

FIRST DIVISION

G.R. No. 242552 (*Benjamin Oliveros, Jr., Oliver Oliveros, and Maximo Sotto v. People of the Philippines*).

Promulgated:

MAR 03 2021

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SEPARATE OPINION

PERALTA, C.J.:

This pertains to the case involving the conviction of Benjamin Oliveros, Jr., Oliver Oliveros, and Maximo Sotto for attempted murder.

With utmost respect, I am maintaining my position that the petitioners must be convicted of frustrated murder and not attempted murder.

To establish frustrated murder, the prosecution must show that the accused performed all the acts of execution which could kill the victim, but which, nevertheless, did not produce it by reason of causes independent of the offender's will.¹

In the present case, as the trial court aptly stated: "*Dr. Manaois testified that had the wounds not been treated immediately, loss of blood and infection could have occurred which could have led to Glenn's death. No evidence has been presented to contradict Dr. Manaois' conclusion as in fact the latter's cross-examination did not at all touch upon such matter.*" Clearly, the injuries sustained by the victim could have resulted to his death if not for the medical treatment he received right after he was attacked by the petitioners.

In the letter dated February 7, 2011 of the *ponente*, it was maintained that the uncertainty on the nature of the wounds warrants the appreciation of a lesser gravity of the crime committed. Likewise, it was manifested that there are two (2) matters in the testimony of Dr. Manaois: *First*, the medico-legal officer testified that the injuries may only possibly cause the victim's death. *Second*, if ever the victim would die because of the wounds he sustained, his death would not be caused by the wounds themselves, but his

¹ *People v. Las Piñas, et al.*, 739 Phil. 502, 526-527 (2014).

injuries might have caused blood loss or he might possibly die due to infection or tetanus if timely medical attention had not been given.

I beg to disagree that there is uncertainty on the nature of the injuries sustained by the victim.

The fact alone that the injuries might have caused blood loss already qualified the injuries to being fatal. It is only a matter of semantics on how will the Court appreciate the testimony of Dr. Manaois. When Dr. Manaois was asked what would have happened to the victim considering the injuries that he received and what would happen to him if no timely medical attention was given to him, she answered that the victim might lose blood and the wounds will get infected. In addition, when asked if these injuries would be sufficient to cause his death, she answered that it is possible.

In relation to this, as contained in the ponente's letter, it was stated that the Court has consistently held that in order to convict an accused for the crime of Frustrated Murder or Homicide, as the case may be, the nature of the wounds sustained by the victim should be fatal. In simple term, fatal means causing death. It was already established by the prosecution, through the testimony of Dr. Manaois, that had the wounds been not treated immediately, loss of blood and infection could have occurred and led to Glenn's death. This is not inferred from the fact alone that Glenn was hacked at the face, but from positive testimony of Dr. Manaois.

The requirement of the law in order to convict an accused for the crime of frustrated murder is that, the wounds sustained by the victim should be fatal. The determination of the fatality of the wounds rest upon the evidence presented by the parties. It is not necessary that a categorical statement that "*the wounds are fatal*" should appear from the testimony of the witness. The words **might** and **possibly** connote that the injuries are fatal as it can cause death.

In the case of *People v. Las Piñas*,² the Court ruled that it is sufficient that the wounds could lead to the death of the victim to establish frustrated murder. Still, in the case of *People v. Las Piñas*, the physician who examined the victim testified that:

ATTY. LAGUNA:

Q: Mr. [W]itness, your first finding here is "gunshot wound face right side", how where you able to find this out?

A: There is a bullet hole on the face right side.



Q: What happened to the bullet?

A: Together with that we took an x-ray examination of the skull and we found the bullet just behind the orbit of the left eye.

Q: To your knowledge, doctor, where is that bullet now?

A: I don't know. We refer the patient for that purpose to the BRTH.

Q: What is that BRTH?

A: In Legaspi City[,] Bicol Regional Training Hospital.

Q: As a doctor, would you be able to say whether or not this particular wound is fatal?

A: That particular wound may not be immediately fatal but it could lead to the death of the patient if neglected.

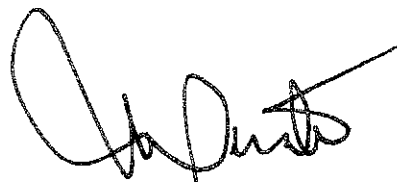
Q: And when you say neglected, what do you mean by that, doctor?

A: Without medical attention or assistance extended to the patient.³

Here, there was no categorical statement made by the physician that the wounds suffered by the victim were fatal. In fact, the words that were used were: "*That particular wound may not be immediately fatal but it could lead to the death of the patient if neglected.*" Still, the court ruled that the crime committed was frustrated murder. Thus, it is enough that the wounds or injuries sustained by the victim could lead to death, similar to the instant case.

A holistic reading of the testimony of Dr. Manaois would lead to a conclusion that the nature of the wounds of the victim can cause death; thus, fatal. Likewise, there were no uncertainties as to the nature of the wounds sustained by the victim. It is certain that the wounds could lead to the victim's death if no timely medical attention was given to him.

Lastly, the factual findings of the appellate court generally are conclusive, and carry even more weight when said court affirms the findings of the trial court, absent any showing that the findings are totally devoid of support in the records, or that they are so glaringly erroneous as to constitute grave abuse of discretion.⁴ In the present case, both the appellate and the trial courts ruled that the accused committed the crime of frustrated murder which was supported by the evidence on record. Thus, it must be given great weight.



DIOSDADO M. PERALTA
Chief Justice

³ *Id.* At 527.

⁴ *Corpuz v. People*, 734 Phil.353 (2014).