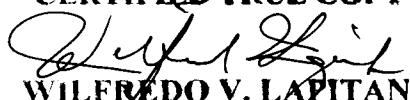




Republic of the Philippines
SUPREME COURT
 Manila

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division
 JUL 05 2018

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 234651

- versus -

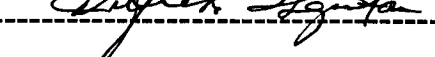
Present:

BENITO LABABO ALIAS "BEN,"
WENEFREDO LABABO, JUNIOR
LABABO (AL), and FFF,
 Accused-Appellants.

VELASCO, JR., J., Chairperson,
 BERSAMIN,
 LEONEN,
 MARTIRES, and
 GESMUNDO, JJ.

Promulgated:

June 6, 2018

X----------X

DECISION

VELASCO, JR., J.:

The Case

For consideration is an ordinary appeal from the August 31, 2016 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01992, entitled "*People of the Philippines v. Benito Lababo alias "Ben", Wenefredo Lababo, Junior Lababo (Al) and FFF*".

The Facts

Accused-appellants Benito, Wenefredo, Junior, and FFF, all surnamed "Lababo," were charged in an Information for the crime of Murder before the Regional Trial Court (RTC), Branch 19 of Catarman, Northern Samar, docketed as Criminal Case No. C-4460, the accusatory portion of which reads:

That on or about the 27th day of October 2007, at about 3:00 o'clock in the afternoon at (portion deleted) Province of Northern Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused conspiring with, confederating and mutually helping one another, armed with an unlicensed homemade shotgun locally known as "*bardog*"

¹ Penned by Associate Justice Gabriel T. Robeniol, with the concurrence of Associate Justices Pamela Ann Abella Maxino and Pablito A. Perez.

and with a long bolo, with deliberate intent to kill thru treachery, evident premeditation and abuse of superior strength, did then and there, willfully, unlawfully, and feloniously attack, assault and shoot AAA² with the use of said weapons which the accused had provided themselves for the purpose, thereby inflicting upon said AAA a gunshot wound which directly caused the death of said victim.

CONTRARY TO LAW.³

Additionally, accused-appellants Benito and Wenefredo were likewise indicted with the crime of Frustrated Murder before Branch 20, RTC of Catarman, Northern Samar. Docketed as Criminal Case No. C-4479, the Information reads:

That on or about the 27th day of October, 2007, at about 3:00 o'clock in the afternoon, in (portion deleted) Province of Northern Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused armed with a homemade shotgun, conspiring with (sic) confederating, and mutually helping each other, with deliberate intent to kill thru treachery and evident premeditation did, then and there, willfully, unlawfully and feloniously attack, assault and shoot BBB⁴ with the use of said weapon which the accused had provided themselves for the purpose, thus the accused having performed all the acts of execution which could have produced the crime of murder but did not produce it by reason of some cause independent of the will of the (sic) herein, accused, that is the timely and (sic) medical attendance to said BBB which prevented his death.

That the commission of the crime was aggravated with the use of an unlicensed firearm.

CONTRARY TO LAW.⁵

On January 26, 2009, accused-appellants pleaded not guilty to the charge of murder in Criminal Case No. C-4460. As for Criminal Case No. C-4479, Benito and Wenefredo pleaded not guilty to the charge of frustrated murder on April 21, 2009. Junior, however, remained at large.⁶

Upon joint motion of the prosecution and the defense, the cases were consolidated.

Prosecution's version

According to the prosecution, the facts surrounding the incident are as follows:

² Minor victim.

³ *Rollo*, p. 6.

⁴ AAA's father.

⁵ *Rollo*, pp. 6-7.

⁶ *CA rollo*, p. 96.

On October 27, 2007, at around 3:00 in the afternoon, BBB, his wife CCC,⁷ and their son AAA, alighted from a motorcycle in front of Benito's house, some fifty (50) meters away from their residence, and proceeded directly to go to their house. A few minutes later, CCC heard a gunshot accompanied by a child's scream emanating from near Benito's house. When she went outside to check, she saw her husband and son lying on the ground, wounded. Within close proximity is Benito holding a 29-inch gun locally known as "*bardog*" together with Wenefredo, FFF, and Junior, all armed with bolos. Jesus Caparal corroborated these accounts, saying that he was nearby when the incident occurred and that after hearing gunshots, he proceeded to his house. On the way there, he saw Benito holding a "*bardog*", with the three each holding a bolo, while AAA and BBB were lying on the ground. He reported the incident to the Barangay Tanod.⁸

CCC ran towards Barangay Malobago to seek help from Vice Mayor Diodato Bantilo. The latter went to the crime scene with CCC, at which point, CCC lost consciousness. Vice Mayor Bantilo brought the two (2) victims to the hospital. AAA was declared dead on arrival. BBB survived the gunshot wounds on his left wrist, right leg, and left buttock, but was confined at the hospital for one (1) month. DDD, CCC's adopted daughter, reported the incident to the police authorities of Northern Samar.⁹

Dr. Candelaria Castillo, the attending physician of the victims, issued the *Post Mortem Report* on AAA declaring that he sustained a single but fatal gunshot wound on his back, injuring his lungs, which resulted in cardiopulmonary arrest, leading to his immediate death.¹⁰

As for her finding on BBB, in the *Medico-Legal Certificate*, it is stated that he sustained eight (8) non-fatal gunshot wounds in the different parts of his body, signifying that he was moving at the time of the shooting. The doctor stated that if BBB was not given timely medical attention, he would have died from his wounds.¹¹

CCC suggested that the possible cause for the shooting was the boundary dispute between BBB and his brothers, Benito and Wenefredo.¹²

Version of the defense

For their part, the three denied the charges against them.

According to Wenefredo, he was fishing with a certain Rudy Castro at the time of the incident. He claims that it was only around 6:00 pm of that

⁷ AAA's mother.

⁸ CA *rollo*, p. 97.

⁹ Id.

¹⁰ Id. at 97-98.

¹¹ Id. at 98.

¹² Id.

day when he learned of the shooting when DDD came to his house to borrow money for the hospital expenses.¹³

As for Benito, he claims that he was at home fixing his motorcycle with FFF's help when the incident happened. According to him, their house is at least twelve (12) kilometers away from (information deleted). He also posits that he only knew of the incident three (3) days later. As for the alleged boundary dispute, Benito states that he was not involved therein.¹⁴

In his defense, FFF claimed that on the day of the incident, he was helping with the chores in their house.¹⁵

RTC Ruling

In its Decision¹⁶ dated July 8, 2014, the RTC found accused-appellants guilty of murder. Benito and Wenefredo were also found guilty for the crime of frustrated murder. According to the trial court, despite the fact that there was no eyewitness to the actual commission of the crime, the combination of the circumstantial evidence points out to accused-appellants as the perpetrators and conspirators.¹⁷ The *fallo* of the Decision reads:

From all the foregoing, the Court finds the accused BENITO LABABO @ BEN, WENEFREDO LABABO and FFF, in Crim. Case No. C-4460 are also (sic) found guilty beyond reasonable doubt of Murder and hereby sentenced to suffer the penalty of RECLUSION PERPETUA and to pay the private complainant each the amount of P50,000.00 civil indemnity, P50,000.00 moral damages, P25,000.00 exemplary damages and to pay the costs.

Accused BENITO LABABO @ BEN and WENEFREDO LABABO in Crim. Case No. C-4479 are also found guilty of the (sic) frustrated murder beyond reasonable doubt, and are sentenced to suffer an indeterminate penalty of imprisonment of EIGHT (8) YEARS and ONE (1) DAY of prision mayor medium as minimum to FOURTEEN (14) YEARS, EIGHT (8) MONTHS and ONE (1) DAY of reclusion temporal as maximum, and to pay the amount of P25,000.00 as temperate damages, P40,000.00 as moral damages, P30,000.00 exemplary damages and to pay the costs.

SO ORDERED.¹⁸

CA Ruling

On appeal, the CA affirmed the RTC's findings.

¹³ Id.

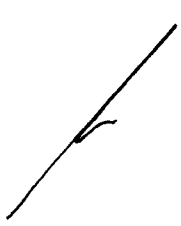
¹⁴ Id. at 99.

¹⁵ Id.

¹⁶ Penned by Presiding Judge Norma Megenio-Cardenas.

¹⁷ CA *rollo*, p. 99.

¹⁸ Id. at 94.



According to the CA, convictions may be anchored on circumstantial evidence as long as the series of circumstances duly proved are consistent with each other and that each and every circumstance is consistent with the accused's guilt and inconsistent with his innocence. Applying this, the CA found that the circumstances proved by the prosecution lead to no other conclusion than that the accused-appellants were the assailants and are, therefore, guilty of the crimes charged.¹⁹

The CA likewise found that the elements for the crime of murder are all present in the killing of AAA, noting that it was done with treachery, the attack being sudden and unexpected, leaving AAA defenseless. As for the charge of frustrated murder, the CA agreed with the finding of the RTC that although the wounds sustained by BBB were not fatal, the sheer number thereof made the totality of said injuries fatal. The CA noted the attending physician's testimony that one of the wounds, located at the posterior lumbar area, was located in the area of a vital organ which could cause his death if it would not be treated.²⁰

Anent the theory that the accused-appellants conspired to kill the victims, the CA held that the pieces of circumstantial evidence establish a common criminal design—that is, to harm and kill the victims. The appellate court added that although the victims only sustained gunshot wounds from Benito's *bardog*, and not from the bolos held by the three, the fact that they stayed together while wielding said bladed weapons are enough to demonstrate their common evil intent to threaten, harm, and eventually assault the victims.²¹

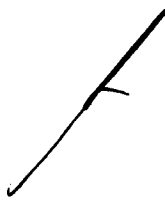
With respect to the penalties and damages imposed, the CA affirmed the penalty meted upon Benito and Wenefredo. But for FFF, the appellate court noted that he was 17 years old at the time of the commission of the crime thus, being a minor, Article 68 (2) of the Revised Penal Code, which states that the penalty next lower than that prescribed by law shall be imposed upon a person over fifteen and under eighteen, but always in the proper period, shall apply to him. After following said provision and the Indeterminate Sentence Law, the CA held, the range of penalty for FFF is *prision mayor* in any of its period, as minimum, to *reclusion temporal* in its medium period, as maximum.²² The CA thus modified the RTC's ruling by imposing upon FFF for his commission of the crime of murder the penalty of imprisonment of six (6) 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.

¹⁹ Id. at 101-102.

²⁰ Id. at 104.

²¹ Id. at 105.

²² Id. at 106-107.



As to the damages awarded, the CA modified the amounts thereof to the following to conform to recent jurisprudence and imposed legal interest at the rate of six percent (6%) per annum on all damages awarded, from the date of finality of the judgment until fully paid.²³

The *fallo* of the Decision reads:

WHEREFORE, premises considered, the instant appeal is **DENIED**. The assailed 8 July 2014 *Decision* of the Regional Trial Court, Branch 19, of Catarman, Northern Samar is **AFFIRMED with MODIFICATIONS** as follows:

In Criminal Case No. C-4460, accused-appellants Benito Lababo, Wenefredo Lababo and FFF are held GUILTY beyond reasonable doubt of the crime of *Murder*. Accused-appellants Benito Lababo and Wenefredo Lababo are sentenced to suffer the penalty of *Reclusion Perpetua* while FFF, being a minor at the time of the commission of the crime, shall suffer the penalty of six (6) 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. Said accused-appellants are also ordered to pay private complainant the amounts of Php75,000.00 as civil indemnity, Php75,000.00 as moral damages, Php30,000.00 as exemplary damages, and Php25,000.00 as temperate damages.

In Criminal Case No. C-4479, accused-appellants Benito Lababo and Wenefredo Lababo are held GUILTY beyond reasonable doubt of *Frustrated Murder* and are hereby sentenced to suffer the indeterminate 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. They are also ordered to pay private complainant the amounts of Php40,000.00 as moral damages, Php25,000.00 as temperate damages, and Php20,000.00 as exemplary damages.

All monetary awards for damages shall earn interest at the legal rate of 6% *per annum* from date of finality of this *Decision* until fully paid.

SO ORDERED.²⁴

The Issue

Whether or not the CA erred in affirming the RTC's finding that accused-appellants are guilty of the crimes charged.

Our Ruling

The instant appeal is without merit.

²³ Id. at 107.

²⁴ Id. at 108-109.

Conviction anchored on circumstantial evidence

Murder is defined and penalized under Art. 248 of the RPC, as amended, which provides:

ART. 248. *Murder*. Any person who, not falling within the provisions of Article 246, shall kill another, shall be guilty of murder and shall be punished by *reclusion perpetua*, to death if committed with any of the following attendant circumstances:

1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense, or of means or persons to insure or afford impunity;
2. In consideration of a price, reward, or promise;
3. By means of inundation, fire, poison, explosion, shipwreck, stranding of a vessel, derailment or assault upon a railroad, fall of an airship, by means of motor vehicles, or with the use of any other means involving great waste and ruin;
4. On occasion of any calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic, or any other public calamity;
5. With evident premeditation;
6. With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse.

The elements of murder are:

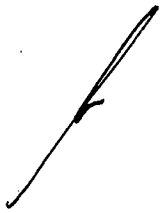
1. That a person was killed.
2. That the accused killed him.
3. That the killing was attended by *any* of the qualifying circumstances mentioned in Art. 248.
4. The killing is not parricide or infanticide.

Thus, for the charge of murder to prosper, the prosecution must prove beyond a reasonable doubt that: (1) the offender killed the victim, (2) through treachery, or by any of the other five qualifying circumstances, duly alleged in the Information.²⁵

In the case at hand, the fact of AAA's death is undisputed. Similarly, there is no question that the killing is neither parricide nor infanticide. It has also been sufficiently established that the killing is attended with treachery. In *People v. Camat*, this Court expounded on the qualifying circumstance of treachery in this wise:

There is treachery or *alevosia* when the offender commits any of the crimes against the person, employing means, methods or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from any defense which the offended party might make. For *alevosia* to qualify the crime to Murder, it must be shown that: (1) the malefactor employed such means, method or manner of

²⁵ *People v. Dela Cruz*, G.R. No. 188353, February 16, 2010.



execution as to ensure his or her safety from the defensive or retaliatory acts of the victim; and (2) the said means, method and manner of execution were deliberately adopted. Moreover, for treachery to be appreciated, it must be present and seen by the witness right at the inception of the attack.²⁶ (Citations omitted)

Here, the prosecution sufficiently proved that AAA, an unarmed minor, sustained a single, but fatal wound on his back through from a firearm. This, to Us, is more than sufficient to prove that the killing is treacherous since the attack was so sudden and unexpected that AAA was not given an opportunity to defend himself.

As for BBB's case, We agree with the RTC and CA's factual finding that the eight gunshot wounds sustained by BBB, as contained in the *Medico-Legal Certificate*, would have caused his death if he was not given timely medical attention.²⁷ Furthermore, it does not appear that BBB was armed or was in a position to deflect the attack. As a matter of fact, based on CCC's narration of the events that transpired, the suddenness of the attack upon AAA and BBB cannot be denied. Only that, unlike AAA, BBB survived.

The act of killing becomes frustrated when an offender performs all the acts of execution which could produce the crime but did not produce it for reasons independent of his or her will.²⁸

Here, taking into consideration the fact that BBB was shot eight times with the use of a firearm and that AAA, who was with him at that time, was killed, convinces Us that the malefactor intended to take BBB's life as well. However, unlike in AAA's case, BBB survived. It was also established that he survived not because the wounds were not fatal, but because timely medical attention was rendered to him. Definitely, BBB's survival was independent of the perpetrator's will. As such, this Court is convinced that the attack upon BBB qualifies as frustrated murder.

What is left to be determined, therefore, is whether indeed it was Benito who fired the shot that took AAA's life and inflicted upon BBB eight wounds that could have killed him as well. In this respect, for one reason or another, no eyewitness was presented. The evidence to support accused-appellant's conviction are, therefore, circumstantial evidence.

Convictions based entirely on circumstantial evidence are not new. In *People v. Evangelio*,²⁹ We detailed the instances when a judgment of conviction can be sustained on the basis of circumstantial evidence. Thus:

²⁶ *People v. Camat*, G.R. No. 188612, July 30, 2012.

²⁷ *CA rollo*, p. 98.

²⁸ See *Cirera v. People*, G.R. No. 181843, July 14, 2014.

²⁹ G.R. No. 181902, August 31, 2011.

Circumstantial evidence, also known as indirect or presumptive evidence, refers to proof of collateral facts and circumstances whence the existence of the main fact may be inferred according to reason and common experience. Circumstantial evidence is sufficient to sustain conviction if (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proven; (c) the combination of all circumstances is such as to produce a conviction beyond reasonable doubt. A judgment of conviction based on circumstantial evidence can be sustained when the circumstances proved form an unbroken chain that results in a fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the perpetrator.

Thus, for as long as the prosecution is able to meet the requirements for a finding of guilt beyond reasonable doubt anchored purely on circumstantial evidence, there is nothing to prevent a court from handing out a judgment of conviction.

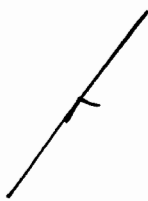
In the present case, We are sufficiently convinced that accused-appellant Benito is guilty of the crimes charged. As found by the RTC and affirmed by the CA, the prosecution were able to establish the following facts:

1. On October 27, 2007, gunshots, accompanied by a child's scream, were heard emanating from near Benito's house;
2. After such, the victims AAA and BBB were seen lying on the ground, wounded;
3. While the victims were sprawled on the ground, Benito was seen standing near them, holding a 29-inch "*bardog*" together with Wenefredo, FFF, and Junior, all armed with bolos;
4. AAA died from a single gunshot wound to the back; and
5. BBB sustained eight (8) gunshot wounds.

Basic is the rule that findings of fact of the trial court, as affirmed by the appellate court, are conclusive absent any evidence that both courts ignored, misconstrued, or misinterpreted cogent facts and circumstances of substance which, if considered, would warrant a modification or reversal of the outcome of the case.³⁰ Since the aforementioned exceptions are not present, We are inclined to agree with the findings of the RTC and the CA.

Furthermore, although none of the witnesses were able to testify on the actual shooting and BBB was not presented as a witness, still, the prosecution's evidence formed a coherent narration of the events that transpired that the only logical conclusion thereon is that it was Benito who shot the two victims. Aside from Benito being seen standing near the sprawled bodies of the victims while holding a firearm and that the wounds sustained by the victims emanated from a firearm, there is no evidence that there was another person there who was wielding a firearm and who could have fired the shots at the victims.

³⁰ *People v. Badriago*, G.R. No. 183566, May 8, 2009.



With these, We find no error on the ruling of both the RTC and the CA that it was Benito who attacked AAA and BBB.

On the alleged conspiracy

Having settled the issue on whether it was indeed Benito who fired at the victims, We shall now determine whether, as held by the RTC and the CA, accused-appellants conspired to commit the crimes charged.

Article 8 of the Revised Penal Code provides that conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. To prove conspiracy, the prosecution must establish the following three requisites: (1) two or more persons came to an agreement, (2) the agreement concerned the commission of a crime, and (3) the execution of the felony was decided upon. Once conspiracy is established, the act of one becomes the act of all.³¹

In *Bahilidad v. People*,³² the Court summarized the basic principles in determining whether conspiracy exists or not. Thus:

There is conspiracy when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. Conspiracy is not presumed. Like the physical acts constituting the crime itself, the elements of conspiracy must be proven beyond reasonable doubt. While conspiracy need not be established by direct evidence, for it may be inferred from the conduct of the accused before, during and after the commission of the crime, all taken together, however, the evidence must be strong enough to show the community of criminal design. For conspiracy to exist, it is essential that there must be a conscious design to commit an offense. Conspiracy is the product of intentionality on the part of the cohorts.

It is necessary that a conspirator should have performed some overt act as a direct or indirect contribution to the execution of the crime committed. The overt act may consist of active participation in the actual commission of the crime itself, or it may consist of moral assistance to his co-conspirators by being present at the commission of the crime or by exerting moral ascendancy over the other co-conspirators. Hence, the mere presence of an accused at the discussion of a conspiracy, even approval of it, without any active participation in the same, is not enough for purposes of conviction.

Here, it was established that Wenefredo and FFF were present at the scene of the crime, both wielding a bolo. However, it was also established that their alleged participation thereat did not go beyond being present and holding said weapons. As a matter of fact, both the victims only sustained gunshot wounds. The question now is this: Is Wenefredo and FFF's mere presence at the scene of the crime, while armed with bolos, sufficient to

³¹ *People v. Tolentino*, G.R. No. 139179, April 3, 2002.

³² G.R. No. 185195, March 17, 2010, 615 SCRA 597.

prove beyond reasonable doubt that they conspired with Benito to commit the crimes imputed against them?

We rule in the affirmative.

While it is true that mere presence at the scene of the crime at the time of its commission, without actively participating in the conduct thereof, is insufficient to prove that the accused conspired to commit the crime, Wenefredo and FFF's act of standing near the victims and Benito, while wielding bolos, does not partake of this nature.

To Our mind, their overt act of staying in close proximity while Benito executes the crime served no other purpose than to lend moral support by ensuring that no one could interfere and prevent the successful perpetration thereof.³³ We are sufficiently convinced that their presence thereat has no doubt, encouraged Benito and increased the odds against the victims, especially since they were all wielding lethal weapons.

Indeed, one who participates in the material execution of the crime by standing guard or lending moral support to the actual perpetration thereof is criminally responsible to the same extent as the actual perpetrator, especially if they did nothing to prevent the commission of the crime.³⁴ Under the circumstances, there is no evidence to support a conclusion that they have nothing to do with the killing. We are, therefore, convinced that indeed, the three conspired to commit the crimes charged.

On the penalties imposed

Finding that the RTC erred in the penalty imposed on FFF, the CA made the following modifications, noting that FFF was 17 years old at the time of the commission of the crime, thus:

WHEREFORE, premises considered, the instant appeal is **DENIED**. The assailed 8 July 2014 *Decision* of the Regional Trial Court, Branch 19, of Catarman, Northern Samar is **AFFIRMED with MODIFICATIONS** as follows:

In Criminal Case No. C-4460, accused-appellants Benito Lababo, Wenefredo Lababo and FFF are held **GUILTY** beyond reasonable doubt of the crime of *Murder*. Accused-appellants Benito Lababo and Wenefredo Lababo are sentenced to suffer the penalty of *Reclusion Perpetua* while FFF, being a minor at the time of the commission of the crime, shall suffer the penalty of six (6) 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. Said accused-appellants are also ordered to pay private complainant the amounts of Php75,000.00 as civil indemnity, Php75,000.00 as moral damages, Php30,000.00 as exemplary damages, and Php25,000.00 as temperate damages.

³³ See *People v. Campos*, G.R. No. 176061, July 4, 2011.

³⁴ *Id.*



In Criminal Case No. C-4479, accused-appellants Benito Lababo and Wenefredo Lababo are held GUILTY beyond reasonable doubt of *Frustrated Murder* and are hereby sentenced to suffer the indeterminate 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. They are also ordered to pay private complainant the amounts of Php40,000.00 as moral damages, Php25,000.00 as temperate damages, and Php20,000.00 as exemplary damages.

All monetary awards for damages shall earn interest at the legal rate of 6% *per annum* from date of finality of this *Decision* until fully paid.

SO ORDERED.³⁵ (underscoring ours)

We sustain the CA's modification of the penalty imposed on FFF.

The CA correctly took into account FFF's minority, he being 17 years old at the time of the commission of the crime, in reducing the period of imprisonment to be served by him. Being of said age, FFF is entitled to the privileged mitigating circumstance of minority under Article 68(2) of the RPC which provides that the penalty to be imposed upon a person under 18 but above 15 shall be the penalty next lower than that prescribed by law, but always in the proper period.³⁶

Murder is punishable by *reclusion perpetua* to death.³⁷ However, pursuant to RA No. 9346, proscribing the imposition of the death penalty, the penalty to be imposed on appellant should be *reclusion perpetua*. Applying Article 68 (2), the imposable penalty must be reduced by one degree, i.e., from *reclusion perpetua*, which is *reclusion temporal*. Being a divisible penalty, the Indeterminate Sentence Law is applicable. To determine the **minimum** of the indeterminate penalty, *reclusion temporal* should be reduced by one degree, *prision mayor*, which has a range of from **six (6) years and one (1) day to twelve (12) years**. The minimum of the indeterminate penalty should be **taken from the full range of *prision mayor***. Furthermore, there being no modifying circumstances attendant to the crime, the **maximum** of the indeterminate penalty should be imposed in its **medium period**³⁸ which is 14 years, eight months, and one day to 17 years and four months.³⁹

The CA thus correctly imposed the penalty of imprisonment of six (6) 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 to FFF.

³⁵ CA *rollo*, pp. 108-109.

³⁶ See *People v. Ancajas*, G.R. No. 199270, October 21, 2015.

³⁷ Art. 248, Revised Penal Code.

³⁸ See *People v. Ancajas*, *supra* note 36.

³⁹ Art. 76, Revised Penal Code.

As for the penalties imposed on Benito and Wenefredo anent their conviction for Murder and Frustrated Murder, there is no reason to disturb the RTC and CA's ruling thereon.

Suspended sentence

We note, however, that FFF, being a minor at the time of the commission of the offense, should benefit from a suspended sentence pursuant to Section 38 of RA 9344, or the **Juvenile Justice and Welfare Act of 2006**. Said provision reads:

SEC. 38. Automatic Suspension of Sentence. – Once the child who is under eighteen (18) years of age at the time of the commission of the offense is found guilty of the offense charged, the court shall determine and ascertain any civil liability which may have resulted from the offense committed. However, **instead of pronouncing the judgment of conviction, the court shall place the child in conflict with the law under suspended sentence, without need of application: Provided, however, That suspension of sentence shall still be applied even if the juvenile is already eighteen years (18) of age or more at the time of the pronouncement of his/her guilt.**

Upon suspension of sentence and after considering the various circumstances of the child, the court shall impose the appropriate disposition measures as provided in the Supreme Court Rule on Juveniles in Conflict with the Law. (emphasis ours)

It is well to recall that Section 38 of the law applies regardless of the imposable penalty, since R.A. No. 9344 does not distinguish between a minor who has been convicted of a capital offense and another who has been convicted of a lesser offense. We, therefore, should also not distinguish and should apply the automatic suspension of sentence to a child in conflict with the law who has been found guilty of a heinous crime.⁴⁰

Furthermore, the age of the child in conflict with the law at the time of the promulgation of judgment of conviction is immaterial. What matters is that the offender committed the offense when he/she was still of tender age. The promotion of the welfare of a child in conflict with the law should extend even to one who has exceeded the age limit of twenty-one (21) years, so long as he/she committed the crime when he/she was still a child. The offender shall be entitled to the right to restoration, rehabilitation and reintegration in accordance with the Act in order that he/she is given the chance to live a normal life and become a productive member of the community.⁴¹

FFF may thus be confined in an agricultural camp or any other training facility in accordance with Section 51 of Republic Act No. 9344, which provides that “[a] child in conflict with the law may, after conviction and upon order of the court, be made to serve his/her sentence, in lieu of confinement in a regular penal institution, in an agricultural camp and other

⁴⁰ *People v. Ancajas*, supra note 36; citing *People v. Sarcia*, 615 Phil. 97, 128 (2009).

⁴¹ *Id.*; citing *People v. Jacinto*, 661 Phil. 224 (2011).

training facilities that may be established, maintained, supervised and controlled by the BUCOR, in coordination with the DSWD.” The case shall thus be remanded to the court of origin to effect appellant’s confinement in an agricultural camp or other training facility, following the Court’s pronouncement in *People v. Sarcia*.⁴²

On the damages awarded

Lastly, We find the need to modify the damages awarded for both crimes, following *People v. Jugueta*.⁴³ Thus,

I. For those crimes like, Murder, Parricide, Serious Intentional Mutilation, Infanticide, and other crimes involving death of a victim where the penalty consists of indivisible penalties:

1.1 Where the penalty imposed is death but reduced to *reclusion perpetua* because of RA 9346:

- a. Civil indemnity – ₱100,000.00
- b. Moral damages – ₱100,000.00
- c. Exemplary damages – ₱100,000.00

1.2 Where the crime committed was not consummated:

- a. Frustrated:
 - i. Civil indemnity – ₱75,000.00
 - ii. Moral damages – ₱75,000.00
 - iii. Exemplary damages – ₱75,000.00.

It is well to mention that for FFF, Section 6 of RA 9344 expressly provides that the child in conflict with the law is still civilly liable for the crime committed.⁴⁴ Accordingly, FFF shall pay the same amount of damages as shall be meted upon his co-accused-appellants.

Thus, applying Our pronouncement in *People v. Jugueta*,⁴⁵ in Criminal Case No. C-4460 [Murder], accused-appellants shall each pay civil indemnity in the amount of ₱100,000.00, ₱100,000.00 as moral damages, and ₱100,000.00 as exemplary damages.

As for their conviction for Frustrated Murder in Criminal Case No. C-4479, Benito and Wenefredo shall pay the amounts of ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and ₱75,000.00 as exemplary damages.

⁴² *Id.*

⁴³ G.R. No. 202124, April 5, 2016.

⁴⁴ **SEC. 6. *Minimum Age of Criminal Responsibility.*** – A child fifteen (15) years of age or under at the time of the commission of the offense shall be exempt from criminal liability. However, the child shall be subjected to an intervention program pursuant to Section 20 of this Act.

A child above fifteen (15) years but below eighteen (18) years of age shall likewise be exempt from criminal liability and be subjected to an intervention program, unless he/she has acted with discernment, in which case, such child shall be subjected to the appropriate proceedings in accordance with this Act.

The exemption from criminal liability herein established does not include exemption from civil liability, which shall be enforced in accordance with existing laws. (emphasis ours)

⁴⁵ *Supra.*

WHEREFORE, premises considered, the appeal is **DISMISSED**. The August 31, 2016 Decision of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 01992 is hereby **AFFIRMED with MODIFICATION**. The dispositive portion of the assailed Decision, as modified, shall read:

In Criminal Case No. C-4460, accused-appellants Benito Lababo, Wenefredo Lababo and FFF are held **GUILTY** beyond reasonable doubt of the crime of *Murder*. Accused-appellants Benito Lababo and Wenefredo Lababo are sentenced to suffer the penalty of *Reclusion Perpetua*, [while the case against FFF, being a minor at the time of the commission of the crime, shall be remanded to the court of origin for appropriate disposition in accordance with Section 51 of Republic Act No. 9344.]

Each of the accused-appellants are ordered to pay private complainant the amounts of [P100,000.00] as civil indemnity, [P100,000.00] as moral damages, [P100,000.00] as exemplary damages.

In Criminal Case No. C-4479, accused-appellants Benito Lababo and Wenefredo Lababo are held **GUILTY** beyond reasonable doubt of *Frustrated Murder* and are hereby sentenced to suffer the indeterminate 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. They are also ordered to pay private complainant the amounts of [P75,000.00] as civil damages, [P75,000.00] as moral damages, and [P75,000.00] as exemplary damages.

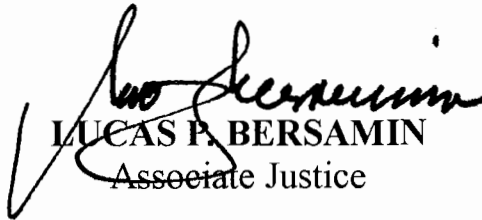
All monetary awards for damages shall earn interest at the legal rate of 6% *per annum* from date of finality of this *Decision* until fully paid.

SO ORDERED.



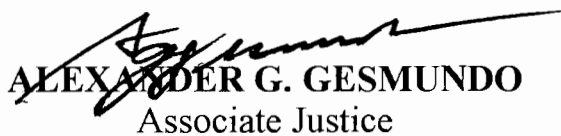
PRESBITERO J. VELASCO, JR.
Associate Justice

WE CONCUR:


LUCAS P. BERSAMIN
 Associate Justice

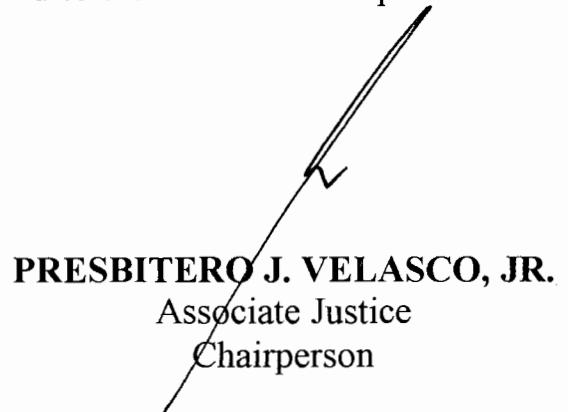

MARVIC M.V.F. LEONEN
 Associate Justice


SAMUEL R. MARTIRES
 Associate Justice


ALEXANDER G. GESMUNDO
 Associate Justice

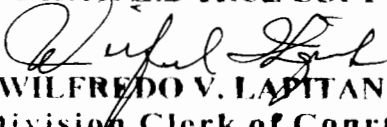
ATTESTATION


I attest 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.


PRESBITERO J. VELASCO, JR.
 Associate Justice
 Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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.

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division


ANTONIO T. CARPIO
 Acting Chief Justice

JUL 05 2018