

# FIRST DIVISION

[ G.R. No. 238436, February 17, 2020 ]

**ROEL C. CASILAC, PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

## D E C I S I O N

### **PERALTA, C.J.:**

Before this Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court seeking the reversal and setting aside of the Decision<sup>[1]</sup> of the Court of Appeals (CA), dated July 18, 2017, and the Resolution<sup>[2]</sup> dated March 8, 2018 in CA-G.R. CR-HC No. 01977. The assailed Decision affirmed with modifications the Decision<sup>[3]</sup> dated July 25, 2014 of the Regional Trial Court (RTC) Branch 26 of Argao, Cebu, while the assailed Resolution denied petitioner's Partial Motion for Reconsideration.

The facts are as follows:

On June 23, 2009, at about 5 o'clock in the afternoon, Ramil Navarez (*Ramil*) and his younger brother Ryn Loui Navarez (*Ryn Loui*), were about to go home to Sayao, Sibonga, Cebu, on board a motorcycle. On the curved portion of the road, Ramil saw his cousin, petitioner Roel Casilac (*Roel*) standing on the right side of the road. Meanwhile, Agripino Casilac (*Agripino*), the father of Roel, was positioned on the left side of the road together with Tarciano Cirunay, Jr. (*Cirunay*) at the center. Each of them was carrying a firearm and began shooting at Ramil and Ryn Loui. Ramil was hit on the left arm, and the motorcycle fell to the ground. He immediately stood up and shouted to his brother, "*Run Ian.*" Ryn Loui then stood up and ran, but the continuous firing of the said armed men hit him on the different parts of his body causing him to fall on the ground for the second time. On the other hand, Ramil ran towards Barangay Banlot to ask for help, but Roel, Agripino and Cirunay continued to chase and shoot him. Fortunately, he was not hit. He was brought to the Deiparine Medical Clinic at Sibonga, Cebu, and subsequently, to the Vicente Sotto Medical Center (*VSMC*) in Cebu City where he was confined for fourteen (14) days. As the police officers responded to the shooting incident at Barangay Sayao, they saw the lifeless body of Ryn Loui with gunshot wounds.

On July 17, 2009, an Information for Murder was filed against the petitioner Roel C. Casilac, Agripino and Cirunay before the RTC of Argao, Cebu, which reads as follows:

That on the 23<sup>rd</sup> day of June 2009, at 5:00 o'clock in the afternoon, more or less, at Brgy. Sayao, Sibonga, Cebu and within the jurisdiction of this Honorable Court, the above-named accused Roel C. Casilac[,], armed with a .45 caliber pistol, Agripino D. Casilac, armed with a KG 9 assault pistol,

and Tarciano Cirunay Jr.,] armed with a .45 caliber pistol, conspiring and confederating and mutually helping with intent to kill through treachery, abuse of superior strength and evident premeditation, did then and there, willfully, unlawfully and feloniously, shoot several times RYN LOUI C. NAVAREZ, hitting the latter in different parts of his body which caused his death immediately thereafter.

CONTRARY TO LAW.<sup>[4]</sup>

Another Information for Frustrated Murder against the petitioner Roel C. Casilac, Agripino and Cirunay was filed on the same date before the RTC of Argao, Cebu, which reads as follows:

That on the 23<sup>rd</sup> day of June 2009, at 5:00 o'clock in the afternoon, more or less, at Brgy. Sayao, Sibonga, Cebu and within the jurisdiction of this Honorable Court, the above-named accused, armed with a .45 caliber pistol, a KG 9 assault pistol and a .45 caliber pistol, respectively, conspiring and confederating and mutually helping with one another, with intent to kill with the attendant aggravating circumstances of treachery, abuse of superior strength and evident premeditation, did then and there, willfully, unlawfully and feloniously, shoot several times RAMIL C. NAVAREZ hitting and seriously injuring the latter's left arm, thus[,] performing all the acts of execution which would have produced the crime of Murder as a consequence[,] but which nevertheless did not produce it by reason of causes independent of their will, that is, by timely medical assistance rendered to said victim, which prevented his death.

CONTRARY TO LAW.<sup>[5]</sup>

The prosecution presented a total of four (4) witnesses, namely, PO3 Antonio S. Sanchez, Ramil Navarez, Dr. Fe Lynn R. Tampon and Dr. Alex Martin C. Mediano.

On the other hand, petitioner claimed a different version. According to him, on June 23, 2009, while he and his cousin Cirunay were gathering grass for their cows at the land belonging to his parents, he saw Ryn Loui driving a motorcycle with his elder brother Ramil riding at the back, going uphill. At the time they passed by, Ramil shot him causing him to drop to the ground, even if he was not hit. He was able to run together with Cirunay and asked the latter to give him the gun Cirunay was carrying. Cirunay gave him the gun and fled. Petitioner was left alone and continued to cut grass. Again, he saw Ryn Loui and Ramil come back, still holding their firearms and in the act of aiming it at him. Using Cirunay's gun, petitioner shot them and hit Ryn Loui, causing the latter to fall to the ground, while Ramil ran away. Thereafter, the petitioner went home to Barangay Sayao where he was advised by his father to surrender.

The defense presented a total of three (3) witnesses, namely: the petitioner, Tarciano Cirunay, Jr. and Daisy Cirunay.

Both criminal cases were consolidated. The RTC found Roel Casilac guilty beyond reasonable doubt of the crime of murder and serious physical injuries. On the other hand, Cirunay was acquitted in both charges of murder and frustrated murder for failure of the prosecution to establish proof beyond reasonable doubt. The dispositive portion of the Decision reads as follows:

WHEREFORE, premises considered, Judgment is hereby rendered, as follows:

1. In Criminal Case No. AR-4143, accused Roel C. Casilac is found GUILTY beyond reasonable doubt of the crime of Murder, as defined in Article 248 of the Revised Penal Code, qualified by treachery, and the said accused is hereby sentenced to suffer the penalty of *Reclusion Perpetua* and to indemnify the heirs of Ryn Loui Navarez the following: P75,000.00 as civil indemnity, P50,000.00 as moral damages, and P25,000.00 as exemplary damages.

2. In Criminal Case No. AR-4144, accused Roel C. Casilac is found GUILTY beyond reasonable doubt of the crime of Serious Physical Injuries in Article 263, Item No. 4 of the Revised Penal Code, in lieu of Frustrated Murder, and he is hereby sentenced to suffer a penalty of imprisonment of FOUR (4) MONTHS of *Arresto Mayor*[,] as minimum[,], to TWO (2) YEARS and FOUR (4) MONTHS of *Prision Correccional*[,] as maximum.

For failure of the prosecution to establish proof beyond reasonable doubt, Accused Tarciano Cirunay, Jr. is ACQUITTED in Criminal Case No. 4143 and in Criminal Case No. AR-4144.

Accused Roel C. Casilac, being a detention prisoner, shall be credited full time of his preventive imprisonment which shall be deducted from the penalty imposed.

The Jail Warden of the Cebu Provincial Detention and Rehabilitation Center is hereby directed to release accused Tarciano Cirunay, Jr., unless for any other cause or causes that he shall continue to be detained.

SO ORDERED.<sup>[6]</sup>

On August 20, 2014, petitioner filed a Partial Motion for Reconsideration<sup>[7]</sup> praying for his acquittal by reason of the justifying circumstance of self-defense, or a downgrade of the charge from murder to homicide, for failure of the prosecution to prove treachery and evident premeditation. On October 27, 2014, the said motion was denied for lack of merit. This prompted Casilac to file a Notice of Appeal<sup>[8]</sup> on November 21, 2014.

The appeal filed before the CA raised the following issues and that the court *a quo* erred: (1) in finding that the petitioner is guilty beyond reasonable doubt of the crime of murder and serious physical injuries, taking into consideration that he has successfully proven all the elements of complete self-defense; (2) in considering the qualifying circumstance of treachery, even if the prosecution failed to prove the same with the degree required by law; and (3) in failing to consider the mitigating circumstance of voluntary surrender in imposing the sentence against him.

On July 18, 2017, the CA affirmed, with modifications, the ruling of the RTC, the dispositive portion which provides:

1. In Criminal Case No. AR-4143 for *Murder*, the award of moral and exemplary damages is increased to Php75,000.00 each. Temperate damages in the amount of Php50,000.00 are also awarded to Ryn Loui Navarez's heirs.
2. In Criminal Case No. AR-4144, accused-appellant is declared GUILTY of the crime of *Less Serious Physical Injuries* only and is, accordingly, sentenced to suffer a penalty of one (1) month and one (1) day to two (2) months of *arresto mayor*.
3. All damages awarded shall earn interest at the rate of 6% *per annum* from the date of finality of this judgment until fully paid.

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

On August 14, 2017, the petitioner filed a Motion for Partial Reconsideration<sup>[10]</sup> of the CA's Decision. On November 7, 2017, on the other hand, respondent filed a Comment<sup>[11]</sup> on petitioner's Appellant's Partial Motion for Reconsideration. On March 8, 2018, the CA denied the said Motion for lack of merit.

Hence, the present Petition.

The petitioner relied on the following grounds:

- I. THE ASSAILED DECISION ERRED WHEN IT FOUND THE ACCUSED GUILTY [OF] THE CRIME OF MURDER AND LESS SERIOUS PHYSICAL INJURIES, DESPITE THE PRESENCE OF ALL THE ELEMENTS OF SELF[-]DEFENSE SUFFICIENTLY PROVEN BY THE ACCUSED.
- II. THE ASSAILED DECISION LIKEWISE ERRED WHEN IT CONSIDERED THE QUALIFYING CIRCUMSTANCE OF TREACHERY IN THE DEATH OF RYN, DESPITE THE OVERWHELMING PRESENCE OF CONTRARY EVIDENCE.
- III. GRANTING FOR ARGUMENT'S SAKE THAT PETITIONER'S CLAIM OF SELF-DEFENSE WAS NOT JUSTIFIED IN THE INSTANT CASE, THE HONORABLE COURT OF APPEALS FAILED TO CONSIDER

PETITIONER'S VOLUNTARY SURRENDER AS A MITIGATING CIRCUMSTANCE.<sup>[12]</sup>

Petitioner insists that the CA erred in finding him guilty of Murder and Less Serious Physical Injuries, despite the presence of all the elements of self-defense. Further, he argues that the CA erred in considering the qualifying circumstance of treachery in the death of Ryn Loui, contrary to the evidence. He also claims that assuming that the CA was correct in ruling that self-defense is not justified, the CA still erred in refusing to consider petitioner's voluntary surrender as a mitigating circumstance.

The Office of the Solicitor General (OSG), in its Comment<sup>[13]</sup> dated October 17, 2018, argues that the CA was correct in convicting the petitioner of the crime of Murder and Less Serious Physical Injuries. It also avers that contrary to the petitioner's allegation, the CA considered his voluntary surrender as a mitigating circumstance during the review of his conviction for Serious Physical Injuries in Criminal Case No. AR-4144, in determining the imposable penalty for the crime of Less Serious Physical Injuries. However, the said mitigating circumstance is not applicable for the crime of Murder in Criminal Case No. AR-4143, a penalty punishable by *reclusion perpetua*, an indivisible penalty.

The Petition lacks merit.

At the outset, it must be stressed that in criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors.<sup>[14]</sup> The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.

Guided by this consideration, the Court affirms the petitioner's conviction in Criminal Case No. AR-4143, with modification as to the crime committed in Criminal Case No. AR-4144. The Court has carefully examined the records of this case and found that there were substantial facts that both the RTC and the CA had overlooked and which, after having been considered, has affected the outcome of the case, as will be discussed hereunder.

With respect to Criminal Case No. AR-4143, the crime of murder is defined under Article 248 of the Revised Penal Code (RPC), as amended by Republic Act No. 7659, to wit:

Article 248. Murder. - Any person who, not falling within the provisions of Article 246, shall kill another, shall be guilty of murder and shall be punished by *reclusion perpetua*, to death if committed with any of the following attendant circumstances:

1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the