



Republic of the Philippines  
**Supreme Court**  
Manila

**FIRST DIVISION**

**ALFREDO DE GUZMAN, JR.,**  
Petitioner,

**G.R. No. 178512**

Present:

- versus -

SERENO, *C.J.*,  
LEONARDO-DE CASTRO,  
BERSAMIN,  
\*VILLARAMA, JR., and  
PEREZ, *JJ.*

**PEOPLE OF THE PHILIPPINES,**  
Respondent.

Promulgated:

**NOV 26 2014**

x-----x

**DECISION**

**BERSAMIN, J.:**

Frustrated homicide requires intent to kill on the part of the offender. Without proof of such intent, the felony may only be serious physical injuries. Intent to kill may be established through the overt and external acts and conduct of the offender before, during and after the assault, or by the nature, location and number of the wounds inflicted on the victim.

**The Case**

Under review at the instance of the petitioner is the decision promulgated on September 27, 2006,<sup>1</sup> whereby the Court of Appeals (CA) affirmed his conviction for frustrated homicide committed against Alexander Flojo under the judgment rendered on September 10, 2003 by the Regional Trial Court (RTC), Branch 213, in Mandaluyong City in Criminal Case No. 191-MD.<sup>2</sup>

\* Vice Associate Justice Estela M. Perlas-Bernabe per Special Order No. 1885 dated November 24, 2014.

<sup>1</sup> *Rollo*, pp 74-79; penned by Associate Justice Elvi John S. Asuncion, with the concurrence of Associate Justice Jose Catral Mendoza (now a Member of this Court) and Associate Justice Sisinando E. Villon.

<sup>2</sup> *Id.* at 29-35; penned by Presiding Judge Amalia F. Dy.

h

### Antecedents

The CA summarized the versions of the parties as follows:

x x x [O]n December 24, 1997, at about ten o'clock in the evening, Alexander Flojo (hereafter "Alexander") was fetching water below his rented house at 443 Aglipay Street, Old Zaniga St., Mandaluyong City when suddenly Alfredo De Guzman (hereafter "Alfredo"), the brother of his land lady, Lucila Bautista (hereafter "Lucila"), hit him on the nape. Alexander informed Lucila about what Alfredo did to him. Lucila apologized to Alexander by saying, "*Pasensya ka na Mang Alex*" and told the latter to just go up. Alexander obliged and went upstairs. He took a rest for about two hours. Thereafter, at around 12:00 to 12:15 A.M., Alexander went down and continued to fetch water. While pouring water into a container, Alfredo suddenly appeared in front of Alexander and stabbed him on his left face and chest.

Cirilino Bantaya, a son-in-law of Alexander, saw the latter bleeding on the left portion of his body and begging for help. Alexander then told Cirilino that Alfredo stabbed him. Cirilino immediately loaded Alexander into his motorcycle (backride) and brought him to the Mandaluyong City Medical Center. Upon arrival at the hospital, the doctors immediately rendered medical assistance to Alexander. Alexander stayed in the emergency room of said hospital for about 30 to 40 minutes. Then, he was brought to the second floor of the said hospital where he was confined for two days. Thereafter, Alexander was transferred to the Polymedic General Hospital where he was subjected for (sic) further medical examination.

Alexander sustained two stabbed (sic) wounds. (sic) One of which was on the zygoma, left side, and about one (1) cm. long. The other is on his upper left chest which penetrated the fourth intercostal space at the proximal clavicular line measuring about two (2) cm. The second stabbed (sic) wound penetrated the thoracic wall and left lung of the victim which resulted to blood air (sic) in the thoracic cavity thus necessitating the insertion of a thoracostomy tube to remove the blood. According to Dr. Francisco Obmerga, the physician who treated the victim at the Mandaluyong City Medical Center, the second wound was fatal and could have caused Alexander's death without timely medical intervention. (*Tsn, July 8, 1998, p.8*).

On the other hand, Alfredo denied having stabbed Alexander. According to him, on December 25, 1997 at around midnight, he passed by Alexander who was, then, fixing a motorcycle. At that point, he accidentally hit Alexander's back, causing the latter to throw invective words against him. He felt insulted, thus, a fistfight ensued between them. They even rolled on the ground. Alfredo hit Alexander on the cheek causing blood to ooze from the latter's face.<sup>3</sup>

The RTC convicted the petitioner, decreeing thusly:

---

<sup>3</sup> Id. at 75-76.

PRESCINDING (sic) FROM THE FOREGOING CONSIDERATIONS, the court finds accused Alfredo De Guzman y Agkis a.k.a., “JUNIOR,” guilty beyond reasonable doubt for (sic) the crime of FRUSTRATED HOMICIDE defined and penalized in Article 250 of the Revised Penal Code and in the absence of any modifying circumstance, he is hereby sentenced to suffer the indeterminate penalty of Six (6) Months and One (1) day of PRISION CORR[R]ECCIONAL as MINIMUM to Six (6) Years and One (1) day of PRISION MAYOR as MAXIMUM.

The accused is further ordered to pay the private complainant compensatory damages in the amount of ₱14,170.35 representing the actual pecuniary loss suffered by him as he has duly proven.

SO ORDERED.<sup>4</sup>

On appeal, the petitioner contended that his guilt had not been proved beyond reasonable doubt; that intent to kill, the critical element of the crime charged, was not established; that the injuries sustained by Alexander were mere scuffmarks inflicted in the heat of anger during the fistfight between them; that he did not inflict the stab wounds, insisting that another person could have inflicted such wounds; and that he had caused only slight physical injuries on Alexander, for which he should be accordingly found guilty.

Nonetheless, the CA affirmed the petitioner’s conviction, *viz*:

**WHEREFORE**, premises considered, the instant appeal is DISMISSED. The September 10, 2003 Decision of the Regional Trial Court of Mandaluyong City, Branch 213, is hereby **AFFIRMED** *in toto*.

SO ORDERED.<sup>5</sup>

The CA denied the petitioner’s motion for reconsideration on May 2, 2007.<sup>6</sup>

### Issue

Was the petitioner properly found guilty beyond reasonable doubt of frustrated homicide?

### Ruling

The appeal lacks merit.

---

<sup>4</sup> Id. at 35.

<sup>5</sup> Id. at 79.

<sup>6</sup> Id. at 90.

The elements of frustrated homicide are: (1) the accused intended to kill his victim, as manifested by his use of a deadly weapon in his assault; (2) the victim sustained fatal or mortal wound but did not die because of timely medical assistance; and (3) none of the qualifying circumstances for murder under Article 248 of the *Revised Penal Code*, as amended, is present.<sup>7</sup> Inasmuch as the trial and appellate courts found none of the qualifying circumstances in murder under Article 248 to be present, we immediately proceed to ascertain the presence of the two other elements.

The petitioner adamantly denies that intent to kill was present during the fistfight between him and Alexander. He claims that the heightened emotions during the fistfight naturally emboldened both of them, but he maintains that he only inflicted minor abrasions on Alexander, not the stab wounds that he appeared to have sustained. Hence, he should be held liable only for serious physical injuries because the intent to kill, the necessary element to characterize the crime as homicide, was not sufficiently established. He avers that such intent to kill is the main element that distinguishes the crime of physical injuries from the crime of homicide; and that the crime is homicide only if the intent to kill is competently shown.

The essential element in frustrated or attempted homicide is the intent of the offender to kill the victim immediately before or simultaneously with the infliction of injuries. Intent to kill is a specific intent that the State must allege in the information, and then prove by either direct or circumstantial evidence, as differentiated from a general criminal intent, which is presumed from the commission of a felony by *dolo*.<sup>8</sup> Intent to kill, being a state of mind, is discerned by the courts only through external manifestations, *i.e.*, the acts and conduct of the accused at the time of the assault and immediately thereafter. In *Rivera v. People*,<sup>9</sup> we considered the following factors to determine the presence of intent to kill, namely: (1) the means used by the malefactors; (2) the nature, location, and number of wounds sustained by the victim; (3) the conduct of the malefactors before, during, or immediately after the killing of the victim; and (4) the circumstances under which the crime was committed and the motives of the accused. We have also considered as determinative factors the motive of the offender and the words he uttered at the time of inflicting the injuries on the victim.<sup>10</sup>

Here, both the trial and the appellate court agreed that intent to kill was present. We concur with them. Contrary to the petitioner's submission, the wounds sustained by Alexander were not mere scuffmarks inflicted in

---

<sup>7</sup> *Serrano v. People*, G.R. No. 175023, July 5, 2010, 623 SCRA 322, 339.

<sup>8</sup> *Mahawan v. People*, G.R. No. 176609, December 18, 2008, 574 SCRA 737; *Rivera v. People*, G.R. No. 166326, January 25, 2006, 480 SCRA 188, 196.

<sup>9</sup> *Rivera v. People*, supra at 197, citing *People v. Delim*, G.R. No. 142773, January 28, 2003, 396 SCRA 386, 400.

<sup>10</sup> *Serrano v. People*, supra note 7, at 335-336.

the heat of anger or as the result of a fistfight between them. The petitioner wielded and used a knife in his assault on Alexander. The medical records indicate, indeed, that Alexander sustained two stab wounds, specifically, one on his upper left chest and the other on the left side of his face. The petitioner's attack was unprovoked with the knife used therein causing such wounds, thereby belying his submission, and firmly proving the presence of intent to kill. There is also to be no doubt about the wound on Alexander's chest being sufficient to result into his death were it not for the timely medical intervention.

With the State having thereby shown that the petitioner already performed all the acts of execution that should produce the felony of homicide as a consequence, but did not produce it by reason of causes independent of his will, *i.e.*, the timely medical attention accorded to Alexander, he was properly found guilty of frustrated homicide.

We have no cogent reason to deviate from or to disregard the findings of the trial and appellate courts on the credibility of Alexander's testimony. It is not disputed that the testimony of a single but credible and trustworthy witness sufficed to support the conviction of the petitioner. This guideline finds more compelling application when the lone witness is the victim himself whose direct and positive identification of his assailant is almost always regarded with indubitable credibility, owing to the natural tendency of the victim to seek justice for himself, and thus strive to remember the face of his assailant and to recall the manner in which the latter committed the crime.<sup>11</sup> Moreover, it is significant that the petitioner's mere denial of the deadly manner of his attack was contradicted by the credible physical evidence corroborating Alexander's statements. Under the circumstances, we can only affirm the petitioner's conviction for frustrated homicide.

The affirmance of the conviction notwithstanding, we find the indeterminate penalty of "Six (6) Months and One (1) day of PRISION CORR[R]ECCIONAL as MINIMUM to Six (6) Years and One (1) day of PRISION MAYOR as MAXIMUM"<sup>12</sup> fixed by the RTC erroneous despite the CA concurring with the trial court thereon. Under Section 1 of the *Indeterminate Sentence Law*, an indeterminate sentence is imposed on the offender consisting of a maximum term and a minimum term.<sup>13</sup> The maximum term is the penalty properly imposed under the *Revised Penal*

---

<sup>11</sup> *Cabildo v. People*, G.R. No. 189971, August 23, 2010, 628 SCRA 602, 609.

<sup>12</sup> *Supra* note 3.

<sup>13</sup> Section 1. Hereafter, in imposing a prison sentence for an offense punished by the Revised Penal Code, or its amendments, the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code, and the minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense; and if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same.

*Code* after considering any attending modifying circumstances; while the minimum term is within the range of the penalty next lower than that prescribed by the *Revised Penal Code* for the offense committed. Conformably with Article 50 of the *Revised Penal Code*,<sup>14</sup> frustrated homicide is punished by *prision mayor*, which is next lower to *reclusion temporal*, the penalty for homicide under Article 249 of the *Revised Penal Code*. There being no aggravating or mitigating circumstances present, however, *prision mayor* in its medium period – from eight years and one day to 10 years – is proper. As can be seen, the maximum of six years and one day of *prision mayor* as fixed by the RTC and affirmed by the CA was not within the medium period of *prision mayor*. Accordingly, the correct indeterminate sentence is four years of *prision correccional*, as the minimum, to eight years and one day of *prision mayor*, as the maximum.

The RTC and the CA also agreed on limiting the civil liability to the sum of ₱14,170.35 as compensatory damages “representing the actual pecuniary loss suffered by [Alexander] as he has duly proven.”<sup>15</sup> We need to revise such civil liability in order to conform to the law, the *Rules of Court* and relevant jurisprudence. In *Bacolod v. People*,<sup>16</sup> we emphatically declared to be “imperative that the courts prescribe the proper penalties when convicting the accused, and determine the civil liability to be imposed on the accused, unless there has been a reservation of the action to recover civil liability or a waiver of its recovery.” We explained why in the following manner:

It is not amiss to stress that both the RTC and the CA disregarded their express mandate under Section 2, Rule 120 of the *Rules of Court* to have the judgment, if it was of conviction, state: “(1) the legal qualification of the offense constituted by the acts committed by the accused and the aggravating or mitigating circumstances which attended its commission; (2) the participation of the accused in the offense, whether as principal, accomplice, or accessory after the fact; (3) **the penalty imposed upon the accused; and (4) the civil liability or damages caused by his wrongful act or omission to be recovered from the accused by the offended party, if there is any, unless the enforcement of the civil liability by a separate civil action has been reserved or waived.**” Their disregard compels us to act as we now do lest the Court be unreasonably seen as tolerant of their omission. That the Spouses Cogtas did not themselves seek the correction of the omission by an appeal is no hindrance to this action because the Court, as the final reviewing tribunal, has not only the authority but also the duty to correct at any time a matter of law and justice.

We also pointedly remind all trial and appellate courts to avoid omitting reliefs that the parties are properly entitled to by law or in equity

---

<sup>14</sup> Article 50. *Penalty to be imposed upon principals of a frustrated crime.* — The penalty next lower in degree than that prescribed by law for the consummated felony shall be imposed upon the principal in a frustrated felony.

<sup>15</sup> *Supra* note 3.

<sup>16</sup> G.R. No. 206236, July 15, 2013, 701 SCRA 229.

under the established facts. Their judgments will not be worthy of the name unless they thereby fully determine the rights and obligations of the litigants. It cannot be otherwise, for only by a full determination of such rights and obligations would they be true to the judicial office of administering justice and equity for all. Courts should then be alert and cautious in their rendition of judgments of conviction in criminal cases. They should prescribe the legal penalties, which is what the Constitution and the law require and expect them to do. Their prescription of the wrong penalties will be invalid and ineffectual for being done without jurisdiction or in manifest grave abuse of discretion amounting to lack of jurisdiction. They should also determine and set the civil liability *ex delicto* of the accused, in order to do justice to the complaining victims who are always entitled to them. The *Rules of Court* mandates them to do so unless the enforcement of the civil liability by separate actions has been reserved or waived.<sup>17</sup>

Alexander as the victim in frustrated homicide suffered moral injuries because the offender committed violence that nearly took away the victim's life. "Moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury. Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate result of the defendant's wrongful act or omission."<sup>18</sup> Indeed, Article 2219, (1), of the *Civil Code* expressly recognizes the right of the victim in crimes resulting in physical injuries.<sup>19</sup> Towards that end, the Court, upon its appreciation of the records, decrees that ₱30,000.00 is a reasonable award of moral damages.<sup>20</sup> In addition, AAA was entitled to recover civil indemnity of ₱30,000.00.<sup>21</sup> Both of these awards did not require allegation and proof.

In addition, the amounts awarded as civil liability of the petitioner shall earn interest of 6% *per annum* reckoned from the finality of this decision until full payment by the accused.

**WHEREFORE**, the Court **AFFIRMS** the decision promulgated on September 27, 2006 finding petitioner Alfredo De Guzman, Jr. **GUILTY** beyond reasonable doubt of **FRUSTRATED HOMICIDE**, and **SENTENCES** him to suffer the indeterminate penalty of four years of *prision correccional*, as the minimum, to eight years and one day of *prision mayor*, as the maximum; **ORDERS** the petitioner to pay to Alexander Flojo civil indemnity of ₱30,000.00; moral damages of ₱30,000.00; and

<sup>17</sup> Id. at 239-240 (the bold underscoring is part of the original text).

<sup>18</sup> Article 2217, *Civil Code*.

<sup>19</sup> Article 2219. Moral damages may be recovered in the following and analogous cases:

x x x x

(1) A criminal offense resulting in physical injuries;

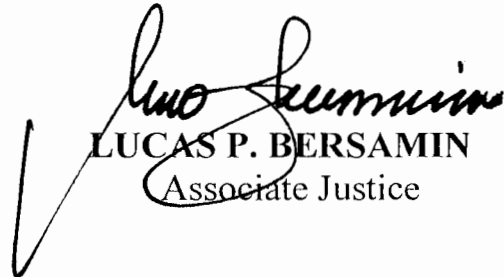
x x x x

<sup>20</sup> *Nacario v. People*, G.R. No. 173106, September 30, 2008, 567 SCRA 262, 268; *Angeles v. People*, G.R. No. 172744, September 29, 2008, G.R. No. 172744, 567 SCRA 20, 30; *Adame v. Court of Appeals*, G.R. No. 139830, November 21, 2002, 392 SCRA 305, 316.

<sup>21</sup> *Flores v. People*, G.R. No. 181625, October 2, 2009, 602 SCRA 611, 626.

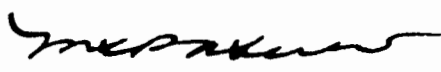
compensatory damages of ₱14,170.35, plus interest of 6% *per annum* on all such awards from the finality of this decision until full payment; and **DIRECTS** the petitioner to pay the costs of suit.

**SO ORDERED.**




LUCAS P. BERSAMIN  
Associate Justice

**WE CONCUR:**



MARIA LOURDES P. A. SERENO  
Chief Justice



TERESITA J. LEONARDO-DE CASTRO  
Associate Justice



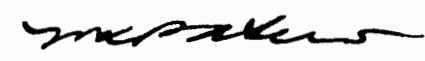
MARTIN S. VILLARAMA, JR.  
Associate Justice



JOSE PORTUGAL PEREZ  
Associate Justice

### **CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, 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.



MARIA LOURDES P. A. SERENO  
Chief Justice