



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 218581

Present:

CARPIO, J., *Chairperson*,
PERLAS-BERNABE,
CAGUIOA,
J. REYES, JR., and
LAZARO-JAVIER, JJ.

- versus -

LARRY LUMAHANG y TALISAY,
Accused-Appellant.

Promulgated:

27 MAR 2019

[Signature]

X-----X

DECISION

CAGUIOA, J.:

Before the Court is an ordinary appeal¹ filed by the accused-appellant Larry Lumahang y Talisay (Lumahang) assailing the Decision² dated July 14, 2014 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05819, which affirmed with modifications the Judgment³ dated October 23, 2012 of the Regional Trial Court (RTC) of Quezon City, Branch 217 in Criminal Case Nos. Q-08-156459 and Q-08-156460, finding Lumahang guilty beyond reasonable doubt of the crimes of Murder and Slight Physical Injuries.

The Facts

Two Informations were filed against Lumahang for killing Rodel Velitario (Velitario) and stabbing Augusto Pornelos (Pornelos), the accusatory portions of which read:

¹ See Notice of Appeal dated August 7, 2014; *rollo*, pp. 18-19.

² Id. at 2-17. Penned by Associate Justice Rebecca De Guia-Salvador, with Associate Justices Ricardo R. Rosario and Leoncia R. Dimagiba concurring.

³ CA *rollo*, pp. 43-61. Penned by Judge Santiago M. Arenas.

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Criminal Case No. Q-08-156459

That on or about the 14th day of December 2008, in Quezon City, Philippines, the [appellant], with intent to kill, with the qualifying aggravating circumstances of treachery did then and there willfully, unlawfully and feloniously commence the commission and evident premeditation of the crime of murder directly by overt acts, by then and there stabbing one AUGUSTO PORNELOS Y Buizon, with a knife, but the said accused did not perform all the acts of execution which would have produced the crime of murder by reason of some cause other than their spontaneous desistance, that is, the timely intervention of another and non-fatal nature of the wounds inflicted to the damage and prejudice of said offended party.⁴

Criminal Case No. Q-08-156460

That on or about the 14th day of December 2008, in Quezon City, Philippines, the said accused, did, then and there willfully, unlawfully and feloniously, with intent to kill, with the qualifying aggravating circumstances of evident premeditation and treachery, did, then and there willfully, unlawfully, and feloniously attack, assault and employ personal violence upon the person of one RODEL VELITARIO y CAPACIO, by then and there stabbing him several times, thereby inflicting upon him serious and mortal wounds which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of said victim.⁵

The version of the prosecution, as summarized in its Brief for the Appellee,⁶ is as follows:

On December 14, 2008, around nine o'clock in the evening, Alberto Poraso, Rodel Velitario and Augusto Porneleos were attending a wake in Joan of Arc Street, Barangay Gulod, Novaliches, Quezon City when appellant appeared fuming mad. Suddenly, appellant approached Porneleos from behind and stabbed him in a hook motion with knife in his left hand. Porneleos, who was hit on the buttocks, quickly ran towards an alley. Without warning, appellant then turned his ire on Velitario and stabbed him repeatedly on different parts of his body.

Dr. Joseph Palmero, medico-legal examiner of Velitario, found two (2) stab wounds in the latter's abdomen, one (1) incise wound on the left shoulder and another on the left posterior thigh. He found multiple abrasions on the (*sic*) Velitario's right collar bone and on both toes which were presumably caused by a scuffle between said victim and his assailant. It was determined that the cause of Velitario's death was the multiple stab wounds he sustained on the abdomen, which among others, hit his left kidney. Dr. Palmero estimated that based on the depth of the wounds, the assailant was within an arm's length from the victim and that the weapon used was a bladed knife measuring around eight (8) cm. long.

On the other hand, Dr. Engelbert Ednacot of the Quezon City General Hospital, examining physician of Porneleos, found a stab wound on the latter's right buttocks, which he concluded to be a non-fatal wound that

⁴ *Rollo*, p. 2-A.

⁵ *Id.* at 3.

⁶ *CA rollo*, pp. 74-89.



required treatment for around seven (7) days. In his medical opinion, the victim was attacked from behind.⁷

On the other hand, the version of the defense, as summarized in its Brief for the Accused-appellant,⁸ is as follows:

On December 14, 2008, at around 9:00 o'clock in the evening, accused **LARRY LUMAHANG** and his cousin LL were on their way home from buying barbecue when five (5) bystanders who were under the influence of alcohol blocked their way. The bystanders approached Larry and LL. Suddenly, two (2) of them touched the hands, shoulders and breasts of LL while the others laughed. LL said "Huwag!" while the accused asked them to stop and told them that if they like LL, they should do it the right way and go to their house to court her. Upon hearing that, the bystanders approached the accused and one of them punched him while another pulled out a knife. The person who drew the knife stabbed the accused but he was able to thwart the thrust. However, he was hit on his left thigh and they grappled with the knife. When he saw a chance to run away, he ran towards the direction of his aunt's house with the bystanders running after him. They were not able to catch him but they tried to destroy the house of his aunt by kicking it but still, they were not able to pull him out of the house.

He identified Augusto Pornelos as one of the bystanders who blocked their way. When the BPSO went to his aunt's house looking for him, he voluntarily surrendered, after which, he was brought to the hospital and thereafter, to Camp Karingal. He was surprised of the charges of murder and attempted murder against him because he only grappled with the knife and did not stab anyone.

The first time he met the private complainant Pornelos and the deceased Velitario was during the incident and he could not recall any disagreement or confrontations that happened between them before December 14, 2008.

He had also sustained injuries from being punched in the head and had a stab wound on his left thigh. Due to these injuries, he was confined in a clinic in Novaliches which name he could no longer remember. As proof, he showed to the court a one-inch scar with five stitches on his left thigh. When he voluntarily surrendered to the police authorities, no knife was recovered from him.⁹

When Lumahang was arraigned, he pleaded "not guilty" to the crime charged.¹⁰ Pre-trial and trial thereafter ensued.

⁷ Id. at 80-81.

⁸ Id. at 26-41.

⁹ Id. at 33.

¹⁰ *Rollo*, p. 3.



Ruling of the RTC

After trial on the merits, in its Judgment¹¹ dated October 23, 2012, the RTC convicted Lumahang of the crimes of Murder and Less Serious Physical Injuries. The dispositive portion of the said Judgment reads:

WHEREFORE, judgment is hereby rendered:

- 1) In Criminal Case No. Q-08-156459, finding accused LARRY LUMAHANG Y TALISAY guilty beyond reasonable doubt of LESS SERIOUS PHYSICAL INJURIES and there being attendant aggravating and mitigating circumstance (*sic*), he is thereby sentenced to suffer an imprisonment of 4 months and 1 day to 6 months;
- 2) In Criminal Case No. Q-156460 for Murder, likewise finding accused LARRY LUMAHANG Y TALISAY guilty beyond reasonable doubt of the offense charged and hereby sentences him to the penalty of *reclusion perpetua*. He is also ORDERED to pay the heirs of the deceased Rodel Velitario the sums of P75,000.00 as death indemnity, P50,000.00 as moral damages and P25,000.00 as exemplary damages.

x x x x

SO ORDERED.¹²

The RTC convicted Lumahang on the basis of the testimony of the prosecution eyewitness Alberto Poraso (Poraso), who positively identified him as the assailant of Velitario and Pornelos. The RTC held that the stabbing of Pornelos and the killing of Velitario were attended by treachery because the attacks were sudden, the victims were unarmed, and they were not able to defend themselves. However, as to the attack on Pornelos, the RTC only convicted Lumahang of less serious physical injuries as it could not be inferred from the attack, or the wound sustained by Pornelos, that Lumahang had the intent to kill Pornelos.

Aggrieved, Lumahang appealed to the CA.

Ruling of the CA

In the assailed Decision¹³ dated July 14, 2014, the CA affirmed with modifications the RTC's conviction of Lumahang on the basis of Poraso's testimony. It reiterated the rule that the testimony of a lone witness, if found by the trial court to be positive, categorical, and credible, is sufficient to support a conviction.¹⁴

¹¹ Supra note 3.

¹² CA *rollo*, pp. 60-61.

¹³ Supra note 2.

¹⁴ *Rollo*, p. 6.



The CA held that Lumahang's defense of denial could not prevail over the positive and categorical testimony of the eyewitness who identified him as the assailant of Velitario and Pornelos. As to Lumahang's claim of defense of relative, the CA did not give credence to the claim because the element of unlawful aggression was insufficiently proven. As Lumahang's cousin, who was supposedly harassed by the group of Velitario, was not presented in court, the CA concluded that the supposed aggression relied on by Lumahang was not sufficiently proven. Moreover, the CA held that when Lumahang used the plea of defense of relative, he had, in fact, admitted to doing the acts charged against him as the plea was in the nature of a confession in avoidance.¹⁵

The CA likewise upheld the RTC finding that the attacks were attended with treachery. As to the attack against Pornelos, Lumahang effected the attack from behind; as to Velitario, the attack, while made frontally, was made by Lumahang in a sudden, unexpected, and swift manner.¹⁶ The CA also upheld the RTC's finding that Lumahang was entitled to the mitigating circumstance of voluntary surrender because he surrendered to the barangay at the night of the incident after having been convinced by his aunt, Virginia Lumahang.¹⁷

While the CA upheld Lumahang's conviction for Murder for the killing of Velitario, it did, however, downgrade Lumahang's conviction for the stabbing of Pornelos. The CA convicted Lumahang of only Slight Physical Injuries, as Pornelos needed only seven days of confinement in the hospital to recover from the injury.

Hence, the instant appeal.

Issue

For resolution of this Court are the following issues submitted by Lumahang:

- (1) Whether the CA erred in convicting Lumahang despite the prosecution's failure to prove his guilt beyond reasonable doubt;
- (2) Whether the CA erred in appreciating the qualifying circumstance of treachery.

The Court's Ruling

The appeal is partially meritorious. The Court affirms the conviction of Lumahang but for the crime of Homicide, instead of Murder, as the qualifying circumstance of treachery was not present in the killing of Velitario. The

¹⁵ Id. at 10-11.

¹⁶ Id. at 13.

¹⁷ Id. at 13-14.



Court likewise affirms the conviction of Lumahang for the crime of Slight Physical Injuries for stabbing Pornelos.

On whether Lumahang's guilt was proven beyond reasonable doubt

In questioning his conviction, Lumahang again reiterates his argument that he cannot be convicted on the basis of a single, uncorroborated testimony of an eyewitness.¹⁸ He argues that the prosecution was unable to present evidence that was contrary to his version of the facts, and this supposedly raises reasonable doubt on his guilt.¹⁹

The arguments deserve scant consideration.

At the outset, it bears mentioning that Lumahang raises the same issues as those raised in — and duly passed upon by — the CA. It is well-settled that in the absence of facts or circumstances of weight and substance that would affect the result of the case, appellate courts will not overturn the factual findings of the trial court.²⁰ Thus, when the case pivots on the issue of the credibility of the testimonies of the witnesses, the findings of the trial courts necessarily carry great weight and respect as they are afforded the unique opportunity to ascertain the demeanor and sincerity of witnesses during trial.²¹ Here, after examining the records of this case, the Court finds no cogent reason to vacate the RTC's appreciation of the testimonial evidence, which was affirmed *in toto* by the CA. In this connection, the Court quotes with approval the following disquisition by the CA on the credibility of the testimony of eyewitness Porazo:

It bears stressing that [Porazo] was only about a meter and a half away from appellant when he saw the latter stab [Pornelos]. Also, [Porazo] was about 3 meters away from [Velitario] when he saw appellant turned to stab [Velitario]. Even if it was already 9:00 in the evening, and he is not familiar with appellant, [Porazo]'s proximity to the two victims and the appellant gave him unimpeded view of the stabbing incident. Thus, appellant easily and unmistakably identified appellant in open court as the assailant of the victims.

Of marked relevance is the failure of appellant to impute and show ill-motive on the part of [Porazo] to wrongly implicate him in the present criminal cases. Appellant's admission that he does not know [Porazo] and is unaware of any reason for the latter to falsely testify against him, serves to bolster the credibility of [Porazo]'s testimony. The rule is that when there is no evidence to show any dubious reason or improper motive for a prosecution witness, like [Porazo] to testify falsely against an accused, his testimony is worthy of full faith and credit.²²

¹⁸ CA rollo, p. 36.

¹⁹ Id.

²⁰ *People v. Gerola*, G.R. No. 217973, July 19, 2017, 831 SCRA 469, 478.

²¹ See *People v. Aguilar*, 565 Phil. 233, 247 (2007).

²² Rollo, pp. 9-10.



As against the positive identification by an eyewitness, Lumahang could only interpose the defense of denial and a blanket claim of defense of relative. To repeat, his version was that the group of Poraso, Velitario, and Pornelos made indecent advances to his cousin. According to him, he tried to intervene and protect his cousin, but one of them stabbed him on his thigh. He then grappled with the knife and ran away when the first opportunity to do so presented itself.

The Court has oft pronounced that denial is an inherently weak defense which cannot prevail over the positive and credible testimony of the prosecution witness that the accused committed the crime.²³ Thus, as between a categorical testimony which has the ring of truth on one hand, and a mere denial and alibi on the other, the former is generally held to prevail.²⁴

In this case, Lumahang simply denies that he stabbed the victims, and, at the same time, claims that he was just protecting his cousin. The Court, however, cannot give more weight to Lumahang's denial over the testimonial evidence presented by the prosecution. Moreover, the Court cannot also give credence to Lumahang's claim of defense of relative, as none of the elements to successfully invoke the same was sufficiently proven in this case.

The justifying circumstance of defense of relative may be invoked by proving the following elements:

- (1) unlawful aggression;
- (2) reasonable necessity of the means employed to prevent or repel it; and
- (3) in case the provocation was given by the person attacked, the one making the defense had no part therein.²⁵

Of these three requisites, the first element – the presence of unlawful aggression – is said to be the most essential and primary, without which any defense is not possible or justified.²⁶ This must be so, because “[i]f there is no unlawful aggression there would be nothing to prevent or repel.”²⁷

In this case, the CA correctly held that Lumahang failed to prove that there was unlawful aggression. As the RTC aptly noted:

At any rate, accused owned up to being present during the stabbing incident as he stated that they grappled for the possession of the knife but he could not recall how the victim Rodel Velitario and Augusto Pornelos were stabbed which is highly incredible to be believed by the court. **Further**

²³ *People v. Piosang*, 710 Phil. 519, 527 (2013).

²⁴ *Id.*

²⁵ *People v. Francisco*, 386 Phil. 709, 716 (2000).

²⁶ *People v. Agapinay*, G.R. No. 77776, June 27, 1990, 186 SCRA 812, 823.

²⁷ *Id.*



if indeed it is true that he was with his cousin when Rodel Velitario, Alberto Porazo and Augusto Pornelos molested his cousin "LL", why did LL did not (*sic*) file charges against them? Or even then, why did his cousin did not (*sic*) testify to corroborate his testimony?²⁸ (Emphasis supplied)

With regard to the stab wound on his thigh, this, by itself and without any medical examination conducted on the same, only proves that he had a stab wound. As the CA stated, "it does not show how and when he sustained such injury or who inflicted it and under what circumstances."²⁹ Thus, the claim of defense of relative must necessarily fail for the failure of the defense to establish the element of unlawful aggression.

Without doubt, therefore, Lumahang should be liable for the killing of Velitario and the stabbing of Pornelos.

Second Issue: Existence of the Qualifying Circumstance of Treachery

In the assailed Decision, the CA affirmed the RTC's finding that the qualifying circumstance was present, thereby making Lumahang liable for Murder instead of Homicide for the death of Velitario. The CA reasoned as follows:

Appellant walked and approached [Pornelos] from behind, and suddenly stabbed him with a knife on his right gluteal area. Dr. EDNACOT confirmed that [Pornelos] was attacked from behind, as it would be difficult for the assailant to stab [Pornelos]'s buttocks if he was facing him. Clearly, the execution of appellant's attack made it impossible for [Pornelos] to defend himself or retaliate. Fortunately, [Pornelos] was able to run away before appellant could stab him any further.

Meanwhile, granted that [Velitario] noticed the commotion between [Pornelos] and appellant, as he was not more than 2 meters away from [Pornelos], the swiftness and unexpected attack of appellant nonetheless caught [Velitario] off guard. Thus, instead of running away from appellant, [Velitario] remained standing and was unable to defend himself. Within a couple of seconds, appellant's right arm hooked on [Velitario]'s nape and stabbed him four (4) times on the stomach with a six-inch double blade knife. The mere fact that the attack on Rodel was frontal does not negate the presence of treachery. A frontal attack would qualify as treachery when the assault is sudden and unexpected and not even preceded by a dispute, to the point of incapacitating the person attacked the opportunity to repel the assault or to escape from it. Appellant's attack being sudden and unexpected, and with his right armed (*sic*) locked on Rodel's nape, any attempt at escape (*sic*) by the latter would be all for naught.³⁰

²⁸ CA rollo, p. 52.

²⁹ Rollo, p. 11.

³⁰ Id. at 13.

The Court disagrees with the CA insofar as it holds that treachery attended the attack on Velitario.

Treachery undoubtedly exists on the attack against Pornelos because (1) the parties were attending a wake, and were thus not expecting an attack from happening; (2) the attack was made suddenly and from behind. The attack on Pornelos was therefore clearly attended by treachery.

The same is not true, however, for the attack on Velitario. As the CA itself correctly pointed out:

Suddenness of the attack by itself, is inadequate to support a finding of treachery. It must be coupled with proof that the victim was completely deprived of a real chance to defend himself against the attack thereby ensuring its commission without risk to the aggressor, and without the slightest provocation on the part of the victim. It is, thus, decisive that the attack was executed in a manner that the victim was rendered defenseless and unable to retaliate.³¹

The CA, however, oddly did not follow the foregoing standard. The CA held that the swiftness and unexpectedness of the attack caught Velitario off guard, which rendered him unable to defend himself.³² This conclusion is erroneous.

To borrow the words of the Court in *People v. Santos*,³³

[t]reachery, just like any other element of the crime committed, must be proved by clear and convincing evidence — evidence sufficient to establish its existence beyond reasonable doubt. It is not to be presumed or taken for granted from a mere statement that "the attack was sudden"; there must be a clear showing from the narration of facts why the attack or assault is said to be "sudden."³⁴

Stated differently, mere suddenness of the attack is not sufficient to hold that treachery is present, where the mode adopted by the aggressor does not positively tend to prove that he thereby **knowingly intended** to insure the accomplishment of his criminal purpose without any risk to himself arising from the defense that the victim might offer.³⁵ Specifically, it must clearly appear that the method of assault adopted by the aggressor was **deliberately chosen** with a view to accomplishing the act without risk to the aggressor.³⁶

In the case at bar, Lumahang had already made an attack against Pornelos who, after being stabbed on the buttocks, was able to successfully run away towards safety. Velitario was already apprised that there was danger

³¹ Id. at 12, citing *People v. Peralta*, 403 Phil. 72 (2011) and *People v. Satonero*, 617 Phil. 983 (2009).

³² Id. at 13.

³³ 175 Phil. 113 (1978).

³⁴ Id. at 122.

³⁵ *People v. Delgado*, 77 Phil. 11, 15-16 (1946).

³⁶ *People v. Bacho*, 253 Phil. 451, 458 (1989).



nearby as he saw the commotion between Pornelos and Lumahang. As eyewitness Porazo testified:

Q: Mr. Witness, if you know, after [Pornelos] was stabbed by [appellant] what was the reaction of [Velitario]?

A: [Velitario] just stood there, Sir.³⁷

Even if it was possible that Velitario was so surprised by the attack that he was unable to do anything, this does not automatically make the attack on Velitario treacherous. It is true that Velitario was unable to defend himself from Lumahang's attacks **not because he was not given an opportunity to do so**, but simply because he was not able to react in time from the initial attack on Pornelos.

The Court stresses that the essence of treachery is where the mode adopted by the assailant is positively shown to have been **knowingly intended** to insure the accomplishment of the criminal purpose without any risk to himself arising from the defense that the victim might offer.³⁸ The mode adopted by Lumahang in this case **was not unexpected**; it did not necessarily ensure that the act would be executed without any defense from the victim, or that the victim would not be able to retaliate, as the latter had the opportunity to run away or even defend himself. Unfortunately, the victim was just unable to do so. In other words, the fact that the victim was unable to defend himself would not automatically mean that the killing was attended by treachery if the prosecution – as in this case – failed to show that the means used by Lumahang was consciously or deliberately adopted to ensure the execution of the crime without any risk to himself arising from the defense that the victim might offer. As the Court similarly held in *People v. Tumaob*:³⁹

The qualifying circumstance of treachery can not logically be appreciated because the accused did not make any preparation to kill the deceased in such a manner as **to insure the commission of the crime or to make it impossible or hard for the person attacked to defend himself or retaliate**.⁴⁰ (Emphasis supplied)

In addition, the attack itself was frontal. In *People v. Tugbo*,⁴¹ the Court held that treachery was not present because the attack was frontal, and hence, the victim had opportunity to defend himself. While a frontal attack, by itself, does not negate the existence of treachery, when the same is considered along with the other circumstances, like the attack not being unexpected, it already creates a reasonable doubt in the existence of the qualifying circumstance. From the foregoing, the Court must perforce rule in favor of the accused and not appreciate the said circumstance.

³⁷ *Rollo*, p. 8.

³⁸ *People v. Delgado*, supra note 35.

³⁹ 83 Phil. 738 (1949).

⁴⁰ *Id.* at 742.

⁴¹ 273 Phil. 346, 352 (1991).

With regard to the presence of the mitigating circumstance of voluntary surrender, the Court agrees with both the RTC and the CA that Lumahang is entitled to the same. In *De Vera v. De Vera*,⁴² the Court held that for voluntary surrender to be appreciated, the following requisites should be present: 1) the offender has not been actually arrested; 2) the offender surrendered himself to a person in authority or the latter's agent; and 3) the surrender was voluntary. The essence of voluntary surrender is spontaneity and the intent of the accused to give himself up and submit himself to the authorities either because he acknowledges his guilt or he wishes to save the authorities the trouble and expense that may be incurred for his search and capture.⁴³ Without these elements, and where the clear reasons for the supposed surrender are the inevitability of arrest and the need to ensure his safety, the surrender is not spontaneous and, therefore, cannot be characterized as "voluntary surrender" to serve as a mitigating circumstance.⁴⁴

In the present case, Lumahang voluntarily surrendered to the barangay officers on the same night the incident happened because he was convinced to do so by his aunt.⁴⁵ This satisfies all the aforementioned three requisites, thus entitling Lumahang to claim the mitigating circumstances of voluntary surrender.

With the removal of the qualifying circumstance of treachery, the crime committed by Lumahang against Velitario is therefore Homicide and not Murder. The penalty for Homicide under Article 249 of the Revised Penal Code is *reclusion temporal*. However, since Lumahang is entitled to the mitigating circumstance of the voluntary surrender, the penalty shall be imposed in its minimum period. Applying the Indeterminate Sentence Law, the penalty next lower in degree is *prision mayor* with a range of six (6) years and one (1) day to twelve (12) years. Thus, Lumahang shall suffer the indeterminate penalty of eight (8) years and one (1) day of *prision mayor*, as minimum, to thirteen (13) years and ten (10) months of *reclusion temporal*, as maximum.

As to the Slight Physical Injuries committed against Pornelos, the Court upholds the sentence of twenty (20) days of *arresto menor* imposed by the CA, as the generic aggravating circumstance of treachery was offset by the generic mitigating circumstance of voluntary surrender.

Finally, in view of the Court's ruling in *People v. Jugueta*,⁴⁶ the damages awarded to the heirs of Velitario are hereby modified to civil indemnity, moral damages, and temperate damages of ₱50,000.00 each.

⁴² 602 Phil. 877 (2009).

⁴³ Id. at 886.

⁴⁴ Id. at 886-887.

⁴⁵ *Rollo*, p. 14.

⁴⁶ 783 Phil. 806 (2016).



WHEREFORE, in view of the foregoing, the appeal is hereby **PARTIALLY GRANTED**. The Court **DECLARES** accused-appellant LARRY LUMAHANG y TALISAY **GUILTY** of the crimes of (a) **HOMICIDE**, for which he is sentenced to suffer the indeterminate penalty of eight (8) years and one (1) day of *prision mayor*, as minimum, to thirteen (13) years and ten (10) months of *reclusion temporal*, as maximum; and (b) **SLIGHT PHYSICAL INJURIES**, for which he is sentenced to suffer the penalty of twenty (20) days of *arresto menor*. He is further ordered to pay the heirs of Rodel Velitario the amount of Fifty Thousand Pesos (₱50,000.00) as civil indemnity, Fifty Thousand Pesos (₱50,000.00) as moral damages, and Fifty Thousand Pesos (₱50,000.00) as temperate damages. All monetary awards shall earn interest at the legal rate of six percent (6%) per annum from the date of finality of this Decision until fully paid.

SO ORDERED.




ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

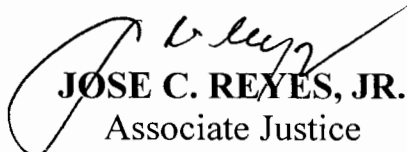
WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



ESTELA M. PERLAS-BERNABE
Associate Justice



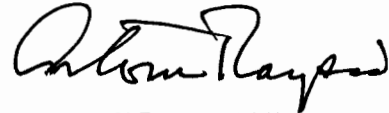
JOSE C. REYES, JR.
Associate Justice



AMY C. LAZARO-JAVIER
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.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

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.



LUCAS P. BERSAMIN
Chief Justice

