



Republic of the Philippines  
Supreme Court  
Manila

**FIRST DIVISION**

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 4, 2020** which reads as follows:*

**“G.R. No. 249138 (DANILO B. ANSAY, JR. v. PEOPLE OF THE PHILIPPINES)**

**The Case**

This appeal assails the Decision<sup>1</sup> dated May 7, 2019 of the Court of Appeals and Resolution<sup>2</sup> dated August 13, 2019 in CA-G.R. CR No. 40636 affirming the verdict of conviction for homicide and two (2) counts of frustrated homicide against petitioner Danilo Ansay, Jr..

**The Charge**

On February 6, 2008, three (3) Informations were filed against petitioner, *viz.*:

**Criminal Case No. RTC-2007-0361**  
(Homicide)

That on or about July 28, 2007, in the City of Naga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill, did then and there willfully, unlawfully and feloniously assault, attack and stab with a knife George Sanchez y Bongon, son of herein complaining witness, Grace Thelma Bongon-Sanchez, by stabbing the victim, hitting his left chest, thereby inflicting upon him serious and fatal

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<sup>1</sup> *Rollo*, pp. 36-58.

<sup>2</sup> *Id.* at 27-28.

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wound that caused his immediate death, to the damage and prejudice of his heirs in such amount as may be proven in court.

CONTRARY TO LAW.<sup>3</sup>

**Criminal Case No. RTC-2008-0086**  
(Frustrated Homicide)

That on or about July 28, 2007, in the City of Naga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and stab herein complaining witness ALEX OLITOQUIT y Perez, hitting him at the posterior aspect arm right, flank right with liver injury, thereby causing upon him serious and mortal wound, thus, accused have performed all the acts of execution which would have produced the felony of Homicide as a consequence, but nevertheless did not produce it by reason of cause(s) independent of the will of the accused, that is, by the timely and able medical attendance given to the complaining witness which prevented his death, to his damage and prejudice.

ACTS CONTRARY TO LAW.<sup>4</sup>

**Criminal Case No. RTC-2008-0087**  
(Frustrated Homicide)

That on or about July 28, 2007, in the City of Naga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and stab herein complaining witness ELMER CLEOFE y BERNAS, hitting him at the right lower quadrant area with liver injury, thereby causing upon him serious and mortal wound, thus, accused have performed all the acts of execution which would have produced the felony of Homicide as a consequence, but nevertheless did not produce it by reason of cause(s) independent of the will of the accused, that is, by the timely and able medical attendance given to the complaining witness which prevented his death, to his damage and prejudice.

ACTS CONTRARY TO LAW.<sup>5</sup>

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<sup>3</sup> *Id.* at 62-63.

<sup>4</sup> *Id.* at 63.

<sup>5</sup> *Id.*

On arraignment, petitioner pleaded not guilty to the charges. Joint trial ensued.

### **The Proceedings Before The Trial Court**

#### **Prosecution's Version**

The testimonies of Leomar Hosana, Gamaliel Jaucian, Glian Jules Sagario, Alex Olitoquit, Elmer Cleofe, Dr. Rommel Galicia, Thelma Sanchez, Helen Cleofe, Dr. Stanfred Ocoma, Dr. Rowena Lazaro, and Dr. Joframel Paz may be summarized, *viz.*:

On July 28, 2007, students of AMA Computer Learning Center (ACLC), Naga City held an acquaintance party at Villa Caceres Hotel. After the party, Alex Olitoquit, Elmer Cleofe, Marlon Padillo, and John Christian Yukim stepped out of the hotel to wait for George Sanchez. Outside, they saw their classmate Glian Jules Sagario arguing with two (2) men who were not from their school. One (1) of the men was later identified as petitioner Danilo Ansay, Jr.. Sagario told them that the argument started because petitioner got jealous of his close friendship with petitioner's former girlfriend. Petitioner tapped Sagario's shoulders and challenged him to a fight. Sagario tried to ignore petitioner but the latter boxed him.

Gamaliel Jaucian, Leomar Hosana, and George Sanchez were just across the street when they saw the fight. As a commotion ensued between petitioner and Sagario, Cleofe, Jaucian, and Sanchez rushed to help their classmate Sagario. The hotel guard tried to break the fight by swinging his baton at the students but this only caused them to move towards a nearby parking lot.

In the parking lot, petitioner suddenly took out a knife and stabbed Sanchez. Cleofe tried to help Sanchez but petitioner stabbed him too in his right side. Petitioner counted "one, two..," made stabbing motions, and asked aloud "who else is next?" This caused the other students to get scared and run away.

Next, petitioner chased Olitoquit, cornered the latter between a tricycle and electric post, and stabbed him also. Petitioner was about to stab another student, Christina Parma who was beside Olitoquit, but Hosana pulled her to safety.

Petitioner and his companion then escaped on board a motorcycle. Meantime, the victims were brought to the hospital, *i.e.* Sanchez to St. John Hospital, Cleofe to Bicol Medical Center, and Olitoquit to Mother Seton Hospital.

Dr. Rommel Galicia attended to Olitoquit. He explained that Olitoquit sustained a 4 cm stab wound in his right forearm and 2.5 cm stab wound in his torso. The stab wounds pierced his liver causing bleeding in his abdomen. Dr. Galicia immediately cleansed and sutured the wounds. According to Dr. Galicia, if this procedure was not done, Olitoquit would have died.

As for Cleofe, Dr. Rowena Lazaro, Chief Surgeon of Bicol Medical Center, explained that Cleofe was brought to the ER due to unstable vital signs. Cleofe sustained a stab wound in the upper part of his abdomen, damaging his liver and causing him to bleed. Since the injury was severe, he had to undergo surgery. If surgery was not done, Cleofe would have died due to blood loss.

On Sanchez, Dr. Stanfred Ocoma testified that when the victim was brought to the emergency room, he was already dead. Dr. Ocoma tried to resuscitate Sanchez but the latter did not respond. Sanchez had a three (3) centimeter wound in the chest. The wound indicated that a knife most likely pierced his heart, lungs, and other major artery. In his Autopsy Report, Dr. Joframel Paz indicated the cause of death: "hypovolemic shock due to lacerated wound of the superior vena cava due to stabbing."<sup>6</sup> Sanchez sustained a stab wound which penetrated his thoracic cavity and injured his internal organs. Dr. Paz explained that in this kind of injury, there was only a 25% chance of survival.

### **Defense's Version**

Petitioner testified that on July 28, 2007, he went to Villa Caceres Hotel to fetch his girlfriend Eugene Marie Jarcia who was attending a school party there. Jarcia gathered her things while he waited outside the hotel. Suddenly, Sagario and five (5) other men approached and took turns in punching him. He was able to run towards a nearby parking lot but Sagario and his companions followed and prevented him from leaving. Sagario took a knife and

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<sup>6</sup> *Id.* at 67.

tried to stab him. He grabbed the knife from Sagario and, in turn, used it to stab the latter. He shouted for help but no one came. He ran, once again, toward his motorcycle and escaped. He went home, told his mother that he got assaulted, and went to hide in his friend's house for he was afraid that Sagario and his companions would go to his house. Two (2) days later, he went to Naga City Hospital to have his head injury treated. On the same day, he went to Barlin police station to voluntarily surrender.

Jose Mari Dela Paz stated that on the day in question, around 11 o'clock in the evening, he was at Villa Caceres Hotel's Bistro Roberto watching a performance. He saw five (5) men enter and harass another man. He later identified the man as petitioner. The group kicked and boxed petitioner but the latter was able to free himself through the help of the hotel guard. The group of men followed petitioner to a nearby parking lot where they continued to assault him. One (1) of the men took out a knife from his pocket. He heard petitioner shout for help but he decided to go back to Bistro Roberto to watch a performance. Later, he relayed what he saw to Eden Prado, his board mate and petitioner's cousin.

### **The Trial Court's Ruling**

By Joint Decision<sup>7</sup> dated June 20, 2017, the trial court rendered a verdict of conviction, *viz.*:

WHEREFORE, the Court hereby finds the accused, Danilo Ansay, (Jr.), GUILTY beyond reasonable doubt of the crimes of Homicide and two (2) counts of Frustrated Homicide.

Accordingly, in Criminal Case No. 2007-0361 for Homicide, accused is hereby sentenced to suffer the Indeterminate penalty of Eight (8) years and One (1) day of Prision Mayor medium period as minimum to Fourteen (14) years, Eight (8) months and One (1) day of Reclusion Temporal medium period as maximum, with all the accessory penalties provided for by law, to indemnify the heirs of George Sanchez the amount of P50,000.00 as civil indemnity, P50,000.00 as moral damages and P61,772.25 as actual damages.

In Criminal Case No. 2008-0086 charging accused for the crime of Frustrated Homicide, he is hereby sentenced to suffer the

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<sup>7</sup> *Id.* at 62-74.

Indeterminate Penalty of Two (2) Years, Four (4) months, One (1) day of prision correccional medium period as minimum to Eight (8) years and One (1) day of prision mayor medium period as maximum, with all the accessory penalties provided for by law, to indemnify Alex Olitoquit the amount of P98,481.90 as actual damages and P50,000.00 as moral damages.

In Criminal Case No. 2008-0087 charging accused for the crime of Frustrated Homicide, he is hereby sentenced to suffer the Indeterminate Penalty of Two (2) Years, Four (4) months, One (1) day of prision correccional medium period as minimum to Eight (8) years and One (1) day of prision mayor medium period as maximum, with all the accessory penalties provided for by law, to indemnify Elmer Cleofe the amount of (P)25,000.00 as temperate damages and P50,000.00 as moral damages.

SO ORDERED.<sup>8</sup>

The trial court gave full credence to the testimonies of the prosecution witnesses who positively identified petitioner as the person who stabbed the victims. The trial court noted petitioner's admission that he stabbed Sanchez, albeit petitioner allegedly did so in self-defense. Petitioner's story, however, was belied by the clear, positive, and consistent testimonies of the prosecution witnesses that they saw petitioner take out a knife and stab Sanchez, Cleofe, and Olitoquit without any provocation from any of them. Petitioner even failed to present a medical certificate which would have bolstered his claim that he got injured when complainants supposedly boxed and kicked him during the incident. Thus, absent the element of unlawful aggression, petitioner's claim of self-defense must fail.<sup>9</sup>

### **The Court of Appeals' Ruling**

On appeal, the Court of Appeals affirmed.<sup>10</sup> It also denied petitioner's subsequent motion for reconsideration.<sup>11</sup>

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<sup>8</sup> *Id.* at 73-74.

<sup>9</sup> *Id.* at 71-74.

<sup>10</sup> *Id.* at 58.

<sup>11</sup> *Id.* at 27-28.

### **The Present Petition**

Petitioner now seeks affirmative relief from the Court. He faults the Court of Appeals for rejecting his claim of self-defense and giving credence to the testimonies of the prosecution witnesses despite the alleged inconsistency therein pertaining to the kind of knife used and the supposed physical impossibility of a right handed assailant to stab the victim in the right side of the latter's body, especially when the protagonists are facing each other.<sup>12</sup>

### **Core Issues**

Did the Court of Appeals err: 1) in finding petitioner guilty of homicide and two (2) counts of frustrated homicide; and 2) in not considering petitioner's plea of self-defense?

### **Ruling**

#### **Petitioner failed to prove that he acted in self-defense**

Self-defense as a justifying circumstance under Article 11 of the Revised Penal Code implies the admission by the accused that he committed the acts which would have been criminal in character had it not been for the presence of circumstances whose legal consequences negate the commission of a crime. By invoking self-defense, the burden of evidence shifted to petitioner to prove that he acted in accordance with the law.<sup>13</sup>

Self-defense requires the following elements: 1) unlawful aggression on the part of the victim; 2) reasonable necessity of the means employed to prevent or repel such aggression; and 3) lack of sufficient provocation on the part of the person resorting to self-defense.<sup>14</sup>

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<sup>12</sup> *Id.* at 18-22.

<sup>13</sup> *People v. Gonzales*, 687 Phil. 556, 560 (2012).

<sup>14</sup> *People v. Escobal*, 820 Phil. 92, 106 (2017).

Of these elements, unlawful aggression on the part of the victim is primordial. Unlawful aggression is an actual physical assault, or at least a threat to inflict real imminent injury upon a person. The element of unlawful aggression must be proven first in order for self-defense to be successfully pleaded. There can be no self-defense, whether complete or incomplete, unless the victim had committed unlawful aggression against the person who resorted to self-defense.<sup>15</sup>

Here, the prosecution witnesses testified that they saw petitioner arguing with Sagario in front of Villa Caceres Hotel. Sanchez saw the commotion from across the street and rushed to help Sagario. The hotel guard tried to break the fight but those involved merely moved to a nearby parking lot. There, petitioner took out a knife and stabbed Sanchez. Cleofe tried to help Sanchez but petitioner stabbed him too. Then petitioner counted “one, two..” and made stabbing motions. Petitioner asked the onlookers who wanted to be stabbed next. As the students ran away, petitioner caught Olitoquit and stabbed him, also. Thereafter, petitioner left.

The testimonies of the prosecution witnesses were so clear, straightforward, consistent, and detailed. They could not have been easily concocted if they did not actually witness the incident in question. These witnesses were not shown to have been actuated by improper motive to falsely testify against petitioner. Where there is nothing to indicate that the prosecution witnesses were actuated by improper motive, the presumption is that they were not so actuated and their testimonies are entitled to full faith and credit,<sup>16</sup> as in this case.

Petitioner, nonetheless, assails the testimonies of the witnesses for alleged inconsistency therein pertaining to the kind of knife used and the improbability that the victims would sustain the wounds in his right side during a face to face confrontation with a left handed person. But the alleged inconsistency refers to a trivial and minor detail which has nothing to do with the essential elements of the crime charged, *i.e.* homicide and two (2) counts of frustrated homicide. So long as the testimonies of the witnesses corroborate one another on material points, particularly in relating the principal

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<sup>15</sup> *People v. Macaraig*, 810 Phil. 931, 937 (2017).

<sup>16</sup> *People v. Reyes*, 823 Phil. 695, 711 (2018).



occurrence and in the positive identification of the assailant, minor inconsistencies will not impair their credibility.<sup>17</sup>

As for the alleged improbability of a left handed person stabbing another in the right side of the latter's body, the same must fail in light of the positive identification by the prosecution witnesses that it was petitioner who stabbed the three (3) victims. Petitioner's flight after the incident belies his claim of innocence, nay, self-defense. In *People v. Gonzales*,<sup>18</sup> the Court ruled that self-defense loses its credibility given the accused's flight from the crime scene and his failure to immediately inform the authorities about the incident.

**Petitioner committed  
homicide and frustrated  
homicide**

The elements of homicide are: 1) a person was killed; 2) the accused killed him without any 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, parricide, or infanticide.<sup>19</sup>

On the other hand, the crime of frustrated homicide is committed when: a) an accused intended to kill his victim, as manifested by his use of a deadly weapon in his assault; b) the victim sustained fatal or mortal wound/s but did not die because of timely medical assistance; and c) none of the qualifying circumstance for murder under Article 248 of the Revised Penal Code is present.<sup>20</sup>

These elements were proven here. The prosecution sufficiently established that petitioner stabbed Sanchez in the chest, killing Sanchez as a result. This is homicide.

As for Cleofe and Olitoquit, records show that petitioner had already performed all the acts of execution to produce the crime of homicide as a consequence, but did not produce it by reason of causes independent of his will which, in this case, is the timely

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<sup>17</sup> *Id.* at 712.

<sup>18</sup> *Supra* note 13, at 564.

<sup>19</sup> *Guevarra v. People*, 726 Phil. 183, 193 (2014).

<sup>20</sup> *Id.*

medical attention accorded to these victims. Dr. Galicia and Dr. Lazaro, who attended to Olitoquit and Cleofe, testified that the wounds inflicted on these victims would have caused their death if not for immediate medical attendance.

Article 6 of the Revised Penal Code provides that a felony is *frustrated* when the offender performs all the acts of execution which would produce the felony as a consequence but which, nevertheless, do not produce it by reason of causes independent of the will of the perpetrator, as in this case.

All told, the Court of Appeals correctly affirmed his conviction for homicide and two (2) counts of frustrated homicide.

## Penalty

### *Homicide*

Article 249 of the Revised Penal Code (RPC) states:

Art. 249. *Homicide*. — Any person who, not falling within the provisions of Article 246, shall kill another without the attendance of any of the circumstances enumerated in the next preceding article, shall be deemed guilty of homicide and be punished by reclusion temporal.

Applying the Indeterminate Sentence Law,<sup>21</sup> the Court of Appeals properly imposed the penalty of eight (8) years and one (1) day of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal*, as maximum.<sup>22</sup>

As for damages, the award of P61,772.25 actual damages was proper since the heirs of Sanchez were able to prove they incurred the said amount in hospitalization and medicine expenses.<sup>23</sup> Too, in line

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<sup>21</sup> The court, in imposing a prison sentence for an offense punished by the *Revised Penal Code*, or its amendments, is mandated to prescribe an indeterminate sentence the *maximum term* of which shall be that which, *in view of the attending circumstances*, could be properly imposed under the rules of the *Revised Penal Code*, and the *minimum term* shall be within the range of the penalty next lower to that" prescribed by the *Revised Penal Code* for the offense.

<sup>22</sup> See *People of the Philippines v. Rodrigo Macaspac*, 806 Phil. 285, 295 (2017).

<sup>23</sup> Exhibits "F" to "F-22," RTC Decision dated June 20, 2017, *rollo*, p. 69.

with *People v. Jugueta*<sup>24</sup> petitioner must pay the heirs of Sanchez P50,000.00 as civil indemnity and P50,000.00 as moral damages. These amounts shall earn interest at the rate of six percent (6%) *per annum* reckoned from the finality of this Resolution until fully paid.

*Frustrated Homicide*

Article 50 of the RPC provides:

Art. 50. *Penalty to be imposed upon principals of a frustrated crime.* — The penalty next lower in degree than that prescribed by law for the consummated felony shall be imposed upon the principal in a frustrated felony.

The penalty next lower in degree than that prescribed by law for homicide (*reclusion temporal*) is *prision mayor*. Applying the Indeterminate Sentence Law, the Court of Appeals properly imposed the penalty of *prision correccional* in its medium period or two (2) years, four (4) months, one (1) day, as minimum, to *prision mayor* in its medium period or eight (8) years and one (1) day of *prision mayor*, as maximum.

As for damages, petitioner must pay Cleofe and Olitoquit the following amounts: (a) P30,000.00 as civil indemnity; and (b) P30,000.00 as moral damages, in accordance with *People v. Tuardon*.<sup>25</sup>

For *Criminal Case No. RTC-2008-0086*, petitioner must also pay Olitoquit the amount of P98,481.90 as actual damages which amount was supported by receipts during trial.<sup>26</sup>

In *Criminal Case No. RTC-2008-0087*, petitioner must pay Cleofe the amount of P25,000.00 as temperate damages. It is settled that when actual damages proven by receipts during the trial amount to less than P25,000, the award of temperate damages of P25,000 is justified in lieu of actual damages.<sup>27</sup> Here, since the heirs of Cleofe claimed P45,697.00 as actual damages but were only able to present

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<sup>24</sup> 783 Phil. 806, 854 (2016)

<sup>25</sup> 806 Phil. 67, 686 (2017)

<sup>26</sup> Exhibits "D" to "D-15," RTC Decision dated June 20, 2017, *rollo*, p. 66.

<sup>27</sup> *People v. Bosito*, 750 Phil. 183, 190 (2015).

receipts for P6,158.95, the award of P25,000.00 as temperate damages is proper.

Petitioner is liable for legal interest of six percent (6%) per annum on the total awards from the finality of this Resolution until fully paid.

**WHEREFORE**, the appeal is **DENIED** and the assailed Decision dated May 7, 2019 and Resolution dated August 13, 2019 of the Court of Appeals in CA-G.R. CR No. 40636 is **AFFIRMED WITH MODIFICATION**.

In **Criminal Case No. RTC-2007-0361**, petitioner Danilo B. Ansay, Jr. is found **GUILTY** of **HOMICIDE**. He is sentenced to eight (8) years and one (1) day of *prision mayor* as minimum to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal*, as maximum.

He is also ordered to pay the heirs of George Sanchez y Bongon the following amounts:

- (a) **P50,000.00** as civil indemnity;
- (b) **P50,000.00** as moral damages; and
- (c) **P61,772.25** as actual damages.

In **Criminal Case No. RTC-2008-0086**, petitioner Danilo B. Ansay, Jr. is found **GUILTY** of **FRUSTRATED HOMICIDE**. He is sentenced to two (2) years, four (4) months, one (1) day of *prision correccional* as minimum to eight (8) years and one (1) day of *prision mayor* as maximum.

He is also ordered to pay Alex Olitoquit y Perez the following amounts:

- (a) **P30,000.00** as civil indemnity;
- (b) **P30,000.00** as moral damages; and
- (c) **P98,481.90** as actual damages.

In **Criminal Case No. RTC-2008-0087**, petitioner Danilo B. Ansay, Jr. is found **GUILTY** of **FRUSTRATED HOMICIDE**. He is sentenced to two (2) years, four (4) months, one (1) day of *prision correccional* as minimum to eight (8) years and one (1) day of *prision mayor* as maximum.

He is also ordered to pay Elmer Cleofe y Bernas the following amounts:

- (a) **P30,000.00** as civil indemnity;
- (b) **P30,000.00** as moral damages; and
- (c) **P25,000.00** as temperate.

The total amount of damages awarded shall earn a legal interest of six percent (6%) *per annum* from finality of this Resolution until fully paid.

**SO ORDERED.” Peralta, C.J.**, on official business.

Very truly yours,

**LIBRADA C. BUENA**  
Division Clerk of Court

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court <sup>msjrc</sup>  
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The Presiding Judge  
Regional Trial Court, Branch 19  
4400 Naga City  
(Crim. Case No. RTC 2007-0361)  
(Crim. Case No. RTC 2008-0086)  
(Crim. Case No. RTC 2008-0087)

Judgment Division (x)  
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