



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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SECOND DIVISION

CICL XXX,

Petitioner,

G.R. No. 237334

Present:

- versus -

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

PEOPLE OF THE PHILIPPINES
and GLENN REDOQUERIO,
 Respondents.

Promulgated:

14 AUG 2019

X-----X

DECISION

CAGUIOA, J.:

Before the Court is a Petition for Review on *Certiorari* filed by the accused-appellant CICL XXX assailing the Decision¹ dated September 5, 2017 of the Court of Appeals (CA) in CA-G.R. CR No. 39177, which affirmed the Decision² dated September 2, 2016 of Regional Trial Court (RTC) of Quezon City, Branch 94 in Criminal Case No. Q-12-175544, finding CICL XXX guilty beyond reasonable doubt of the crime of Frustrated Homicide.

The Facts

An Information was filed against CICL XXX, the accusatory portion of which reads:

* Real identity of the Child in Conflict with the Law (CICL) is withheld in accordance with Republic Act No. 9344, or the Juvenile Justice and Welfare Act of 2006, as amended, and A.M. No. 02-1-18-SC, or the Revised Rule on Children in Conflict with the Law.
 * On official leave.
 ** Designated Acting Chairperson per Special Order No. 2688 dated July 30, 2019.
¹ *Rollo*, pp. 34-52. Penned by Associate Justice Magdangal M. De Leon with Associate Justices Franchito N. Diamante and Zenaida T. Galapate-Laguilles concurring.
² *Id.* at 216-221. Penned by Presiding Judge Roslyn M. Rabara-Tria.

That on or about the 1st day of January 2010 in Quezon City, Philippines, the above-named accused [CICL XXX], a minor, 17 years old, but acting with discernment conspiring together, confederating with CHRISTOPHER PUYO AND JAYJAY NARAG and mutually helping one another, did, then and there willfully, unlawfully and feloniously[,] with intent to kill, attack, assault and employ personal violence upon the person of one GLENN REDOQUERIO by then and there mauling him and hitting him in the head with a piece of stone, thereby inflicting upon him serious and grave wounds, the offender thus performing all the acts of execution that would produce the crime of homicide as a consequence but which nevertheless did not produce it by reason or cause independent of the will of the perpetrator, that is, by the timely and able medical attendance rendered to said GLENN REDOQUERIO, to the damage and prejudice of the said offended party.

CONTRARY TO LAW.³

During the arraignment, CICL XXX pleaded not guilty.⁴ Pre-trial and trial thereafter ensued.

The prosecution presented private complainant Glenn Redoquerio (Redoquerio), Michael de los Santos (de los Santos), and Reginaldo Luague (Luague) as witnesses. The version of the prosecution, as summarized by the RTC, is as follows:

At around 12:30 in the morning on January 1, 2010, private complainant Glenn Redoquerio (Redoquerio) was sent by his mother Lolita Redoquerio to buy iced tea powder from a store located in VVV, WWW, Quezon City. While he was at the store, Glenn heard somebody say "Yan si Glenn anak ni Purok Leader na humuli sa atin nuon." He looked back and saw CICL XXX, Christopher Puyo (Puyo) and Jayjay Narag (Narag). CICL XXX suddenly poked a gun at the face of Redoquerio. The gun was only about six (6) inches away from Redoquerio's face. CICL XXX pulled the trigger several times but the gun did not fire. CICL XXX then hit (hinataw) the left temple and top of the head of Redoquerio with the gun. Puyo and Narag held the arms of Redoquerio while CICL XXX punched him several times. Puyo then hit the head of Redoquerio with a stone causing the latter to loss (*sic*) consciousness. Redoquerio was in coma for 7 days while he was confined at the East Avenue Medical Center.

Redoquerio incurred expenses for the treatment of his injuries as shown by various receipts.

The incident was witnessed by Michael Delos Santos (Delos Santos) who was buying cigarettes from the store at that time.

During the hearing on June 16, 2014, the prosecution and the defense entered into stipulations on the intended testimony of Reginaldo D. Luague, as follows:

³ Id. at 55.

⁴ Id. at 36.

1. That Reginaldo D. Luague is the Administrative Officer I of the East Avenue Medical Center (EAMC)
2. In his official capacity, he has in his custody the medical records of one Glenn Redoquerio, the private complainant in this case, who was admitted at the EAMC from January 1, 2010 to January 13, 2010
3. That he brought with him the following medical records: (a) medical certificate dated March 19, 2010 prepared and signed by Dr. Zorilla marked as Exhibit "F" & "F-1"; (b) the patient data sheet number 679300 of one Glenn Redoquerio y Camba containing the following pertinent data such as the name of the patient, admitting diagnosis, the date of admission and date of discharge as well as the signature of the attending resident physician Dr. Zorilla marked as Exhibit "I" & "I-1"
4. The discharge summary marked as Exhibit "J" & "J-1"
5. The clinical abstract marked as Exhibit "K" & "K-1"
6. The operating room record of one Glenn Redoquerio which were all signed by Dr. Zorilla marked as Exhibit "L" & "L-1"
7. That Reginaldo Luague knows and is familiar with the signature of the attending resident physician Dr. Zorilla
8. That Reginaldo Luague has personal knowledge of the fact that Dr. Zorilla has completed two years internship at the EAMC and is no longer available to take the witness stand
9. That if and when called to the witness stand, Reginaldo Luague will be able to identify the said documents
10. That he will testify on the existence and due execution of the said documents
11. That Reginaldo Luague cannot testify as to the nature and the gravity of the wound sustained by the private complainant
12. That he cannot testify whether or not the alleged wound sustained by the private complainant is fatal in nature.⁵

On the other hand, the version of the defense, as also summarized by the RTC, is as follows:

CICL XXX denied the allegations against him. At around 2:00 in the morning on January 1, 2010, he and his family were having a celebration for the New Year in their residence in WWW, Quezon City. They heard a commotion outside and they were told that there was a mauling incident that was happening. His mother YYY went out first and then he, his siblings and their visitors followed to the corner of Cotabato Street. CICL XXX saw Redoquerio and De los Santos mauling Narag. Thereafter, De los Santos ran away while Narag boxed Redoquerio who fell on his back. He did not know what happened next because YYY already called for him and they went home. He and his family were surprised when they were called by the barangay authorities because he was implicated in the mauling of Redoquerio. He surmised that the reason why he was implicated in this case is that Redoquerio did not really know who mauled him.⁶

⁵ Rollo, pp. 217-218.

⁶ Id. at 218.



Ruling of the RTC

After trial on the merits, in its Decision⁷ dated September 2, 2016, the RTC convicted CICL XXX of the crime of Frustrated Murder. The dispositive portion of the said Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered finding CICL XXX guilty beyond reasonable doubt of the crime of frustrated homicide and is sentenced to suffer an indeterminate penalty of 4 months of *arresto mayor* as minimum, to 2 years and 4 months of *prision correccional* as maximum and to pay the costs.

CICL XXX is also liable to pay private complainant Glenn Redoquerio actual damages in the total amount of P18,922.90, P30,000.00 as civil indemnity and P30,000.00 as moral damages.

x x x x

SO ORDERED.⁸

The RTC held that CICL XXX's defense of denial could not outweigh the positive testimony and identification made by Redoquerio himself, and the eyewitness de los Santos.

Aggrieved, CICL XXX appealed to the CA.

Ruling of the CA

In the assailed Decision⁹ dated September 5, 2017, the CA affirmed the RTC's conviction of CICL XXX.

The CA concluded, based on the evidence presented, that CICL XXX was in conspiracy with Christopher Puyo (Puyo) and Jayjay Narag (Narag) in inflicting fatal injuries against Redoquerio.¹⁰ The CA also noted that "the injuries sustained by Redoquerio would have caused his death, if not for the timely medical attention he received."¹¹ The CA added that CICL XXX's bare denial, when juxtaposed with the prosecution witnesses' positive declarations, was not worthy of any credence.¹² The CA thus affirmed CICL XXX's conviction for Frustrated Homicide.

CICL XXX then filed a motion for reconsideration which was later on denied by the CA in a Resolution¹³ dated January 18, 2018.

⁷ Supra note 2.

⁸ *Rollo*, pp. 220-221.

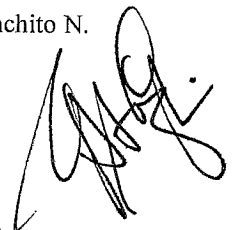
⁹ Supra note 1.

¹⁰ *Rollo*, p. 47.

¹¹ *Id.*

¹² *Id.* at 49.

¹³ *Id.* at 53-54. Penned by Associate Justice Magdangal M. De Leon with Associate Justices Franchito N. Diamante and Zenaida T. Galapate-Laguilles concurring.



Hence, the instant appeal.

Issue

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

- (1) Whether the CA erred in convicting CICL XXX despite the prosecution's failure to show that he acted with discernment; and,
- (2) Whether the CA erred in convicting CICL XXX for Frustrated Homicide without proof of the extent of the injuries sustained by Redoquerio.

The Court's Ruling

The appeal is meritorious. The Court acquits CICL XXX for the crime of Frustrated Homicide.

***Whether the CA erred in convicting
CICL XXX despite the
prosecution's failure to show that
he acted with discernment***

In questioning his conviction, CICL XXX argues that because he was only seventeen (17) years old at the time he supposedly committed the crime, then he is presumed to have acted without discernment, and that it was the burden of the prosecution to prove otherwise. CICL XXX then argues that the prosecution was unable to discharge its burden.¹⁴

The argument is meritorious.

In the case of *Dorado v. People*,¹⁵ the Court had the occasion to state that "when a minor above fifteen (15) but below eighteen (18) years old is charged with a crime, **it cannot be presumed that he or she acted with discernment.** During the trial, the prosecution must specifically prove as a separate circumstance that the CICL XXX committed the alleged crime with discernment."¹⁶ The Court in the same case said:

"The discernment that constitutes an exception to the exemption from criminal liability of a minor x x x who commits an act prohibited by law, is his mental capacity to understand the difference between right and wrong, and such capacity may be known and should be determined by taking into consideration all the facts and circumstances accorded by the records in each case, the very appearance, the very attitude, the very

¹⁴ Id. at 20-21.

¹⁵ 796 Phil. 233 (2016).

¹⁶ Id. at 249.



comportment and behavior of said minor, not only before and during the commission of the act, but also after and even during the trial.”

“The basic reason behind the exempting circumstance is complete absence of intelligence, freedom of action of the offender which is an essential element of a felony either by *dolus* or by *culpa*. Intelligence is the power necessary to determine the morality of human acts to distinguish a licit from an illicit act. On the other hand, discernment is the mental capacity to understand the difference between right and wrong.” As earlier stated, the “prosecution is burdened to prove that the accused acted with discernment by evidence of physical appearance, attitude or deportment not only before and during the commission of the act, but also after and during the trial. The surrounding circumstances must demonstrate that the minor knew what he was doing and that it was wrong. Such circumstance includes the gruesome nature of the crime and the minor’s cunning and shrewdness.” In an earlier case, it was written:

For a minor at such an age to be criminally liable, the prosecution is burdened to prove beyond reasonable doubt, by direct or circumstantial evidence, that he acted with discernment, meaning that he knew what he was doing and that it was wrong. Such circumstantial evidence may include the utterances of the minor; his overt acts before, during and after the commission of the crime relative thereto; the nature of the weapon used in the commission of the crime; his attempt to silence a witness; his disposal of evidence or his hiding the *corpus delicti*.

x x x x

Discernment cannot be presumed even if Dorado intended to do away with Ronald. Discernment is different from intent. The distinction was elaborated in *Guevarra v. Almodovar*. Thus:

Going through the written arguments of the parties, the surfacing of a corollary controversy with respect to the first issue raised is evident, that is, whether the term “discernment,” as used in Article 12(3) of the Revised Penal Code (RPC) is synonymous with “intent.” It is the position of the petitioner that “discernment” connotes “intent” (p. 96, Rollo), invoking the unreported case of *People vs. Nieto*, G.R. No. 11965, 30 April 1958. In that case We held that the allegation of “with intent to kill x x x” amply meets the requirement that discernment should be alleged when the accused is a minor between 9 and 15 years old. Petitioner completes his syllogism in saying that:

“If discernment is the equivalent of ‘with intent,’ then the allegation in the information that the accused acted with discernment and willfully unlawfully, and feloniously, operate or cause to be fired in a reckless and imprudent manner an air rifle .22 [caliber] is an inherent contradiction tantamount to failure of the information to



allege a cause of action or constitute a legal excuse or exception.” (Memorandum for Petitioner, p. 97, Rollo)

If petitioner’s argument is correct, then no minor between the ages of 9 and 15 may be convicted of a quasi-offense under Article 265 of the RPC.

On the contrary, the Solicitor General insists that discernment and intent are two different concepts. **We agree with the Solicitor General’s view**; the two terms should not be confused.

The word “intent” has been defined as:

“[a] design; a determination to do a certain [thing]; an aim; the purpose of the mind, including such knowledge as is essential to such intent; x x x; the design resolve, or determination with which a person acts.” [(46 CJS 1103.)]

It is this intent which comprises the third element of [*dolo*] as a means of committing a felony, freedom and intelligence being the other two. On the other hand, We have defined the term “discernment,” as used in Article 12(3) of the RPC, in the old case of *People vs. Doquena*, 68 Phil. 580(1939), in this wise:

“The discernment that constitutes an exception to the exemption from criminal liability of a minor under fifteen years of age but over nine, who commits an act prohibited by law, is his mental capacity to understand the difference between right and wrong x x x” (*italics Ours*) p. 583

From the foregoing, it is clear that the terms “intent” and “discernment” convey two distinct thoughts. While both are products of the mental processes within a person, the former refers to the desire of one’s act while the latter relate to the moral significance that person ascribes to the said act. Hence, a person may not intend to shoot another but may be aware of the consequences of his negligent act which may cause injury to the same person in negligently handling an air rifle. It is not correct, therefore, to argue, as petitioner does, that since a minor above nine years of age but below fifteen acted with discernment, then he intended such act to be done. He may negligently shoot his friend, thus, did not intend to shoot him, and at the same time recognize the undesirable result of his negligence.

In further outlining the distinction between the words “intent” and “discernment,” it is worthy to note the basic



reason behind the enactment of the exempting circumstances embodied in Article 12 of the RPC; the complete absence of intelligence, freedom of action, or intent, or on the absence of negligence on the part of the accused. In expounding on intelligence as the second element of [*dolus*], Albert has stated:

“The second element of *dolus* is intelligence; without this power, necessary to determine the morality of human acts to distinguish a licit from an illicit act, no crime can exist, and because x x x the infant (has) no intelligence, the law exempts (him) from criminal liability.”¹⁷ (Emphasis in the original)

The Court in *Dorado* acquitted the 16-year-old accused therein, because: (1) the prosecution did not make an effort to prove that the accused acted with discernment at the time of the commission of the crime, and (2) the decision of the RTC convicting the accused therein simply stated that a privileged mitigating circumstance of minority must be appreciated in favor of the accused. The Court therein noted that there was no discussion at all on whether the accused therein acted with discernment when he committed the crime imputed against him.¹⁸

The foregoing ruling is applicable to CICL XXX’s case.

In the present case, neither the RTC nor the CA discussed whether CICL XXX acted with discernment. The CA, for instance, only noted CICL XXX’s age in its discussion of the penalty to be imposed on him. Thus:

It was established that appellant was merely 17 years old at the time of the commission of the crime on January 1, 2010, having been born on August 15, 1992. He is therefore entitled to the privileged mitigating circumstance of minority embodied in Article 68 (2) of the Revised Penal Code. It provides that when the offender is a minor over 15 and under 18 years, the penalty next lower than that prescribed by law shall be imposed on the accused but always in the proper period.¹⁹

Both the RTC and the CA erred in convicting CICL XXX, as they both equated “intent to kill” — which was admittedly established through the evidence presented by the prosecution — with acting with discernment, which, on the contrary, was not proved by the prosecution. The prosecution, in fact, never endeavored to prove that CICL XXX acted with discernment. This is highlighted by the prosecution’s cross-examination of CICL XXX, which focused only on whether Redoquerio had the motive to falsely accuse CICL XXX of committing a crime, and whether CICL XXX’s father owned a gun. Thus:

¹⁷ Id. at 250-253.

¹⁸ Id. at 251.

¹⁹ *Rollo*, pp. 49-50.

CROSS-EXAMINATION BY ACP PAGAYATAN

ACP PAGAYATAN (to the witness)

Q: Mr. Witness, you were always present during the trial of this case specifically the taking of the testimony of the private complainant, am I correct?

A: Yes, ma'am.

Q: So, you also heard the testimony of the complainant on September 16, 2013?

A: Yes, ma'am.

Q: Let me call your attention to the Question and Answer in page 8 of the TSN dated September 16, 2013, page 8 and I quote:

You heard the witness said or his answer to my question:

“Q: Mr. Witness, you said in your Sinumpaang Salaysay that Christopher Puyo and Jayjay Narag were holding you while Pepoy hit you or ginulpi ka?” What did Pepoy exactly do to you when you said “ginulpi”?

And the answer of the witness was:

“A: He punched me several times and he hit me with the gun that he was holding. He hit me here (Witness is pointing just atop his head).”

Do you recall having heard him say those testimony, Mr. Witness?
A: Yes, ma'am.

Q: When he said “Pepoy”, Mr. Witness, you know that he was referring to you?

A: Yes, ma'am.

Q: Do you also know these Christopher Puyo and Jayjay Narag?

A: I know them, ma'am.

Q: You only know them on the date of the incident on January 1, 2010?

A: No, ma'am.

Q: You said that the private complainant is only a “dayo” or he came from another place and not in that place where the incident happened?

A: Yes, ma'am.

Q: So, you confirm and as a matter of fact you testified that he had no reason to falsely accused (*sic*) you of a crime you did not commit?

A: Yes, ma'am.



Q: He also mentioned that you had a gun and you hit him with it? Do you recall that?

A: Dito po sinasabi n'ya po yon sa testimonya n'ya po. Opo po dito po. (Yes, ma'am. Here, ma'am.)

Q: Does you or any member of your family issued or possessed any kind of gun?

A: My father, ma'am.

Q: What about your father, what is his profession?

A: He is a policeman, ma'am.

ACP PAGAYATAN: That will be all, your honor.²⁰

The testimonies of the prosecution witnesses, on the other hand, established only CICL XXX's supposed participation in the mauling of Redoquerio. To reiterate, these pieces of evidence only establish CICL XXX's intent, instead of his having acted with discernment. Furthermore, even if he was a co-conspirator, he would still be exempt from criminal liability as the prosecution failed to rebut the presumption of non-discernment on his part by virtue of his age.²¹

It is well to emphasize that:

[f]or a minor at such an age to be criminally liable, the **prosecution is burdened to prove beyond reasonable doubt, by direct or circumstantial evidence**, that he acted with discernment, meaning that he knew what he was doing and that it was wrong. Such circumstantial evidence may include the utterances of the minor; his overt acts before, during and after the commission of the crime relative thereto; the nature of the weapon used in the commission of the crime; his attempt to silence a witness; his disposal of evidence or his hiding the *corpus delicti*.²² (Emphasis and underscoring supplied)

Again, there are no such pieces of evidence in the case at bar. As the presumption that CICL XXX acted without discernment was not successfully controverted, he must perforce be acquitted of the charge.

Whether the CA erred in convicting CICL XXX for Frustrated Homicide without proof of the extent of the injuries sustained by Redoquerio

Even assuming that CICL XXX had acted with discernment, the RTC and the CA still erred in convicting him for Frustrated Homicide.

²⁰ TSN dated November 3, 2014, pp. 13-16, *rollo*, pp. 180-183.

²¹ *People v. Estepano*, 367 Phil. 209, 220-221 (1999).

²² *Jose v. People*, 489 Phil. 106, 113 (2005).

To successfully prosecute the crime of homicide, the following elements must be proved beyond reasonable doubt: (1) that a person was killed; (2) that the accused killed that person without any justifying circumstance; (3) that the accused had the intention to kill, which is presumed; and (4) that the killing was not attended by any of the qualifying circumstances of murder, or by that of parricide or infanticide. Moreover, the offender is said to have performed all the acts of execution if the wound inflicted on the victim is mortal and could cause the death of the victim without medical intervention or attendance.²³

On the other hand, the essential elements of a frustrated felony are as follows: (1) the offender performs all the acts of execution; (2) all the acts performed would produce the felony as a consequence; (3) but the felony is not produced; and (4) by reason of causes independent of the will of the perpetrator.²⁴

In affirming the conviction of CICL XXX for Frustrated Homicide, the CA noted — without citing its basis — that “the injuries sustained by private complainant would have caused his death, if not for the timely medical attention he received.”²⁵

A perusal of the records, however, reveals that the extent of the injuries sustained by Redoquerio was not fully established. The medical records of Redoquerio were admitted into evidence only through the testimony of Luague, the Administrative Officer 1 of East Avenue Medical Center who had custody of the medical records. However, as he was not a medical doctor, both parties stipulated that Luague could not: (1) “testify as to the nature and gravity of the wound sustained by the private complainant;” and (2) “testify whether or not the alleged wound sustained by the private complainant is fatal in nature.”²⁶

Thus, while Redoquerio’s medical records — the *Clinical Abstract*,²⁷ *Operating Room Record*,²⁸ and *Discharge Summary*²⁹ — are part of the evidence on record, there is no testimonial evidence on record explaining to the Court the medical findings which would have established the nature and extent of the injuries that Redoquerio sustained. To the mind of the Court, it was not absolutely necessary for Dr. Zorilla, Redoquerio’s attending physician, to have testified. Any medical doctor, however, who was competent to interpret Dr. Zorilla’s findings, as indicated in Redoquerio’s medical records, could have testified in his stead to establish the nature and extent of the injuries.

²³ *People v. Badriago*, 605 Phil. 894, 906-907 (2009).

²⁴ *Id.* at 907.

²⁵ *Rollo*, p. 47.

²⁶ *Id.* at 218.

²⁷ *Id.* at 162.

²⁸ *Id.* at 163.

²⁹ *Id.* at 165.

As the nature and extent of the injuries were not sufficiently established, it was error for the lower courts to conclude that the injuries were fatal and that Redoquerio would have died if not for the timely medical assistance he received. In the final analysis, it was therefore error for the courts to conclude that the crime committed was Frustrated Homicide instead of Attempted Homicide.

Damages

While CICL XXX is not criminally liable for his acts because the presumption that he acted without discernment was not overcome, he is still civilly liable for the injuries sustained by Redoquerio. It is well-settled that “[e]very person criminally liable is also civilly liable x x x. However, it does not follow that a person who is not criminally liable is also free from civil liability. Exemption from criminal liability does not always include exemption from civil liability.”³⁰

The RTC, as affirmed by the CA, awarded to Redoquerio the following:

- a. Actual damages (as proved by receipts): ₱18,922.90
- b. Civil indemnity: ₱30,000.00
- c. Moral damages: ₱30,000.00

However, in light of the Court’s ruling in *People v. Jugueta*,³¹ the award of civil indemnity and moral damages should be reduced to ₱25,000.00 each, and an award of exemplary damages amounting to ₱25,000.00 should likewise be imposed.

The foregoing liability is imposed upon CICL XXX’s parents because Article 101 of the Revised Penal Code provides that:

ARTICLE 101. *Rules Regarding Civil Liability in Certain Cases.* — The exemption from criminal liability established in subdivisions 1, 2, 3, 5, and 6 of article 12 and in subdivision 4 of article 11 of this Code does not include exemption from civil liability, which shall be enforced subject to the following rules:

First. In cases of subdivisions 1, 2, and 3 of article 12, **the civil liability for acts committed by** an imbecile or insane person, and by **a person** under nine years of age, or by one over nine but under fifteen years of age, **who has acted without discernment, shall devolve upon those having such person under their legal authority or control,** unless it appears that there was no fault or negligence on their part.

Should there be no person having such insane, imbecile or minor under his authority, legal guardianship, or control, or if such person be insolvent, said insane, imbecile, or minor shall respond with their own

³⁰ *People v. Castañeda, Jr.*, 207 Phil. 744, 746 (1983).

³¹ 783 Phil. 806 (2016).



property, excepting property exempt from execution, in accordance with the civil law. (Emphasis and underscoring supplied)

In *Libi v. Intermediate Appellate Court*,³² the Court *en banc* interpreted the above provision to mean that the civil liability of parents for criminal offenses committed by their minor children is **direct** and **primary**. The Court said:

Accordingly, just like the rule in Article 2180 of the Civil Code, under the foregoing provision **the civil liability of the parents for crimes committed by their minor children is likewise direct and primary**, and also subject to the defense of lack of fault or negligence on their part, that is, the exercise of the diligence of a good father of a family.

x x x x

Under the foregoing considerations, therefore, we hereby rule that the parents are and should be held primarily liable for the civil liability arising from criminal offenses committed by their minor children under their legal authority or control, or who live in their company, unless it is proven that the former acted with the diligence of a good father of a family to prevent such damages. That primary liability is premised on the provisions of Article 101 of the Revised Penal Code with respect to damages *ex delicto* caused by their children 9 years of age or under, or over 9 but under 15 years of age who acted without discernment; and, with regard to their children over 9 but under 15 years of age who acted with discernment, or 15 years or over but under 21 years of age, such primary liability shall be imposed pursuant to Article 2180 of the Civil Code.³³ (Emphasis and underscoring supplied)

Article 101 of the RPC, however, provides that the foregoing liability of CICL XXX's parents is subject to the defense that they acted without fault or negligence. Thus, the civil aspect of this case is remanded to the trial court, and it is ordered to implead CICL XXX's parents for reception of evidence on their fault or negligence.

WHEREFORE, in view of the foregoing, the appeal is hereby **GRANTED**. The Decision dated September 5, 2017 and Resolution dated January 18, 2018 of the Court of Appeals in CA-G.R. CR No. 39177 are hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant CICL XXX is **ACQUITTED** of the crime charged.

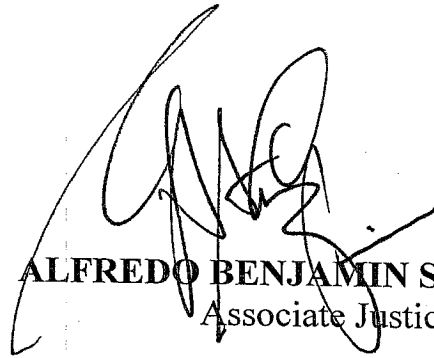
The civil aspect of this case is hereby **REMANDED** to the trial court for reception of evidence on the issue of fault or negligence on the part of CICL XXX's parents.

³² 288 Phil. 780 (1992).

³³ Id. at 793-797.



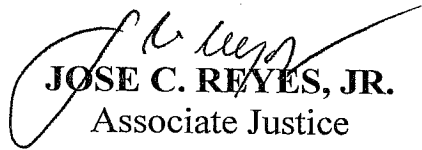
SO ORDERED.



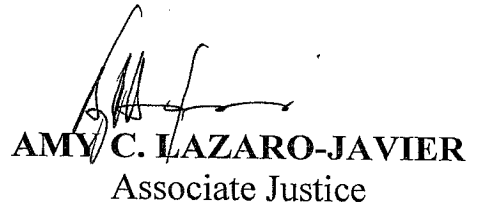
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

WE CONCUR:

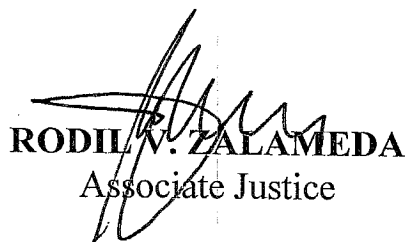
(on official leave)
ANTONIO T. CARPIO
Associate Justice
Chairperson



JOSE C. REYES, JR.
Associate Justice




AMY C. LAZARO-JAVIER
Associate Justice



RODIL V. ZALAMEDA
Associate Justice

ATTESTATION

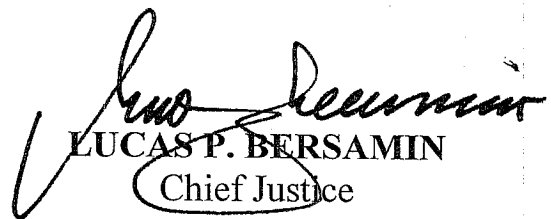
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Acting Chairperson, Second Division

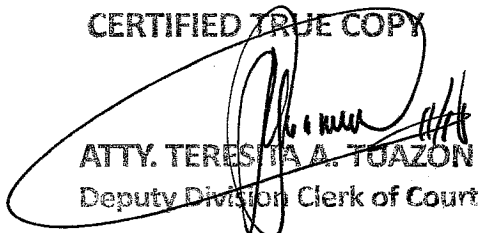
CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



LUCAS P. BERSAMIN
Chief Justice

CERTIFIED TRUE COPY



ATTY. TERESITA A. TOAZON
Deputy Division Clerk of Court

