Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEDRO LADINES,
Petitioner,

- *versus* -

PEOPLE OF THE PHILIPPINES and EDWIN DE RAMON,
Respondents.

G.R. No. 167333

Present:

SERENO, *C.J.*,
LEONARDO-DE CASTRO,
BERSAMIN,
PEREZ, and
PERLAS-BERNABE, *JJ.*,

Promulgated:

JAN 11 2016

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DECISION

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]

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[1] *Rollo*, pp. 56-65; penned by Associate Justice Eugenio S. Labitoria (retired), concurred in by Associate Justice Rebecca De Guia-Salvador (retired) and Associate Justice Rosalinda Asuncion-Vicente (retired).
[2] Id. at 30-36.

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.
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> 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

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3 Id. at 57.
4 Id. at 58.
5 Id. at 58-59.

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 be 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 ₱50,000.00 as civil indemnity without subsidiary imprisonment [in] case of insolvency and [to] pay the costs.
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> 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.
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> 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

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6 Id. at 59-61.

7 Id. at 30-36.

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.
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> 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 is a question of law in a given case when the doubt or difference arises as to what the law is on a certain state of facts; there is a question of fact when the doubt or difference arises as to the truth or falsehood of alleged facts.[12] In appeal by *certiorari*, therefore, only

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8 CA *rollo*, p. 47.
9 *Rollo*, p. 65.
10 Id. at 16.
11 Id. at 83-102.
12 *Angeles v. Pascual*, G.R. No. 157150, September 21, 2011, 658 SCRA 23, 28-29.

questions of law may be raised, because the Court, by virtue of its not being a trier of facts, does not normally undertake the re-examination of the evidence presented by the contending parties during the trial.

The resolution of factual issues is the function of lower courts, whose findings thereon are received with respect and are binding on the Court subject to certain exceptions, including: (*a*) when the findings are grounded entirely on speculation, surmises or conjectures; (*b*) when the inference made is manifestly mistaken, absurd or impossible; (*c*) when there is grave abuse of discretion; (*d*) when the judgment is based on a misapprehension of facts; (*e*) when the findings of facts are conflicting; (*f*) when in making its findings the CA went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (*g*) when the findings are contrary to those of the trial court; (*h*) when the findings are conclusions without citation of specific evidence on which they are based; (*i*) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (*j*) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (*k*) when the CA manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.[13]

There is no question that none of the foregoing exceptions applies in order to warrant the review of the unanimous factual findings of the RTC and the CA. Hence, the Court upholds the CA's affirmance of the conviction of the petitioner.

Secondly, the *res gestae* statement of Licup did not constitute newly-discovered evidence that created a reasonable doubt as to the petitioner's guilt. We point out that the concept of newly-discovered evidence is applicable only when a litigant seeks a new trial or the re-opening of the case in the trial court. Seldom is the concept appropriate on appeal, particularly one before the Court. The absence of a specific rule on the introduction of newly-discovered evidence at this late stage of the proceedings is not without reason. The Court would be compelled, despite its not being a trier of facts, to receive and consider the evidence for purposes of its appellate adjudication.

Of necessity, the Court would remand the case to the lower courts for that purpose. But the propriety of remanding for the purpose of enabling the lower court to receive the newly-discovered evidence would inflict some degree of inefficiency on the administration of justice, because doing so would effectively undo or reopen the decision that is already on appeal.[14]

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[13] Id. at 29-30.

[14] *Luzon Hydro Corporation v. Commissioner of Internal Revenue*, G.R. No. 188260, November 13. 2013, 709 SCRA 462, 476.

That is a result that is not desirable. Hence, the Court has issued guidelines designed to balance the need of persons charged with crimes to afford to them the fullest opportunity to establish their defenses, on the one hand, and the public interest in ensuring a smooth, efficient and fair administration of criminal justice, on the other. The first guideline is to restrict the concept of newly-discovered evidence to only such evidence that can satisfy the following requisites, namely: (1) the evidence was discovered after trial; (2) such evidence could not have been discovered and produced at the trial even with the exercise of reasonable diligence; (3) the evidence is material, not merely cumulative, corroborative, or impeaching; and (4) the evidence is of such weight that it would probably change the judgment if admitted.[15]

We agree with the State that the proposed evidence of the petitioner was not newly-discovered because the first two requisites were not present. The petitioner, by his exercise of reasonable diligence, could have sooner discovered and easily produced the proposed evidence during the trial by obtaining a certified copy of the police blotter that contained the alleged *res gestae* declaration of Licup and the relevant documents and testimonies of other key witnesses to substantiate his denial of criminal responsibility.

Thirdly, homicide is punished with *reclusion temporal*.[16] Taking the absence of any modifying circumstances into consideration, the RTC fixed the indeterminate penalty of 10 years and one day of *prision mayor*, as minimum, to 17 years and four months of the medium period of *reclusion temporal*, as maximum. The CA affirmed the penalty fixed by the RTC.

We declare that the lower courts could not impose 17 years and four months of the medium period of *reclusion temporal*, which was the ceiling of the medium period of *reclusion temporal*, as the maximum of the indeterminate penalty without specifying the justification for so imposing. They thereby ignored that although Article 64 of the *Revised Penal Code*, which has set the rules "for the application of penalties which contain three periods," requires under its first rule that the courts should impose the penalty prescribed by law *in the medium period* should there be neither aggravating nor mitigating circumstances, its seventh rule expressly demands that *"[w]ithin the limits of each period, the courts shall determine the extent of the penalty according to the number and nature of the aggravating and mitigating circumstances and the greater or lesser extent of the evil produced by the crime."* By not specifying the justification for imposing the ceiling of the period of the imposable penalty, the fixing of the indeterminate sentence became arbitrary, or whimsical, or capricious. In the absence of the specification, the maximum of the indeterminate sentence for the petitioner should be the lowest of the medium period of *reclusion*

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[15] *Custodio v. Sandiganbayan*, G.R. Nos. 96027-28, March 8, 2005, 453 SCRA 24, 33.
[16] Article 249, *Revised Penal Code*.

temporal, which is 14 years, eight months and one day of *reclusion temporal*.

Lastly, the lower courts limited the civil liability to civil indemnity of ₱50,000.00. The limitation was a plain error that we must correct. Moral damages and civil indemnity are always granted in homicide, it being assumed by the law that the loss of human life absolutely brings moral and spiritual losses as well as a definite loss. Moral damages and civil indemnity require neither pleading nor evidence simply because death through crime always occasions moral sufferings on the part of the victim's heirs.[17] As the Court said in *People v. Panado*:[18]

> x x x a violent death invariably and necessarily brings about emotional pain and anguish on the part of the victim's family. It is inherently human to suffer sorrow, torment, pain and anger when a loved one becomes the victim of a violent or brutal killing. Such violent death or brutal killing not only steals from the family of the deceased his precious life, deprives them forever of his love, affection and support, but often leaves them with the gnawing feeling that an injustice has been done to them.

The civil indemnity and moral damages are fixed at ₱75,000.00 each because homicide was a gross crime.

Considering that the decisions of the lower courts contained no treatment of the actual damages, the Court is in no position to dwell on this. The lack of such treatment notwithstanding, the Court holds that temperate damages of ₱25,000.00 should be allowed to the heirs of the victim. Article 2224 of the *Civil Code* authorizes temperate damages to be recovered when some pecuniary loss has been suffered but its amount cannot be proved with certainty. There is no longer any doubt that when actual damages for burial and related expenses are not substantiated with receipts, temperate damages of at least ₱25,000.00 are warranted, for it is certainly unfair to deny to the surviving heirs of the victim the compensation for such expenses as actual damages.[19] This pronouncement proceeds from the sound reasoning that it would be anomalous that the heirs of the victim who tried and succeeded in proving actual damages of less than ₱25,000.00 would only be put in a worse situation than others who might have presented no receipts at all but would still be entitled to ₱25,000.00 as temperate damages.[20] In addition, in line with recent jurisprudence,[21] all the items of civil liability shall earn

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[17] *People v. Osianas*, G.R. No. 182548, September 30, 2008, 567 SCRA 319, 339-340; *People v. Buduhan*, G.R. No. 178196, August 6, 2008, 561 SCRA 337, 367-368; *People v. Berondo, Jr.*, G.R. No. 177827, March 30, 2009, 582 SCRA 547, 554-555.

[18] *People v. Panado*, G.R. No. 133439, December 26, 2000, 348 SCRA 679, 690-691.

[19] *People v. Lacaden*, G.R. No. 187682, November 25, 2009, 605 SCRA 784, 804-805.

[20] Id.

[21] *Sison v. People*, G.R. No. 187229, February 22, 2012, 666 SCRA 645, 667.

interest of 6% *per annum* computed from the date of the finality of this judgment until the items are fully paid.

WHEREFORE, the Court **AFFIRMS** the decision promulgated on October 22, 2004 subject to the **MODIFICATION** that: (*a*) the **INDETERMINATE SENTENCE** of petitioner **PEDRO LADINES** is 10 years and one day of *prision mayor*, as minimum, to 14 years, eight months and one day of the medium period of *reclusion temporal*, as maximum; and (*b*) the petitioner shall pay to the heirs of the victim Erwin de Ramon: (1) civil indemnity and moral damages of ₱75,000.00 each; (2) temperate damages of ₱25,000.00; (*c*) interest of 6% *per annum* on all items of the civil liability computed from the date of the finality of this judgment until they are fully paid; and (*d*) the costs of suit.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice