 904, 917 (1999).

[24] *Rollo*, pp. 195-196.

[25] *Id.* at 233-234.

[26] *Id.* at 273.

[27] *People v. Alejandro*, 807 Phil. 221, 229 (2017).

[28] *People v. Alabaso*, December 2, 1991, 204 SCRA 458, 463; *People v. Babac*, December 23, 1991, 204 SCRA 968, 975.

[29] *People v. Camat*, 692 Phil. 55, 84 (2012).

[30] Proverbs, 28:1, *The Holy Bible, King James Version*, 569.

[31] *People v. Tajada*, 442 Phil. 369, 381 (2002).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.