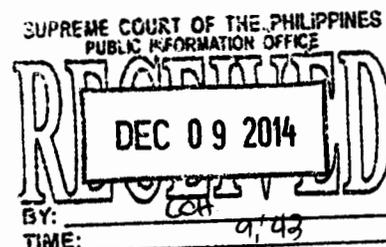




Republic of the Philippines
Supreme Court
Manila
FIRST DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **October 22, 2014** which reads as follows:

“**G.R. No. 212558** (Juan Brazil, Jr. y Pedrosa [Pecrosa¹] v. People of the Philippines). - Juan Brazil, Jr. (Brazil) filed this petition for review on *certiorari* to assail the Decision² of the Court of Appeals (CA) in CA-G.R. CR No. 35056 which affirmed in *toto* the Decision of the Regional Trial Court (RTC), Branch 84, Bulacan finding the accused guilty beyond reasonable doubt of the crime of homicide under Article 249 of the Revised Penal Code, as amended.

The records show that around 7:30 o'clock in the evening of 31 August 2008, Roselyn Verina (Roselyn), common-law wife of the victim Rommel Montes (Rommel), heard a commotion outside their house. When she went out, she found her husband Rommel lying on the ground, with blood on his forehead and vomiting. While attending to her husband, Brazil came out from his house which was just nearby and asked victim Rommel “*ano problema mo?*” Thereafter, victim Rommel stood up and Brazil suddenly stabbed the former on the chest and ran away. Roselyn shouted for help, but nobody came to their rescue. The victim died in the arms of Roselyn and was consequently brought to the funeral parlor.³

In an autopsy report conducted by Dr. Ivan Richard A. Viray (Dr. Viray), it was indicated that the cause of death was “*hemorrhagic shock as a result of a stab wound, right pectoral region.*”⁴

¹ Rollo, p.8; As stated in his COMELEC Voter’s ID.

² Id. at 28-39; Penned by Associate Justice Fernanda Lampas Peralta with Associate Justices Myra V. Garcia-Fernandez and Nina G. Antonio-Valenzuela concurring.

³ Id. at 28-29.

⁴ Id. at 29.

Thus, Brazil was charged with homicide before RTC, Branch 84, Bulacan.

During trial, the prosecution presented Roselyn and *Barangay Tanod* Eduardo Dista (Dista) as witnesses. Roselyn testified on the commission of the crime while Dista testified what he saw upon his arrival at the scene of the crime. He reported that he saw a dead man lying on the ground with a woman crying beside him. The woman identified the deceased as her husband and pointed to Brazil as the one who stabbed the victim. Dista further testified that he went to Brazil's house and the latter voluntarily went with him to the *barangay* hall for investigation. Brazil was thereafter brought to the Norzagaray Police Station.⁵

Brazil for his part denied the allegations against him. He claimed that he was sleeping at around 7:30 P.M. on the night of the incident when he heard shouts at the back of his house. He was asked by his neighbors to talk with and stop Rommel, who was drunk at the time. When the latter refused to be pacified, Brazil contended that he went home, as begged for by his wife and daughter. He went back to sleep and was awakened only at around 9:00 o'clock P.M. when the *barangay* volunteers arrived and invited him to go to the *barangay* hall.⁶

The defense likewise presented a neighbor of Brazil named Cristina Villanueva (Villanueva) who testified that she saw accused holding a pair of pliers. She alleged that the victim was already stabbed when she saw the accused got the pliers.

In a Decision⁷ dated 26 March 2012, the trial court found Brazil guilty as charged. The trial court did not give credit to Brazil's defense of denial and alibi. It also found the testimony of Villanueva incredible and unconvincing as it is full of inconsistencies.

On appeal, the CA affirmed in *toto* the Decision of the RTC.

Hence, this petition for review under Rule 45 of the Rules of Court.

ISSUE

Whether the trial court gravely erred in convicting petitioner despite the prosecution's failure to prove his guilt beyond reasonable doubt.

⁵ Id. at 30.

⁶ Id. at 13-14.

⁷ Id. at 52-57.

Whether the trial court gravely erred in disregarding the petitioner's defense and relied heavily on the prosecution's version.

OUR RULING

After careful and judicious perusal of the records, the Court finds no cogent reason to modify, much less depart from the findings and rulings of the trial court, as affirmed by the CA.

Findings of the trial court on the credibility of the witnesses deserve great weight, as the trial judge is in the best position to assess the credibility of the witness, and has the unique opportunity to observe the witness first hand and note his demeanor, conduct and attitude under grueling examination.⁸ Absent any showing that the trial court's calibration of credibility was flawed, the appellate court is bound by its assessment.⁹

We note that during trial, Brazil's defense was anchored mainly on denial and alibi. He maintained that he was not the one who stabbed victim Rommel as he was at home sleeping when the latter died. On appeal, however, Brazil changed his theory by claiming that victim Rommel died due to serious physical injuries as it coincides with the testimony of Roselyn that her husband was mauled, causing him to vomit and sustain a wound on his forehead. Brazil submits that it is highly possible that what really caused the victim's death were the serious physical injuries he sustained, and not the stabbing on his chest, especially since no other witness corroborated the same.

Brazil pointed out that in the victim's death certificate, it was indicated that "*hemorrhagic shock as a result of a stab wound, right pectoral region*" was the cause of death. He averred that such finding, however, deserves scant consideration for failure of Dr. Viray to testify on the autopsy he conducted on the victim. Brazil insisted that without this testimony, the death certificate should not be given weight or credit.

Contrary to Brazil's contention, he may still be convicted even without Dr. Viray's testimony. As correctly ruled by the CA, the testimony of eyewitness Roselyn would be sufficient for conviction. It is a settled rule that the testimony of a single eyewitness, may be sufficient to produce

⁸ *People v. Rivera*, 458 Phil. 856, 873 (2003).

⁹ *People v. Pardua*, 412 Phil. 456, 464 (2001).

a conviction, especially if the same appears to be credible, convincing, trustworthy and reliable.¹⁰ The Court, therefore, affirms the findings of the RTC and the CA in holding Brazil guilty beyond reasonable doubt of the crime of homicide.

As regards the penalty of imprisonment, the CA in affirming the trial court ruled that the imposed penalty of six (6) years and one (1) day of *prision mayor*, as minimum, to seventeen (17) years, four (4) months of *reclusion temporal* was in accordance with Article 249 of the Revised Penal Code, after applying the Indeterminate Sentence Law (ISLAW).

Under Article 249 of the Revised Penal Code, the penalty for homicide is *reclusion temporal*. Applying the ISLAW, the minimum penalty should be taken from the penalty next lower in degree in any of its period, which is *prision mayor*, ranging from six (6) years and one (1) day to twelve (12) years. On the other hand, the maximum penalty should be taken from the penalty provided by law in its medium period, which is *reclusion temporal* within the range of fourteen (14) years, eight (8) months and one (1) day to seventeen (17) years and four (4) months, there being no modifying circumstance proven.

Although the penalty of imprisonment imposed in this case is within the range allowed under ISLAW, the Court deems it proper to modify the same to be consistent with current jurisprudence¹¹ which, if impliedly, conveys that, absent special reasons, the extremes of the ISLAW penalty range should not be imposed. We find that the wisdom of staying somewhere in the middle of the range is the same as that which animates Rule 64 of the Revised Penal Code that when there are neither aggravating nor mitigating circumstances, the courts shall impose the penalty prescribed by law in its medium period.

On the basis of the aforesaid jurisprudence, the Court in finding accused Brazil guilty beyond reasonable doubt of the crime of homicide, imposes the indeterminate sentence of ten (10) years of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months, and one (1) day of *reclusion temporal*, as maximum.

To be consistent with jurisprudence,¹² we increase the moral damages and civil indemnity awarded to ₱75,000.00 each in view of homicide being a gross offense. We likewise award to the victim's heirs

¹⁰ *People v. Manalili*, G.R. No. 191253, 28 August 2013.

¹¹ *People v. Valdez*, G.R. No. 175602, 13 February 2013, 690 SCRA 563; *People v. Duavis*, G.R. No. 190861, 7 December 2011, 661 SCRA 775; and *Talampas v. People*, G.R. No. 180219, 20 November 2011, 661 SCRA 197.

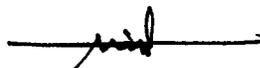
¹² *Emeritu C. Barut v. People*, G.R. No. 167454, 24 September 2014.

₱25,000.00 as temperate damages in accordance with Article 2224 of the Civil Code which provides that “[t]emperate damages, which are more than nominal but less than compensatory damages, may be recovered when the court finds that some pecuniary loss has been suffered, but its amount can not, from the nature of the case be proved with certainty.¹³ Also, we impose on all the monetary awards of damages an interest at the legal rate of six percent (6%) per *annum* from date of finality of decision until fully paid.¹⁴

WHEREFORE, the Court **ADOPTS** the findings of fact and conclusions of law in the 26 February 2014 Decision of the Court of Appeals in CA-G.R. CR No. 35056 and **AFFIRMS** said Decision finding accused-appellant Juan Brazil, Jr. y Pedroza **GUILTY** beyond reasonable doubt of the crime of homicide under Article 249 of the Revised Penal Code, as amended, with **MODIFICATION** that he shall suffer the penalty of imprisonment of ten (10) years of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months, and one (1) day of *reclusion temporal*, as maximum and to indemnify the family of the deceased in the amount of ₱75,000.00 as moral damages; ₱75,000.00 as civil indemnity; and ₱25,000.00 as temperate damages. The interest rate of 6% per *annum* is imposed on all damages awarded from the finality of this Decision until fully paid.

SO ORDERED.”

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court
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Judgment Division (x)
Supreme Court

The Hon. Presiding Judge
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(Crim. Case No. 2327-M-2008)

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SR

¹³ *People v. Sally*, G.R. No. 191254, 13 October 2010, 633 SCRA 293, 306-307.
¹⁴ *People v. Concillado*, G.R. No. 181204, 28 November 2011, 661 SCRA 363, 384.

