Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

BENJIE LAGAO *y* GARCIA,
Petitioner,

- versus -

PEOPLE OF THE PHILIPPINES,
Respondent.

G.R. No. 217721

Present:

PERLAS-BERNABE, *S.A.J.*,
Chairperson,
HERNANDO,
INTING,
ZALAMEDA,* *and*
GAERLAN, *JJ.*

Promulgated:
SEP 15 2021

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DECISION

GAERLAN, *J.*:

Before this Court is a petition for review on *certiorari*[1] under Rule 45 of the Rules of Court seeking to annul and set aside the Decision[2] dated May 29, 2014 of the Court of Appeals (CA) in CA-G.R. CR No. 34991, and its Resolution[3] dated March 20, 2015, denying the motion for reconsideration thereof. The assailed decision dismissed the appeal and affirmed the Decision[4] dated April 24, 2012 of the Regional Trial Court (RTC) of Bauang, La Union, Branch 33, in Criminal Case No. 3651-BG which found the petitioner guilty beyond reasonable doubt of the crime of homicide.

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* Designated additional Member per Special Order No. 2835-C dated July 30, 2021; vice Rosario, J., no part due to prior action in the Court of Appeals.

1 *Rollo*, pp. 11-28.

2 Id. at 34-39. Penned by Associate Justice Amelita G. Tolentino, with Associate Justices Ricardo R. Rosario (now a Member of this Court) and Danton Q. Bueser, concurring.

3 Id. at 41-42. Penned by Associate Justice Ricardo R. Rosario (now a Member of this Court), with Associate Justices Marlene Gonzales-Sison and Danton Q. Bueser, concurring.

4 Records, pp. 18-21. Penned by Presiding Judge Rose Mary R. Molina-Alim.

Antecedents

Petitioner Benjie Lagao *y* Garcia (petitioner) was charged with the crime of homicide by virtue of an Information dated April 30, 2008, the accusatory portion of which reads:

> That on or about [the] 20th day of February 2008, in the Municipality of Bauang, Province of La Union, Philippines and within the jurisdiction of the Honorable Court, the above-named accused, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault, hit and struck with the use of a hard object, one ANTHONY SUMAD-ONG NERIDA and inflicting upon said person fatal injuries which caused his untimely death, to the damage and prejudice of the heirs of [the] said victim.
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> CONTRARY TO LAW.[5]

Upon arraignment, the petitioner, assisted by counsel, entered a plea of not guilty.[6] After pre-trial, trial on the merits ensued.

The prosecution presented as witnesses: Ricardo de Guzman (De Guzman), Ryan Cruz (Cruz), and Alfredo Nerida, Sr. (Nerida, Sr.), the father of the victim Anthony Sumad-ong Nerida (victim).

In his testimony, De Guzman narrated that on February 20, 2008, at around 7:30 p.m., he saw the victim and noticed that his nose was bleeding. He asked him what happened, but the victim replied "none." Then, as he and the victim were having a drink, the latter told him that he and the petitioner had an altercation about him being drunk at work. In the course of which, the petitioner boxed, struck him on his nose, and hit him with a bottle at the back of his head. Cruz was also present and heard the victim's account.[7]

De Guzman also affirmed that during their drinking spree, he noticed that the victim was not well and saw that he has an open wound on his head which was bleeding. However, the victim did not seek medical attention nor reported the matter to the police.[8]

Cruz corroborated the testimony of De Guzman. In his testimony, he related his observation that the victim's head injury was an open wound about three (3) inches long. He posited that he personally asked the victim of the cause of the injury, who then pointed to the petitioner as the one who struck him. Cruz

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5 Id. at 13.
6 *Rollo*, p. 35.
7 Records, pp. 18-19.
8 Id. at 19.

advised the victim to tell his mother about his injury and to seek medical attention, but the latter refused.[9]

The testimony of Nerida, Sr., the victim's father, is substantially the same as that of De Guzman and Cruz, in that the victim had told him that the petitioner was the one who caused his injuries. According to Nerida Sr., these injuries resulted in the victim's death on February 22, 2008. He also identified the petitioner in open court as his nephew and neighbor in Paringao, Bauang, La Union. Nerida Sr. also testified that he spent more or less ₱40,000.00 for the victim's funeral and other related expenses.[10]

The defense, on the other hand, presented the petitioner and Dr. Bernardo Parado (Dr. Parado), as witnesses.

Petitioner denied inflicting injuries on the victim or that he had any altercation with him. He admitted that he knew the victim who was his relative, being the son of his mother's cousin.[11]

Dr. Parado, Municipal Health Officer of Bauang, La Union, testified that he conducted an autopsy on the body of the victim. Based on his report, the examination revealed that the lacerated wound sustained by the victim was merely superficial as it was just under the skin.[12]

He was also called to affirm the contents of the death certificate[13] prepared by Dr. Mark Anthony M. Cuevas (Dr. Cuevas), which stated that the victim's immediate cause of death was respiratory failure and the antecedent cause was secondary to sepsis, while the underlying cause is secondary to T/C acute pancreatitis and pneumonia. Dr. Parado nonetheless clarified that based on his post-mortem examination, the victim died of "cardio-respiratory arrest secondary to hypovolemic shock secondary to intracranial hemorrhage secondary to blunt force injury occipital area, middle."[14]

During trial, the victim's death certificate was presented as a common exhibit for the parties.[15]

On April 24, 2012, the RTC rendered its Decision,[16] finding as follows:

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9 Id.
10 Id.
11 Id. at 20.
12 TSN, February 21, 2012, pp. 222-224; records, pp. 9-10.
13 Records, p. 8.
14 TSN, February 21, 2012, pp. 224-226.
15 Id. at 229-230.
16 Records, pp. 18-21.

> WHEREFORE, the Court finds and declares the accused BENJIE LAGAO y GARCIA, guilty beyond reasonable doubt, of the crime of Homicide, and hereby sentences him to suffer the indeterminate penalty of EIGHT (8) YEARS and ONE (1) day of prision mayor, as minimum, to TWELVE YEARS and ONE (1) day of reclusion temporal, as maximum; to pay the heirs of the victim Anthony Nerida, the following amounts:
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> a) Php18, 600 as actual damages;
> b) Php50,000 for moral damages;
> c) Php50,000 death indemnity;
> d) and to pay the costs.
>
> SO ORDERED.[17]

In so ruling, the RTC concluded that the injuries sustained by the victim had caused his death. In identifying the perpetrator of the offense, the RTC relied heavily on the declaration of the victim to witnesses De Guzman and Cruz, that the petitioner was the one who struck him on his nose and head. The RTC opined that in the absence of showing that these witnesses were actuated by ill motive, their testimonies deserve full faith and credit.[18]

Acting on the appeal filed by the petitioner, the CA rendered the assailed Decision,[19] affirming the RTC's judgment of conviction, *viz.*:

> WHEREFORE, premises considered, the appeal is DISMISSED for utter lack of merit. The decision dated April 24, 2012 and the order dated May 24, 2012 of the Regional Trial Court (RTC) of Bauang, La Union, Branch 33 are AFFIRMED.
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> SO ORDERED.[20]

The CA agreed with the RTC's determination and admitted the testimonies of the prosecution witnesses which established the link between the petitioner and the crime. The CA held that the testimonies of these witnesses cannot be considered as hearsay as what was sought to be admitted as evidence was the fact that the utterance was actually made by the victim, and not necessarily the truth of the matters he stated.[21] Ultimately, the CA found the declaration by the victim to the prosecution witnesses and the latter's testimonies which pointed to the petitioner as the one who inflicted injury on him as part of *res gestae*.[22]

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17 Id. at 21-22.
18 Id. at 20.
19 *Rollo*, pp. 34-39.
20 Id. at 38.
21 Id. at 37.
22 Id. at 37-38.

The CA found these testimonies, coupled with the findings of Dr. Parado, prevail over the petitioner's denial and were sufficient to establish guilt beyond reasonable doubt.[23]

The petitioner sought reconsideration of the assailed Decision but the CA denied it in its Resolution[24] dated March 20, 2015.

In the instant petition, the petitioner submits a single issue for the Court's resolution:

> WHETHER THE COURT OF APPEALS ERRED IN AFFIRMING THE JUDGMENT OF CONVICTION OF THE CRIME OF HOMICIDE DESPITE THE PROSECUTION'S FAILURE TO PROVE PETITIONER'S GUILT BEYOND REASONABLE DOUBT.[25]

Preliminarily, the petitioner entreats the Court to give due course to the petition submitting that the CA failed to notice relevant facts which, if properly considered, would justify a different conclusion.[26]

The petitioner insists on his innocence. He argues that the testimonies of prosecution witnesses implicating him to the crime are hearsay as they are not based on their personal knowledge or derived from their own perception but merely on what they allegedly heard from the victim.[27] Neither can these testimonies be admitted as *res gestae* as there was no spontaneity in the declaration as the victim was already hurt at 5:00 p.m., but only spoke of the incident to witnesses De Guzman and Cruz at around 7:00 p.m. when the drinking spree began.[28] At any rate, even assuming the testimonies are admissible, the petitioner posits that they should not be given weight in view of the conflicting statements related to them by the victim.[29]

In its Comment,[30] the respondent submits that the findings of fact of the RTC, as affirmed by the CA, should be respected and are not to be disturbed in this appeal. For the respondent, the alleged inconsistencies in the testimonies are trivial matters that do not affect the witnesses' credibility.[31] Likewise, these testimonies are not hearsay and even if they were, the respondent insists that they are nonetheless admissible as a dying declaration and/or as *res gestae.*[32]

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23 Id. at 37.
24 Id. at 41-42.
25 Id. at 17.
26 Id.
27 Id. at 18-20.
28 Id. at 22-23.
29 Id. at 23-24.
30 Id. at 109-121.
31 Id. at 114.
32 Id. at 116-118.

In response, the petitioner filed his Reply[33] in which he reiterates that the prosecution was not able to prove his guilt beyond reasonable doubt. He averred that the statements uttered by the victim to the prosecution witnesses cannot be considered as a dying declaration as they were not made under a consciousness of an impending death, and as such should be excluded as evidence. Therefore, the RTC erred in relying upon these testimonies as basis for his conviction.[34]

Ruling of the Court

The petition is ***meritorious.***

This case presents an exception[35] to the rule that appeals of this nature are limited to questions of law. In this petition for review, the Court finds that the uniform conclusion made by the CA and the RTC is manifestly mistaken, thus warranting the re-evaluation of the evidence presented by the parties.

The cornerstone of all criminal prosecutions is the constitutional right of the accused to be presumed innocent until the contrary is proved. This places the burden upon the prosecution to prove the guilt of the accused on the strength of its own evidence, without regard to the weakness of the defense. Should the prosecution fail to discharge this burden, the accused need not even offer evidence;[36] as flowing from this presumption, acquittal must ensue as a matter of course.

Preliminarily, it is important to address the variance between the cause of the victim's death as stated in the Death Certificate prepared by Dr. Cuevas and the statement of Dr. Parado, the Municipal Health Officer who conducted an autopsy on the body of the victim.

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33 Id. at 130-136.

34 Id. at 131-134.

35 *Pascual v. Burgos*, 776 Phil. 167, 181 (2016), citing *Medina v. Mayor Asistio, Jr.*, 269 Phil. 225, 232 (1990), enumerates the following exceptions in which the Court may review questions of fact in a Rule 45 petition, *viz.*:

(1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.

36 *People v. Luna*, 828 Phil. 671, 696 (2018), citing *People v. Castro*, 346 Phil. 894, 911-912 (1997).

The Death Certificate was presented as a common exhibit for both parties.[37] It was admitted by the Court as evidence not on the basis of the testimony of Dr. Parado, but as documentary evidence[38] which, of itself, is the best evidence of its contents. It is therefore inconsequential that the certificate was not affirmed by Dr. Cuevas who prepared the same, and was presented on the occasion of the testimony of Dr. Parado, who offered a different opinion as to the victim's cause of death.

The Death Certificate is a public document. As such, it is admissible in evidence even without proof of its due execution and genuineness. The entries found therein are presumed correct, unless the party who contests its accuracy can produce positive evidence establishing otherwise.[39] Consequently, in this case, the certificate of death was admissible to prove the victim's cause of death even if Dr. Cuevas did not testify in court. Such certificate is given evidentiary weight as *prima facie* evidence of its contents.[40]

Notwithstanding, such evidence must be weighed in relation to the autopsy report which contradicted the cause of death. While both indicated respiratory arrest as the immediate cause of the victim's death, the Death Certificate indicated that it is a complication of other illness; on the other hand, the autopsy report as affirmed by Dr. Parado in his testimony stated that it is a result of the injury sustained by the victim in the occipital area.[41] This leaves the evidence in equipoise that warrants the petitioner's acquittal.

Under the equipoise rule, as applied in criminal cases, when there is doubt on which side the evidence preponderates, the accused must be acquitted as the quantum of proof is not met. Similarly, when the facts and circumstances are capable of two or more interpretations, one consistent with innocence and another with guilt, the evidence is regarded not to have met the test of moral certainty and does not suffice to produce a conviction.[42] Applied in this case, considering that there is a possibility that the victim died of natural causes and not of the injury he sustained, the prosecution was not able to meet the quantum of proof necessary to implicate the petitioner in the crime of homicide.

Moreover, it is undisputed in this case that there is no eyewitness to the crime and the only basis of the petitioner's conviction are the accounts of the

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37 TSN, February 21, 2012, pp. 229-230.

38 Id.

39 *Philippine American Life Insurance Company v. Court of Appeals*, 398 Phil. 559, 567-568 (2000), citing *Bingcoy v. Court of Appeals*, 345 Phil. 1030-1056 (1997); and *Stronghold Insurance Co., Inc. v. Court of Appeals*, 255 Phil. 597-606 (1989).

40 *People v. Luna*, supra note 36; *Patungan Jr. v. People*, G.R. No. 231827, January 20, 2020, citing *Iwasawa v. Gangan*, 717 Phil. 825, 830 (2013).

41 TSN, February 21, 2012, pp. 224-226.

42 *Tin v. People*, 415 Phil. 1, 11-12 (2001), citing *People v. Cawaling*, 355 Phil. 1, 40 (1998).

prosecution witnesses, based on what was narrated to them by the victim, that it was the petitioner who inflicted his injuries.

The Court finds the testimony of the prosecution witnesses inadmissible for being hearsay. In this regard, considering that the case for the prosecution, particularly in identifying the petitioner as the perpetrator of the crime, is anchored heavily upon these testimonies, their exclusion in this case should similarly result in the petitioner's acquittal.

As a rule, witnesses can only testify as to matters based on their personal knowledge or derived from their own perception.[43] However, among the recognized exceptions to this prohibition against hearsay testimony are accounts made in open court of a dying man's declaration[44] and statements which form part of *res gestae*.[45]

The admissibility of a dying declaration demands the existence of four (4) requisites: a) the declaration must concern the cause and surrounding circumstances of the declarant's death; b) at the time the declaration was made, the declarant must be under the consciousness of an impending death; c) the declarant is competent as a witness; and d) the declaration must be offered in a criminal case for homicide, murder, or parricide, in which the declarant is the victim.[46]

Of the foregoing, the second element is wanting in the present case. The rule is that in order for a declaration to be admitted, the same must be uttered under the consciousness or fixed belief that death is inevitable and imminent.[47] A dying declaration is considered as evidence of the highest order and is entitled to utmost credence as it is viewed that no person aware of his or her impending death would make a careless and false accusation.[48]

> Verily, because the declaration was made in extremity, when the party is at the point of death and when every motive of falsehood is silenced and the mind is induced by the most powerful considerations to speak the truth, the law deems this as a situation so solemn and awful as creating an obligation equal to that which is imposed by an oath administered in court.[49]

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43 2019 AMENDMENTS TO THE 1989 REVISED RULES ON EVIDENCE, A.M. No. 19-08-15-SC, Rule 130, Section 22.

44 2019 AMENDMENTS TO THE 1989 REVISED RULES ON EVIDENCE, A.M. No. 19-08-15-SC, Rule 130, Section 38.

45 2019 AMENDMENTS TO THE 1989 REVISED RULES ON EVIDENCE, A.M. No. 19-08-15-SC, Rule 130, Section 44.

46 *People v. Umapas*, 807 Phil. 975, 985-986 (2017), citing *People v. Cerilla*, 564 Phil. 230, 242 (2007).

47 Id.

48 *People v. Palanas*, 760 Phil. 964, 974 (2015), citing *People v. Cerilla*, supra note 46, further citing *People v. Cortezano*, 425 Phil. 696, 715 (2002).

49 Id., citing *United States v. Gil*, 13 Phil. 530, 549 (1909); *People v. Saliling*, 161 Phil. 559, 572-573 (1976).

The victim in this case cannot be viewed to be under the consciousness of an impending death. In contrast, his actions indicate no sense of urgency, and his words identifying the petitioner as the one who inflicted his injuries were uttered only in a casual manner. From the narration of the prosecution witnesses, De Guzman and Cruz, the statements of the victim relating to his injuries were uttered during a drinking session; that on the same occasion, they had suggested that the victim seek medical attention but the latter declined and instead continued drinking for about thirty (30) minutes.[50] For sure, these acts are not from a person driven by the thought that he was in a dying condition. There was simply no sense of urgency or intense emotion that could be implied from the victim's actions that typically characterizes someone who has lost all hope for recovery. The conclusion is bolstered by the fact that the victim died two (2) days after he sustained the injuries.[51]

The respondent suggests that granting the victim's statement identifying the petitioner as the one who caused his injuries cannot be considered as a dying declaration, it may nonetheless be considered as part of *res gestae,* another exception to the prohibition against hearsay.

For a statement to form part of *res gestae*[52] the following elements must concur: (a) the principal act, the *res gestae*, is a startling occurrence; (b) the statements were made before the declarant had time to contrive or devise; and (c) the statements must concern the occurrence in question and its immediately attending circumstances.[53]

The main consideration in the admissibility of spontaneous statements as part of *res gestae* is "whether the act, declaration, or exclamation is so intimately interwoven or connected with the principal fact or event that it characterizes as to be regarded as a part of the transaction itself, and also whether it clearly negates any premeditation or purpose to manufacture testimony."[54] The statement must be made at the time of or immediately after the startling occurrence, at a time when the exciting influence thereof still continued in the mind of the declarant such that there is no opportunity to contrive and the utterance is made only in reaction to the startling occurrence.[55]

The essence of *res gestae* is the element of spontaneity, which is determined in relation to the following factors:

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50 TSN, April 14, 2009; records, pp. 149-151; TSN, April 28, 2009; records, p. 161; TSN, July 27, 2009; records, pp. 177-178, 180, 184.

51 Id. at 8; TSN, November 9, 2010, records, p. 213.

52 2019 AMENDMENTS TO THE 1989 REVISED RULES ON EVIDENCE, A.M. No. 19-08-15-SC, Rule 130, Section 44.

53 *People v. Palanas*, supra note 48 at 973, citing *People v. Villarico, Sr.*, 662 Phil. 399, 418 (2011).

54 Id., citing *People v. Quisayas*, 731 Phil. 577, 595 (2014), citing *People v. Salafranca,* 682 Phil. 470, 483-484 (2012).

55 Id.; *People v. Putian*, 165 Phil. 759, 764 (1976).

> (1) the time that has lapsed between the occurrence of the act or transaction and the making of the statement, (2) the place where the statement is made, (3) the condition of the declarant when the utterance is given, (4) the presence or absence of intervening events between the occurrence and the statement relative thereto, and (5) the nature and the circumstances of the statement itself.[56]

A review of the attendant circumstances led the Court to conclude that the victim's declaration cannot also be considered as part of *res gestae*. For one, as aptly pointed out by the petitioner, at least two (2) hours has already passed from the time the victim sustained injuries and when the latter started drinking with De Guzman.[57] Significantly, the victim's conflicting answers to De Guzman's inquiry pertaining to his injuries negate spontaneity:

> Q Mister witness, do you know the person Anthony Nerida?
> A Yes, sir.
>
> Q Sometime on February 20, 2008 around 7:30 that evening, do you remember if you had a chance to talk to him?
> A Yes, sir.
>
> Q And where was the place where you talked with this Anthony Nerida?
> A In front of the house of JR our friend, sir.
>
> Q And when you saw this Anthony Nerida, what was your observation if any?
> A His nose was bleeding, sir.
>
> Q What more have you observed?
> A That's all, sir. After that, we went to have a drink.
>
> Q And aside from having observed him with a nose bleed, were you able to talk to him?
> A Yes, sir.
>
> Q And what did you discuss if any?
> A **I asked him what happened to his nose but he said none, sir.**
>
> Q And aside from asking about is nose, what more did you talk about if any?
> A When we were already drinking we talked about a wound on his head, sir.
>
> Q What did you know about the wound on his head?
> A **It was hit by Benjie Lagao he said, sir.**[58] (Emphasis supplied)

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56 *Manulat, Jr. v. People*, 766 Phil. 724, 745 (2015), citing *People v. Dianos*, 357 Phil. 871, 885-886 (1998).

57 TSN, November 9, 2010; records, p. 214.

58 TSN, April 14, 2009; records, pp. 148-150.

In *People v. Jorolan*,[59] the Court held that there must be no intervening circumstance between the startling occurrence and the statement of such nature "as to divert the mind of the declarant, and thus restore his mental balance and afford opportunity for deliberation."[60] The statement or declaration must be instinctive and void of any period for reflection.[61]

Herein, at the time the declaration was made, the victim was not at or near the place where he sustained the injuries. De Guzman first met the victim in front of the house of their friend "JR" and then they proceeded to have a drink at a sari-sari store.[62] Also, while the injuries sustained by the victim were yet to be treated at the time he made the declaration, he was nevertheless able to converse and interact properly with prosecution witnesses De Guzman, Cruz, and Nerida, Sr. In fact, the victim was able to proceed from place to place, and was even the one who procured the alcoholic beverage he shared with De Guzman.[63] In view of the intervening events between the occurrence and the declaration, it cannot be said that the victim "had no time to deliberate and fabricate" the identification of the petitioner as his assailant. In the same way, the declaration cannot be regarded to be inspired by the shock or excitement caused by the startling occurrence as to be viewed deliberately intertwined thereto.

It is elementary that the burden rests upon the prosecution to prove beyond reasonable doubt that a crime has been committed and to establish the identity of the offender.[64] In the discharge of this duty, the prosecution must stand on its own merits and not on the weakness of the evidence of the defense. Failing in this regard, as in this controversy, acquittal must ensue as a matter of right.[65]

WHEREFORE, in consideration of the foregoing disquisitions, the instant petition for review on *certiorari* is **GRANTED**. The Decision dated May 29, 2014 and the Resolution dated March 20, 2015 of the Court of Appeals in CA-G.R. CR No. 34991, which, in turn, affirmed the Decision dated April 24, 2012 of the Regional Trial Court of Bauang, La Union, Branch 33, in Criminal Case No. 3651-BG are hereby **REVERSED** and **SET ASIDE**. Petitioner Benjie Lagao *y* Garcia is **ACQUITTED** of the crime of homicide.

Let entry of judgment be issued immediately.

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59 452 Phil. 698 (2003).
60 Id. at 713.
61 Id.
62 TSN, April 14, 2009; records, p. 149; TSN, July 27, 2009; records, pp. 177-178.
63 TSN, July 27, 2009; records, pp. 177-178, 184.
64 *People v. Floresta*, G.R. No. 239032, June 17, 2019.
65 *People v. Bormeo*, 292-A Phil. 691, 707 (1993).

SO ORDERED.

SAMUEL H. GAERLAN
Associate Justice

WE CONCUR:

ESTELA M. PERLAS-BERNABE
Senior Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

RODIL V. ZALAMEDA
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.

ESTELA M. PERLAS-BERNABE
Senior 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.

ALEXANDER G. GESMUNDO
Chief Justice