

FIRST DIVISION

[G.R. No. 207193, July 24, 2017]

**ROBLE BARBOSA AND RAMDY BARBOSA, PETITIONERS, VS.
PEOPLE OF THE PHILIPPINES, RESPONDENT.**

R E S O L U T I O N

DEL CASTILLO, J.:

This Petition for Review assails the February 22, 2012 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CEB-CR No. 00686 which affirmed the September 20, 2006 Decision^[2] 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 Information^[3] for murder was filed against petitioners for the death of Artemio Betita, Jr. (the victim). Petitioners pleaded "not guilty" during their respective arraignments.

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 P50,000.00 as civil indemnity, P200,000.00 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