



Republic of the Philippines  
**Supreme Court**  
 Baguio City

CERTIFIED TRUE COPY  
  
**WILFREDO V. LAPITAN**  
 Division Clerk of Court  
 Third Division

MAY 25 2018

**THIRD DIVISION**

**CARLOS JAY ADLAWAN,**  
 Petitioner,

**G.R. No. 197645**

Present:

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

- versus -

**PEOPLE OF THE PHILIPPINES,**  
 Respondent.

Promulgated:

April 18, 2018

x ----- x

**DECISION**

**MARTIRES, J.:**

This petition for review on certiorari seeks to reverse and set aside the 15 September 2010 Decision<sup>1</sup> and 15 June 2011 Resolution<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CR No. 00555. The 15 September 2010 Decision affirmed with modification the 17 August 2006 Joint Judgment<sup>3</sup> of the Regional Trial Court of Cebu City, Branch 5, in Criminal Case Nos. CBU-68828 and CBU-68829, which found herein petitioner Carlos Jay Adlawan (*petitioner*) guilty beyond reasonable doubt of the crime of Frustrated Homicide; while the 15 June 2011 Resolution denied petitioner's Motion for Reconsideration<sup>4</sup> of the 15 September 2010 Decision, and the Joint Motion

<sup>1</sup> Rollo, pp. 43-55; penned by Associate Justice Portia Aliño-Hormachuelos, and concurred in by Associate Justice Edwin D. Sorongon, and Associate Justice Socorro B. Inting.  
<sup>2</sup> Id. at 81-83; penned by Associate Justice Portia Aliño-Hormachuelos, and concurred in by Associate Justice Myra V. Garcia-Fernandez, and Associate Justice Nina G. Antonio-Valenzuela.  
<sup>3</sup> Records, pp. 138-143; penned by Presiding Judge Ireneo Lee Gako, Jr.  
<sup>4</sup> Rollo, pp. 57-72.

to Dismiss and to Admit Private Complainant's Affidavit of Recantation and Desistance.<sup>5</sup>

### THE FACTS

On 5 March 2004, herein petitioner was charged with the crimes of Frustrated Murder and Attempted Robbery under two Informations.<sup>6</sup>

On 25 March 2004, petitioner, with the assistance of counsel, was arraigned and pleaded not guilty to the charges against him.<sup>7</sup> Trial on the merits thereafter ensued.

#### *Evidence for the Prosecution*

During trial, evidence for the prosecution showed that petitioner was one of the five (5) children of the late Alfonso V. Adlawan (*Alfonso*) from his first marriage, while private complainant Georgia R. Adlawan (*Georgia*) was the second wife of Alfonso and the stepmother of the petitioner.<sup>8</sup> Alfonso and Georgia, their adopted daughter, and the former's five (5) children all lived together in their residence at Brgy. Lipata, Minglanilla, Cebu.<sup>9</sup> Georgia was engaged in the construction business;<sup>10</sup> on the other hand, petitioner was jobless. His legs had been operated on and were braced with stainless steel.<sup>11</sup>

On 18 February 2004, at around 5:30 P.M., Georgia arrived home. She was taking her dinner when she heard the petitioner talking with Cornelio Selin<sup>12</sup> (*Cornelio*), the Adlawans' houseboy, in the backyard. The petitioner asked Cornelio in a loud voice "*unsa na?*" ("what now?"). After eating, Georgia proceeded to the backyard to ask Cornelio what the conversation was about. On her way to the yard, she met the petitioner who proceeded to his room on the second floor.<sup>13</sup>

While Georgia was talking to Cornelio, the petitioner came back and angrily asked Georgia "*asa ang kwarta?*" ("where is the money?"). She replied saying, "*unsa, wa mo kahibalo nga na ospital inyong amahan?*" ("why, don't you know that your father is in the hospital?").<sup>14</sup> Apparently,

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<sup>5</sup> Id. at 73-75.

<sup>6</sup> Records, pp. 1-2.

<sup>7</sup> Id. at 24.

<sup>8</sup> TSN, 28 October 2004, pp. 5-7; TSN, 10 December 2004, p. 25.

<sup>9</sup> Id. at 6; id. at 25-26; TSN, 12 January 2005, p. 19.

<sup>10</sup> Id. at 3.

<sup>11</sup> TSN, 10 December 2004, p. 24.

<sup>12</sup> Also referred to as "Cornelio Celin" in some parts of the rollo.

<sup>13</sup> TSN, 28 October 2004, pp. 7-9.

<sup>14</sup> Id. at 10.

earlier that day, Georgia instructed her secretary Maria Reina Lastimosa (*Maria Reina*) to withdraw ₱100,000.00 from the Development Bank of the Philippines in Cebu City to pay for the hospital bills of Alfonso.<sup>15</sup>

Thereafter, the petitioner furiously told her “*mura kag kinsa!*” (“*as if you are somebody!*”), and started hacking her using a *katana*,<sup>16</sup> hitting her on the left portion of the neck and on the stomach. Georgia parried the blows using her hands.<sup>17</sup> Georgia ran towards the garage in front of the house, but petitioner pursued her and continued his attack, hitting her shoulders and her back until she fell down.<sup>18</sup> Sensing that petitioner would finish her off, she summoned all her strength, kicked his leg, and then grabbed and squeezed his sex organ.<sup>19</sup>

After petitioner fell down, Georgia walked towards Baking Medical Hospital located a few meters away where she was given immediate medical attention. Thereafter, she was transferred to Perpetual Succour Hospital in Cebu City.<sup>20</sup>

The medical certificate<sup>21</sup> prepared by Dr. Rogelio Kangleon (*Dr. Kangleon*) of the Perpetual Succour Hospital revealed that Georgia sustained the following injuries: (1) laceration occipital on the scalp, 3 cm long (sutured); (2) penetrating laceration on left lateral neck, 15 cm long (sutured), with surrounding contusion/hematoma; (3) laceration on left scalpular area, 8 cm long (sutured), with surrounding contusion/hematoma; (4) laceration on left ankle, 6 cm long (sutured); (5) multiple contusion/hematomas: right shoulder, right hand, left arm, left ear, left wrist, and hand, left breast, both knees; (6) superficial laceration with surrounding contusion/hematoma, 30 cm long on the anterior abdomen; and (7) superficial laceration, 12 cm long left upper back.

Georgia’s version of the incident was corroborated by prosecution witness Fred John Dahay (*Fred*),<sup>22</sup> the Adlawans’ multicab driver who testified having witnessed Georgia being chased and hacked by petitioner. The prosecution also presented Maria Reina, Georgia’s secretary, who confirmed that she was instructed to withdraw ₱100,000.00 for Alfonso’s hospital bills.<sup>23</sup>



<sup>15</sup> TSN, 12 January 2005, pp. 25-26.

<sup>16</sup> Mistakenly identified as “samurai.”

<sup>17</sup> TSN, 28 October 2004, pp. 11-12, 15-16.

<sup>18</sup> *Id.* at 17-18 and 21.

<sup>19</sup> TSN, 10 December 2004, pp. 4-5 and 7.

<sup>20</sup> *Id.* at 5 and 7-9.

<sup>21</sup> Records, p. 100; Exhibit “J.”

<sup>22</sup> TSN, 18 April 2005, pp. 5-7.

<sup>23</sup> TSN, 7 June 2005, pp. 6-7.

The prosecution also presented as witnesses the police officers who investigated the crime, namely: Police Senior Inspector Germano Mallari (*PSI Mallari*),<sup>24</sup> Police Officer 3 Renato Masangkay,<sup>25</sup> Police Inspector Carlos C. Reyes, Jr.,<sup>26</sup> and Senior Police Officer 4 Ernesto Navales.<sup>27</sup> However, in the course of his cross-examination, PSI Mallari admitted that they searched petitioner's room and seized the weapons they found therein without a search warrant and without petitioner's consent.<sup>28</sup>

Aside from the medical certificate, the nature of the injuries sustained by Georgia was shown in the photographs<sup>29</sup> taken by a certain Charlita Gloria who was also presented as witness and who identified the photographs.<sup>30</sup> Further, Dr. Kangleon, during his testimony, also suggested that, based on their appearance, the injuries were indeed hack wounds.<sup>31</sup> He also testified that Georgia's wounds, particularly the hack wound on the left neck, would have been fatal if not for the timely medical intervention.<sup>32</sup>

### *Version of the Defense*

Petitioner did not take the witness stand. Instead, the defense presented Cornelio as its sole witness.

Cornelio testified that he had been the cook of the Adlawans since 1993.<sup>33</sup> On 18 February 2004, at around five o'clock in the afternoon, Georgia instructed him to collect the office garbage.<sup>34</sup> The office was one of the rooms in front of the house.<sup>35</sup> On his way there, Cornelio met the petitioner who was holding a cup of coffee. The petitioner asked him where he was going, to which he replied that he was instructed to clean the office. While cleaning, he noticed Georgia running towards the multicab and shouting for help, while petitioner was about two meters away, following her.<sup>36</sup> Georgia was about to board the multicab when she slipped and fell, causing her injuries.<sup>37</sup> He was about to help Georgia, but when he saw her kick petitioner on the leg and private part, he desisted and, pulled petitioner away and told him to go inside the house.<sup>38</sup> Cornelio denied seeing petitioner

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<sup>24</sup> TSN, 15 June 2005.

<sup>25</sup> TSN, 8 July 2005.

<sup>26</sup> TSN, 20 July 2005.

<sup>27</sup> TSN, 1 August 2005.

<sup>28</sup> TSN, 15 June 2005, pp. 9-10.

<sup>29</sup> Records, pp. 90-96; Exhibits "B" to "G."

<sup>30</sup> TSN, 4 April 2005.

<sup>31</sup> TSN, 11 April 2005, p. 18.

<sup>32</sup> Id. at 12-14.

<sup>33</sup> TSN, 7 December 2005, p. 4.

<sup>34</sup> Id. at 6.

<sup>35</sup> TSN, 6 January 2006, p. 3.

<sup>36</sup> TSN, 7 December 2005, pp. 7-8.

<sup>37</sup> Id. at 9-11.

<sup>38</sup> Id. at 11-12.

hack Georgia.<sup>39</sup> He also refuted the claim that petitioner was carrying a weapon at that time.<sup>40</sup>

### *The RTC Ruling*

In its joint judgment, the RTC acquitted petitioner of attempted robbery in Criminal Case No. CBU-68829, but convicted him of the crime of frustrated homicide in Criminal Case No. CBU-68828.

On the acquittal, the trial court ratiocinated that the evidence offered by the prosecution was insufficient to prove the attempted robbery. It pointed out that the petitioner merely asked where the money was, but such inquiry was not accompanied by any overt act which would constitute the crime of attempted robbery.

As regards the conviction for frustrated homicide, the trial court was convinced that petitioner repeatedly hacked and mortally wounded Georgia. It stressed that Fred, the eyewitness, and Georgia, the victim, herself positively identified petitioner as the perpetrator of the crime. The trial court further ruled that, based on the findings and testimony of Dr. Kangleon, petitioner performed all the acts of execution necessary for the commission of homicide. Fortunately, due to timely medical intervention, Georgia's life was saved and, thus, the crime committed by petitioner was only in its frustrated stage. The trial court also appreciated the presence of the aggravating circumstances of abuse of superior strength and disregard of the respect due to the offended party on account of her age, sex, and her being the petitioner's stepmother.

The dispositive portion of the joint judgment reads:

WHEREFORE, in view of the foregoing, the court finds the accused guilty beyond reasonable doubt of the crime of Frustrated Homicide with the generic aggravating circumstances of using superior strength and with insult or in disregard of the respect due to the offended party on account of her being a stepmother, age and sex, and hereby sentences him, after applying the Indeterminate Sentence Law, to suffer imprisonment from six (6) years of prision correccional, as minimum, to twelve (12) years of prision mayor, as maximum. The court also orders him to indemnify the victim Georgia Adlawan ₱30,000.00 as moral damages and all her medical expenses, without subsidiary imprisonment in case of insolvency.<sup>41</sup> x x x



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<sup>39</sup> Id. at 21.

<sup>40</sup> Id. at 21-22.

<sup>41</sup> Records, pp. 142-143.

Aggrieved, the petitioner filed a notice of appeal to elevate the case to the CA.<sup>42</sup>

### *The CA Ruling*

In its assailed decision, the CA affirmed with modification the joint judgment of the RTC. The appellate court concurred with the trial court's observation that the prosecution was able to establish by proof beyond reasonable doubt that petitioner, with intent to kill, hacked and inflicted mortal wounds upon Georgia. The appellate court, thus, opined that the trial court correctly convicted the petitioner of frustrated homicide.

The appellate court, however, observed that the trial court erred when it appreciated the ordinary aggravating circumstances of abuse of superior strength and insult or disregard of the respect due to the offended party, as these circumstances were not alleged in the information against the petitioner. Consequently, it modified the penalty imposed by the trial court upon petitioner. The dispositive portion of the assailed decision provides:

WHEREFORE, premises considered, the assailed Decision of the Regional Trial Court of Cebu City, Branch 5, is MODIFIED in that appellant Carlos Jay Adlawan is hereby sentenced to suffer a prison term of six (6) years of prision correccional as minimum, to ten (10) years of prision mayor as maximum. In all other respects, the appealed Decision is AFFIRMED.<sup>43</sup>

On 7 October 2010, the petitioner filed a motion for reconsideration before the CA wherein he reiterated the arguments raised in his appeal.

On 28 December 2010, the petitioner, with Georgia's conformity, filed a Joint Motion to Dismiss and to Admit Private Complainant's Affidavit of Recantation and Desistance. Apparently, on 10 December 2010, Georgia executed an Affidavit of Recantation and Desistance,<sup>44</sup> wherein she admitted fabricating the accusations against the petitioner. She claimed that she sustained injuries on 18 February 2004 when she accidentally smashed herself against the clear glass door of their dining room and after she slipped when she was about to board their multicab.

In its Resolution of 15 June 2011, the appellate court denied the petitioner's motion for reconsideration and the joint motion to dismiss and to admit private complainant's affidavit of recantation and desistance. The appellate court reasoned that the motion for reconsideration merely

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<sup>42</sup> Id. at 150.

<sup>43</sup> *Rollo*, p. 55.

<sup>44</sup> Id. at 78-79.



reiterated the arguments which had already been passed upon in the assailed decision; and that as a rule, an affidavit of desistance, by itself, cannot be a ground for the dismissal of the present case.

Unsatisfied, the petitioner filed the present petition for review on certiorari, wherein the petitioner raised the following:

## ISSUES

### I.

WHETHER THERE WAS GRAVE FAILURE OF APPELLATE REVIEW BY THE COURT OF APPEALS, RENDERING ITS DECISION VOID.

### II.

WHETHER THE COURT OF APPEALS GRAVELY ERRED WHEN IT DISREGARDED THE PRIVATE COMPLAINANT'S AFFIDAVIT OF RECANTATION AND DESISTANCE AND DECLARED THAT IT IS NOT A GROUND FOR THE DISMISSAL OF AN ACTION ONCE IT HAS BEEN INSTITUTED IN COURT.<sup>45</sup>

The petitioner argues that the CA did not make a real and honest review of his case because it did not thoroughly pass upon the issues it raised in his appeal brief. In particular, the petitioner insists that the CA erred when it failed to consider that the prosecution witnesses failed to establish intent to kill, that the weapon allegedly used in the hacking was not legally presented in court, that the injuries sustained by the private complainant were not serious enough as to cause death, and that the inconsistencies in the testimony of the private complainant clearly shows that she merely fabricated the alleged assault.

The petitioner further argues that the CA erred when it did not consider the private complainant's affidavit of recantation and desistance. He asserts that the affidavit merely confirmed what the records of the case already revealed – that Georgia had fabricated her allegations against him. Thus, the affidavit of desistance would not be the sole basis for the dismissal of the case.

## THE COURT'S RULING

The petition utterly lacks merit.



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<sup>45</sup> Id. at 7.

***The first assignment of error involves issues not reviewable by this Court under Rule 45 of the Rules of Court.***

At the onset, the Court holds that the petition fails as the issues it raised involves questions of fact which are not reviewable in a petition for review on certiorari under Rule 45 of the Rules of Court.

It is a fundamental rule that a petition for review on certiorari filed with this Court under Rule 45 of the Rules of Court shall raise only questions of law.<sup>46</sup> There is a question of law when a doubt or a difference arises as to what the law is on a certain state of facts, and the question does not call for an examination of the probative value of the evidence presented by the parties-litigants. On the other hand, there is a question of fact when the doubt or controversy arises as to the truth or falsity of the alleged facts,<sup>47</sup> as when the query necessarily solicits calibration of the whole evidence considering mostly the credibility of witnesses, existence and relevance of specific surrounding circumstances, their relation to each other and to the whole, and probabilities of the situation.<sup>48</sup> Simply put, when there is no dispute as to the facts, the question of whether the conclusion drawn therefrom is correct or not, is a question of law.<sup>49</sup>

Although petitioner drafted his first assignment of error to make it appear that the appellate court failed to accord him due process of law, a reading of its discussion clearly reveals that such assignment of error involves questions pertaining to the credibility of the prosecution witnesses and the relevance and admissibility of the pieces of evidence presented by the prosecution. Further, the first assignment of error would entail a review of the evidence pertaining to the injuries sustained by the private complainant and a re-assessment to determine whether such injuries would have caused death if not for timely medical intervention. These are questions of fact which are not properly reviewable in a petition for review on certiorari.

It has been consistently held that in a petition for review on certiorari, the Court does not sit as an arbiter of facts for it is not its function to analyze or weigh all over again the evidence already considered in the following proceedings.<sup>50</sup> Such factual findings can be questioned only under exceptional circumstances which are not present in this case. For this reason alone, the present petition must fail.



<sup>46</sup> *Pascual v. Burgos*, 776 Phil. 167, 182 (2016).

<sup>47</sup> *Tamondong v. Court of Appeals*, 486 Phil. 729, 739 (2004).

<sup>48</sup> *Secretary of Education v. Heirs of Rufino Dulay, Sr.*, 516 Phil. 244, 251 (2006).

<sup>49</sup> *Gaerlan v. Republic of the Philippines*, 729 Phil. 418, 432 (2014).

<sup>50</sup> *Marcelo v. Bungbung*, 575 Phil. 538, 555 (2008).



In any case, even on the assumption that exceptional circumstances obtain to question the factual findings of the trial and appellate courts, the petition would still fail for being unmeritorious.

***There was no failure of appellate review.***

Contrary to the petitioner's insinuation, the appellate court did not err when it concurred with the trial court's factual findings resulting in his conviction for frustrated homicide.

Every decision or final resolution of the CA in appealed cases shall clearly and distinctly state the findings of fact and the conclusions of law on which it is based, which may be contained in the decision or final resolution itself, or adopted from those set forth in the decision, order, or resolution appealed from.<sup>51</sup> The Court is satisfied that the appellate court has complied with these requirements.

*First*, petitioner claims that the testimonies of the prosecution witnesses failed to establish intent to kill, and that her injuries were not so serious as to cause her death.

It is a fundamental rule, however, that when the issue is one of credibility of witnesses, an appellate court will normally not disturb the factual findings of the trial court, unless the lower court has reached conclusions that are clearly unsupported by evidence, or unless it has overlooked some facts or circumstances of weight and influence which, if considered, would affect the results.<sup>52</sup> As aptly observed by the appellate court, no ground exists which would prompt it to overturn the factual findings of the trial court.

In criminal cases for frustrated homicide, the intent to kill is often inferred from, among other things, the means the offender used and the nature, location, and number of wounds he inflicted on his victim.<sup>53</sup> In this case, intent to kill was sufficiently shown not only by the testimonies of Georgia, the victim herself, and Fred, the eyewitness, but also by the established fact that Georgia sustained multiple deep hack wounds on her head, neck, and abdomen, among other parts of her body.

The gravity of these wounds was clearly shown by the photographs presented by the prosecution, and the medical certificate. Dr. Kangleon even

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<sup>51</sup> Revised Rules on Civil Procedure, Rule 51, Section 5.

<sup>52</sup> *People v. Cudal*, 536 Phil. 1164, 1174-1175 (2006).

<sup>53</sup> *Abella v. People*, 719 Phil. 53, 66 (2013).



testified that Georgia could have died if no medical attention was given to her. The medical opinion of Dr. Kangleon who is presumably an expert in this field is clearly more convincing than the petitioner's mere say-so.

That petitioner intended to kill Georgia, and that the injuries she sustained were fatal and would have caused her death if not for the timely medical intervention, were therefore established by proof beyond reasonable doubt.

*Second*, petitioner points out that the weapon which was allegedly used in the commission of the crime was improperly presented in court as it was illegally seized by the authorities.

Although the Court agrees that the "*katana*" that the prosecution offered in evidence is indeed inadmissible, such fact would not benefit him. In fact, the inadmissibility of the said weapon had already been considered by the CA in its decision, thus:

**Although the weapon used by the appellant was never found, the nature of the injuries sustained by the victim establishes that she was struck by a long bladed weapon.** The number of wounds sustained and the fact that the victim was chased by the appellant even after she fled clearly evince his intent to kill. Her injury particularly on the left neck area would have been fatal except for the timely medical intervention of witness Dr. Kangleon x x x.<sup>54</sup> (emphasis supplied)

The non-identification or non-presentation of the weapon used is not fatal to the prosecution's cause where the accused was positively identified.<sup>55</sup> Thus, the CA correctly affirmed petitioner's conviction for frustrated homicide despite the inadmissibility of the weapon presented in evidence. Georgia positively identified petitioner as the person who hacked him. Her testimony was corroborated by Fred who categorically declared that petitioner chased and hacked Georgia. The testimonies of the witnesses were further buttressed by other evidence including the photographs of Georgia's wounds and the medical certificate. The credibility of these testimonies and evidence is now beyond dispute.

*Lastly*, petitioner asserts that Georgia committed material inconsistencies which clearly show that she had merely fabricated the alleged assault. After reviewing the alleged inconsistencies, the Court opines that they refer only to minor particulars which do not affect the credibility of Georgia's testimony. Inconsistencies on minor details do not undermine the integrity of a prosecution witness.<sup>56</sup>

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<sup>54</sup> *Rollo*, p. 52.

<sup>55</sup> *People v. Fernandez*, 434 Phil. 224, 232 (2002).

<sup>56</sup> *Avelino v. People*, 714 Phil. 322, 334 (2013).

In fine, the Court finds that there was no error in the CA's performance of its appellate review. Further, contrary to the petitioner's allegations, the CA considered all the issues and arguments he raised in his appeal. Its findings of fact as well as its conclusions were clearly and distinctly stated and explained in its assailed decision. Thus, the CA's 15 September 2010 decision affirming petitioner's guilt for frustrated homicide is valid in all respects.

***The Court of Appeals did not err in disregarding the private complainant's affidavit of desistance and recantation.***

Going now to the second issue, the petitioner insists that the CA should have dismissed the case based on Georgia's affidavit of desistance and recantation. He contends that the affidavit of desistance and recantation casts serious doubt on his criminal liability.

Mere retraction by a witness or by complainant of his or her testimony does not necessarily vitiate the original testimony or statement, if credible. The general rule is that courts look with disfavor upon retractions of testimonies previously given in court.<sup>57</sup>

It is only where there exist special circumstances which, when coupled with the desistance or retraction raise doubts as to the truth of the testimony or statement given, can a retraction be considered and upheld.<sup>58</sup>

Thus, it has been held that an affidavit of desistance is merely an additional ground to buttress the accused's defenses, not the sole consideration that can result in acquittal. To reiterate, there must be other circumstances which, when coupled with the retraction or desistance, create doubts as to the truth of the testimony given by the witnesses during trial and accepted by the judge.<sup>59</sup>

Further, it is settled that an affidavit of desistance made by a witness, including the private complainant, after conviction of the accused is not reliable, and deserves only scant attention.<sup>60</sup> The rationale for the rule is obvious: affidavits of retraction can easily be secured from witnesses, usually through intimidation or for a monetary consideration.<sup>61</sup>

<sup>57</sup> *People v. Zafra*, 712 Phil. 559, 576 (2013).

<sup>58</sup> *Separate Opinion of Justice Puno in Alonte v. Savellano, Jr.*, 350 Phil. 700, 752 (1998), citing *Gomez v. Intermediate Appellate Court*, 220 Phil. 295, 306 (1985); and *People v. Pimentel*, 204 Phil. 327-338 (1982).

<sup>59</sup> *People v. Montejo*, 407 Phil. 502, 517 (2001), citing *People v. Echegaray*, 335 Phil. 343, 351 (1997).

<sup>60</sup> *Santos v. People*, 443 Phil. 618, 625-626 (2003); *People v. P/Supt. Lamsen*, 721 Phil. 256, 259 (2013).

<sup>61</sup> *People v. P/Supt. Lamsen*, id.

Here, the Court finds credible the testimony given by Georgia in open court. Her testimony was clear, candid, and straightforward. She positively identified petitioner as the person who hacked her several times. She did not waver in her identification despite the arduous direct and cross-examinations conducted on her. The Court notes that a total of four settings were needed to complete Georgia's examinations. Despite this, she remained steadfast in her testimony and her narration of the incident was consistent in all material aspects. The credibility of Georgia's testimony is clear.

On the other hand, Georgia's affidavit of recantation and desistance is unreliable. To recall, the affidavit was executed after petitioner had already been convicted by the trial and appellate courts. Moreover, Georgia's explanation therein on how she sustained her wounds defies common sense. In her affidavit, Georgia explained that:

Thus, when the animosity was at its worst, I had an altercation with Carlos Jay Adlawan which, out of fear, I ran away from him and in the process **I accidentally smashed against the clear glass door in the dining room injuring my head and neck.** I ran outside the house and hurriedly tried to board the Multicab which was parked in our garage, however, my foot slipped and I fell down towards the side of the said vehicle, causing me several injuries. Thereafter, I ran towards the nearby Baking hospital. I bitterly attributed all these injuries to Accused Carlos Jay Adlawan.<sup>62</sup> (emphasis supplied)

The photographs showing Georgia's wounds and the medical certificate prepared by Dr. Kangleon tell a story different from what Georgia would now want this Court to believe. By the appearance and nature of these wounds, only a gullible person would believe that they were the result of accidentally smashing oneself against a glass door. Indeed, crystal clear from the photographs is the fact that her wounds were inflicted by a long bladed weapon. Georgia's wounds, especially the ones on the neck, abdomen, and shoulders, were long, deep, and straight gashes inconsistent with injuries sustained from broken glass.

The Court does not dismiss the possibility that Georgia voluntarily executed her affidavit of recantation and desistance. It may be true that the parties no longer harbor ill feelings towards each other, and the spirit of compassion had already replaced the animosity between them. However, this fact alone is insufficient to absolve petitioner from criminal liability. As previously discussed, no special circumstance exists which would create doubt as to the truth of the testimony Georgia gave in open court during trial. Thus, though the parties have already reconciled, the fact remains that petitioner committed a crime for which he must suffer the penalties prescribed by law.



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<sup>62</sup> Rollo, p. 78.

**WHEREFORE**, the petition is **DENIED**. The 15 September 2010 Decision and 15 June 2011 Resolution of the Court of Appeals in CA-G.R. CR No. 00555 are **AFFIRMED**.

**SO ORDERED.**

  
**SAMUEL R. MARTIRES**  
Associate Justice

**WE CONCUR:**

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson

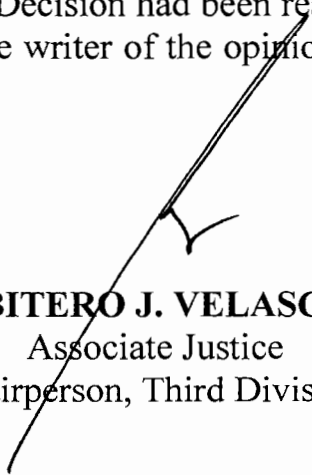
  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**MARVIC M. V. F. LEONEN**  
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.



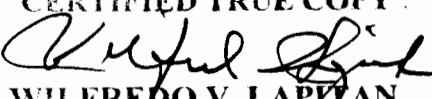
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson, Third Division

**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.



**ANTONIO T. CARPIO**  
Acting Chief Justice

CERTIFIED TRUE COPY  
  
**WILFREDO V. LAPAN**  
Division Clerk of Court  
Third Division

MAY 25 2018