

FIRST DIVISION

[G.R. No. 167333, January 11, 2016]

**PEDRO LADINES, PETITIONER, VS. PEOPLE OF THE PHILIPPINES
AND EDWIN DE RAMON, RESPONDENTS.**

D E C I S I O N

BERSAMIN, J.:

To impose the highest within a period of the imposable penalty without specifying the justification for doing so is an error on the part of the trial court that should be corrected on appeal. In default of such justification, the penalty to be imposed is the lowest of the period.

The Case

The petitioner appeals the decision promulgated on October 22, 2004,^[1] whereby the Court of Appeals (CA) affirmed his conviction for homicide by the Regional Trial Court (RTC), Branch 53, in Sorsogon City under the judgment rendered on February 10, 2003.^[2]

Antecedents

On August 12, 1993, an information was filed in the RTC charging the petitioner and one Herman Licup with homicide, allegedly committed as follows:

That on or about the 12th day of June 1993, in the Municipality of Sorsogon, Province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, conspiring, confederating, and mutually helping one another, armed with bladed weapons did then and there, willfully, unlawfully and feloniously, attack, assault and stab one Erwin de Ramon, thereby inflicting upon him serious and mortal wounds which resulted to his instantaneous death, to the damage and prejudice of his legal heirs.

CONTRARY TO LAW.^[3]

The factual background of the charge follows.

While Prosecution witnesses Philip de Ramon and Mario Lasala, along with victim Erwin de Ramon (Erwin), were watching the dance held during the June 12, 1993 Grand Alumni Homecoming of the Bulabog Elementary School in Sorsogon, Sorsogon, the petitioner and Licup appeared and passed by them. The petitioner suddenly and without warning approached and stabbed Erwin below the navel with a

machete. The petitioner then left after delivering the blow. At that juncture, Licup also mounted his attack against Erwin but the latter evaded the blow by stepping back. Erwin pulled out the machete from his body and wielded it against Licup, whom he hit in the chest. Licup pursued but could not catch up with Erwin because they both eventually fell down. Erwin was rushed to the hospital where he succumbed.^[4]

Dr. Myrna Listanco, who performed the post-mortem examination on the cadaver of Erwin, attested that the victim had sustained two stab wounds on the body, one in the chest and the other in the abdomen. She opined that one or two assailants had probably inflicted the injuries with the use of two distinct weapons; and that the chest wound could have been caused by a sharp instrument, like a sharpened screwdriver, while the abdominal injury could have been from a sharp bladed instrument like a knife.^[5]

In his defense, the petitioner tendered alibi and denial. He recounted that at the time in question, he was in the Bulabog Elementary School compound along with his wife and their minor child; that they did not enter the dance hall because there was trouble that had caused the people to scamper; that they had then gone home; that he had learned about the stabbing incident involving Erwin on their way home from Barangay Tanod Virgilio de Ramon who informed him that Licup and Erwin had stabbed each other; and that Prosecution witnesses Philip and Lasala harbored ill-will towards him by reason of his having lodged a complaint in the barangay against them for stealing coconuts from his property.

The petitioner presented Angeles Jasareno and Arnulfo Palencia to corroborate his denial. Jasareno and Palencia testified that at the time in question they were in the Bulabog Elementary School, together with the petitioner, the latter's wife and their minor daughter; that while they were watching the dance, a quarrel had transpired but they did not know who had been involved; that they had remained in the dance hall with the petitioner and his family during the quarrel; and that it was impossible for the petitioner to have stabbed Erwin. Palencia added that after the dance he and the petitioner and the latter's wife and child had gone home together.^[6]

Judgment of the RTC

On February 10, 2003, the RTC pronounced the petitioner guilty as charged, decreeing:

WHEREFORE, premises considered, the Court finds accused Pedro Ladines guilty beyond reasonable doubt of the crime of Homicide, defined and penalized under Article 249 of the Revised Penal Code, sans any mitigating circumstances and applying the Indeterminate Sentence Law, accused Pedro Ladines is hereby sentenced to suffer an imprisonment of from Ten (10) years and One (1) day of prision mayor as minimum to 17 years and 4 months of reclusion temporal as maximum and to pay the sum of P50,000.00 as civil indemnity without subsidiary imprisonment [in] case of insolvency and [to] pay the costs.

Meanwhile, accused Herman Licup is acquitted of the offense charge[d]

for insufficiency of evidence. The bond posted for his liberty is cancelled and discharged.

SO ORDERED.^[7]

Decision of the CA

The petitioner appealed, contending that:

THE TRIAL COURT ERRED IN FINDING ACCUSED-APPELLANT GUILTY OF THE CRIME OF HOMICIDE DESPITE THE PRESENCE OF A REASONABLE DOUBT IN LIGHT OF THE DECLARATION OF THE PROSECUTION WITNESS THAT ACCUSED HERMAN LICUP WHO WAS ALSO INJURED DURING THE INCIDENT HAD ATTACKED THE VICTIM ERWIN DE RAMON.^[8]

As stated, the CA affirmed the conviction, decreeing:

WHEREFORE, premises considered, the instant appeal is hereby DISMISSED for lack of merit and the appealed Decision dated 10 December 2003 of the Regional Trial Court Branch 53, Sorsogon City, Sorsogon in Criminal Case No. 93-3400 finding appellant guilty of Homicide is hereby AFFIRMED. Costs against appellant.

SO ORDERED.^[9]

Issues

Hence, this appeal, with the petitioner insisting that the CA committed reversible error in affirming his conviction despite the admission of Licup immediately after the incident that he had stabbed the victim; and that the *res gestae* statement of Licup constituted newly-discovered evidence that created a reasonable doubt as to the petitioner's guilt.^[10]

The State countered^[11] that the insistence by Ladines raised factual questions that were improper for consideration in an appeal by petition for review on *certiorari* under Rule 45; that the CA did not err in affirming the conviction; and that the evidence to be adduced by the petitioner was not in the nature of newly-discovered evidence.

Ruling of the Court

The appeal is without merit.

First of all, Section 1, Rule 45 of the *Rules of Court* explicitly provides that the petition for review on *certiorari* shall raise only questions of law, which must be distinctly set forth. A question, to be one of law, must not involve an examination of the probative value of the evidence presented by the litigants or any of them. There