



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

LETLET CARPIO,

Petitioner,

- versus -

PEOPLE OF THE PHILIPPINES,

Respondent.

G.R. No. 211691

Present:

GESMUNDO, *CJ.*, Chairperson  
CAGUIOA,  
CARANDANG,  
ZALAMEDA, and  
GAERLAN, *JJ.*

Promulgated:

APR 28 2021

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DECISION

ZALAMEDA, *J.*:

*Discharge of a firearm, even without a casualty and intention to kill, is a punishable act under our penal laws. The existence of the bullet hole, or the damage created by illegal firing of a gun, is not an essential element necessary for prosecution and conviction.*

The Case

This Petition for Review on *Certiorari*<sup>1</sup> assails the Decision<sup>2</sup> dated

<sup>1</sup> Rollo, pp. 12-33.

<sup>2</sup> *Id.* at 36-44; penned by Associate Justice Edgardo T. Lloren and concurred in by Associate Justices Marie Christine Azcarraga-Jacob and Edward B. Contreras of the Twenty-Third Division, Cagayan de Oro City.

19 August 2013 of the Court of Appeals (CA) in CA-G.R. CR No. 00891, which affirmed the conviction of Letlet Carpio (petitioner) for illegal discharge of firearm.

### **Antecedents**

On 27 September 2007, petitioner and her sister Abadieza Gabelino<sup>3</sup> (Gabelino) were charged with illegal discharge of firearm under Article 254 of the Revised Penal Code (RPC), allegedly committed as follows:

That on or about 28 February 2007, in Davao City, Philippines, and within this Honorable Court's jurisdiction, Accused Letlet Carpio a.k.a. Mary Rose L. Carpio, without any intent to kill, armed with a firearm, and in conspiracy with and upon her co-accused Gabelino's instructions, willfully and feloniously, aimed the firearm to and shot private complainant REBECCA VENCIO-CLARION, to the private complainant's prejudice and other consequential damages.

CONTRARY TO LAW.<sup>4</sup>

When arraigned, both petitioner and Gabelino pleaded not guilty to the charge and immediately posted bail.<sup>5</sup>

### **Evidence for the Prosecution**

Petitioner, Clarion and Gabelino were neighbors in Batulos, Bangkas Heights, Toril, Davao City. On 28 February 2007, petitioner passed by Clarion's house and uttered some demeaning words against the latter's mother who was then tending her store. When petitioner passed by once again, Clarion confronted her. Enraged, petitioner went straight to Gabelino's house to get a gun. Gabelino then urged petitioner to shoot Clarion and said, "*Barila, Barila*" (*Shoot her, shoot her*). Petitioner eventually fired the gun but missed Clarion, who immediately dropped to the ground. She attempted to fire the gun anew but failed. Some people then intervened, thereafter petitioner and Gabelino scampered away towards the latter's house.<sup>6</sup>

<sup>3</sup> Also referred in the records as Abadieza Gabelinio.

<sup>4</sup> *Rollo*, p. 37.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*



Meanwhile, Estrella Fuentes (Fuentes) testified that her grandchild was playing near Clarion's house at the time of the incident. After hearing the gun shot, she ran towards Clarion's house where she saw petitioner pointing a gun at Clarion who was, by then, on the ground. Fuentes then rushed back to her house and called 911.<sup>7</sup>

### Evidence for the Defense

The defense offered the testimonies of petitioner, Gabelino and Leticia Las (Las). Petitioner insisted that neither she own nor know how to use a gun.<sup>8</sup> According to her, at the time of the incident, she was tending to her mother's stall at the public market. After closing at around 9:00 p.m., petitioner went to her mother's house to remit their income and have dinner. By 10:00 p.m., she finally arrived home.

Las testified that she saw petitioner at the market tending to her stall and corroborated petitioner's story that she went to her mother's house to have dinner.<sup>9</sup> Meanwhile, Gabelino testified that she was roused from her sleep due to a loud noise. When she looked outside, she saw Clarion and her sons throwing stones at her roof. The police then came and brought her and Clarion to the police station where the police suggested that she file charges against the latter.<sup>10</sup>

### Ruling of the MTCC

The MTCC, in its Decision<sup>11</sup> dated 15 September 2009, found petitioner and Gabelino guilty beyond reasonable doubt of the charge of illegal discharge of firearm, and sentenced them to suffer the indeterminate penalty of three (3) months and eleven (11) days of *arresto mayor* as minimum to two (2) years, eleven (11) months and ten (10) days of *prision correccional* as maximum and to pay the costs.<sup>12</sup>

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<sup>7</sup> *Id.* at 38.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 38-49.

<sup>12</sup> *Id.*



It gave more credit to Fuentes' testimony corroborating the prosecution's allegations. Although the defense also presented a supporting witness, it found that Las could have easily been distracted at the time of the incident since she was also tending and preparing to close her stall at the Toril Public Market.<sup>13</sup>

### **Ruling of the RTC**

The RTC affirmed petitioner's conviction but acquitted Gabelino for the prosecution's failure to prove her guilt beyond reasonable doubt.<sup>14</sup> Thus, petitioner filed a petition for review with the CA.

### **Ruling of the CA**

On appeal, the CA affirmed *in toto* the RTC's findings.<sup>15</sup> It found that the prosecution was able to establish the elements of the crime charged. Despite petitioner's attempt to cast doubt on Fuentes' testimony, the appellate court found that her testimony amply corroborated Clarion's statement that petitioner fired her gun at her. It also agreed with the MTCC and RTC that petitioner has not established that it was impossible for her to be at the place of the crime since the public market was located within its vicinity.

Hence, this petition where petitioner harps on the supposed inconsistencies in the testimonies of the prosecution's witnesses. Petitioner argues that Clarion never testified seeing Fuentes at the scene. She also contends that if indeed Clarion was telling the truth that petitioner immediately ran to Gabelino's house after the incident, it would have been impossible for Fuentes to have seen her aiming her gun at Clarion. Petitioner points to the fact that Fuentes testified that she reached the house of the Clarion's after five (5) minutes from the time she heard the gunshot.<sup>16</sup>

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<sup>13</sup> *Id.* at 39.

<sup>14</sup> *Id.* at 40.

<sup>15</sup> *Id.* at 44.

<sup>16</sup> *Id.* at 26-31.



Petitioner also argues that if indeed she fired a gun at Clarion, there would have been holes at the wall of her house or her window.<sup>17</sup> Finally, petitioner highlights Clarion's testimony that both of the accused hid at Gabelino's house after the shooting, contrary to what was proven during the trial that Gabelino did not hide, but instead, actually boarded the police automobile voluntarily.<sup>18</sup>

### Issue

The sole issue in this case is whether or not the CA correctly affirmed petitioner's conviction for illegal discharge of firearm.

### Ruling of the Court

We deny the petition for lack of merit.

We find no reason to reverse the factual findings of the RTC and CA. It is settled that the factual findings of the trial court, when affirmed by the appellate court, are entitled to great weight and respect. Particularly, the evaluation of witnesses' credibility is "best left to the trial court because it has the opportunity to observe the witnesses and their demeanor during the trial."<sup>19</sup>

Although jurisprudence has recognized several exceptions to the rule that the findings of fact of the CA affirming those of the trial court are generally not subject to review by the Supreme Court, including: (1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when there is grave abuse of discretion; (3) when the judgment is based on a misapprehension of facts; (4) when the findings are contrary to those of the trial court; (5) when the findings of facts are conflicting; and (6) when the findings are conclusions without citation of specific evidence on which they are based, none of these are present in this appeal.<sup>20</sup>

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<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Villarba v. Court of Appeals*, G.R. No. 227777, 15 June 2020 [Per J. Leonen].

<sup>20</sup> *Republic v. Looyuko*, 788 Phil. 1 (2016); G.R. No. 170966, 22 June 2016 [Per J. Perez].



As found by the RTC and CA, the prosecution was able to establish the crime beyond reasonable doubt. Under the Revised Penal Code, the elements of illegal discharge of firearm are: (1) that the offender discharges a firearm against or at another person; and (2) that the offender has no intention to kill that person.<sup>21</sup>

In this case, this Court is convinced that Clarion and Fuentes sufficiently established that petitioner fired her gun at Clarion. This Court cannot give credit to petitioner's insistence that Fuentes could not have witnessed the crime since she arrived five (5) minutes from the time of the gunshot. Indeed, as found by the CA, Fuentes merely estimated the time it took her to run from her residence to Clarion's house. In any case, the trustworthiness of Fuentes' testimony is apparent from her testimony, viz:

Q: Madam witness, how far was your house from the house [of] the private complainant Rebecca Clarion?

A: Also separated by a road.

Q: And what is the distance?

A: (witness pointing from here up to the blue roof more or less)  
(Counsels stipulated the distance to be 200 meters)

Q: And you said that within that time you heard a gun burst and you immediately went outside your house to look for your grandchild, is that correct?

A: Correct.

Q: And your grandchild at that time was just playing within your house, is that correct?

A: She was playing in the house of Rebecca.

Q: So in other words, after you heard a gun burst you went to the house of the private complainant Rebecca, to look for your grandchild, is that what you mean?

A: Correct.

Q: And how long did it take you to reach the house of the private complainant?

A: I arrived very quickly because I ran.

Q: Could you estimate maybe ten minutes?

A: Less than.

Q: Five minutes?

A: Yes.

<sup>21</sup> *Dado v. People*, 440 Phil. 521 (2002); G.R. No. 131421, 18 November 2002 [Per J. Ynares-Santiago].

Q: Now, how far were you when you said you saw accused Letlet Carpio pointing a gun towards the private complainant?

A: 3.5 meters.

Q: You also said that there were no more people at that time because they ran away because they were afraid, is that correct?

A: Correct.

x x x

THE COURT

Q: Are you telling this Court that you were not afraid seeing the accused Letlet Carpio holding a gun at that distance of 3.5 meters away from you?

A: I was not afraid for the sake of my grandchild who might be the one shot.

ATTY. GUEVARRA:

Q: And was the accused able to see you at that time?

A: She did not.

Q: By the way where were you located, why were you not seen by the accused?

A: Letlet was pointing the gun to Rebecca, I was behind Letlet.

From the foregoing, it is clear that Fuentes arrived immediately after the first gunshot and was able to see petitioner still pointing her gun at Clarion. She candidly explained where she was in reference to petitioner and Clarion and why she did not run after seeing the incident. Evidently, Fuentes' failure to give the exact time it took her to run from her house to the Clarions' did not diminish the veracity of her identification of petitioner and her narration of what she saw when she arrived at the scene. Absent a showing of ill-motive on her part, this Court gives her testimony full credence.

Nonetheless, despite proof of petitioner's act of firing a gun at Clarion, her intent to kill was not alleged and established. There is no evidence proffered to show that petitioner aimed to kill the victim. Intent to kill cannot be automatically drawn from the mere fact that the use of firearms is dangerous to life. *Animus interficendi* must be established with the same degree of certainty as is required of the other elements of the crime. The inference of intent to kill should not be drawn in the absence of circumstances sufficient to prove such intent beyond reasonable doubt.<sup>22</sup>

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<sup>22</sup> *Id.*

Meanwhile, the alleged inconsistencies as to how many shots were fired, whether Clarion dropped to the ground after the shot was fired or whether Gabelino was arrested by the police, and the lack of a gunshot hole in the wall, pertain to collateral or minor matters which do not at all touch upon the commission of the crime itself.

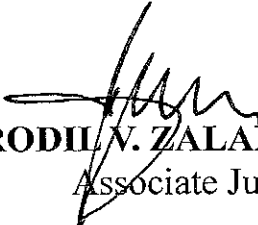
Necessarily, this Court rejects petitioner's defense of denial and alibi. For the defense of alibi to prosper, the accused must prove that he was at some other place at the time of the commission of the crime and it was physically impossible for him to be at the *locus delicti* or within its immediate vicinity. These requirements of time and place must be strictly met.<sup>23</sup> In this case, petitioner did not establish that the public market and her mother's residence was of such distance to Clarion's residence that it was physically impossible for her to have committed the act for which she was charged.

Under Article 254 of the Revised Penal Code, illegal discharge of firearm is punishable with *prision correccional* in its minimum and medium periods, which ranges from six (6) months and one (1) day to four (4) years and two (2) months. There being no modifying circumstances and applying the Indeterminate Sentence Law, the medium period of the aforementioned range should be imposed.

Meanwhile, the minimum of said penalty should be taken from the penalty next lower in degree, or *arresto mayor* in its medium and maximum periods, which ranges from two (2) months and twenty-one (21) days to six (6) months. Considering the foregoing, this Court finds that the penalty imposed by the lower courts is proper, as it is within the aforesaid ranges.

**WHEREFORE**, the petition is hereby **DENIED** for lack of merit. The Decision dated 19 August 2013 of the Court of Appeals in CA-G.R. CR No. 00891 is **AFFIRMED**.

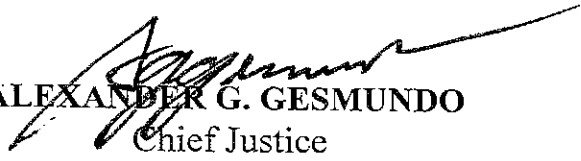
**SO ORDERED.**

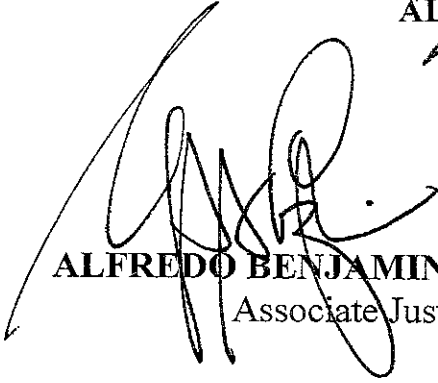
  
**RODIL V. ZALAMEDA**  
Associate Justice

<sup>23</sup> *People v. Moreno*, G.R. No. 191759, 02 March 2020 [Per J. Hernando].

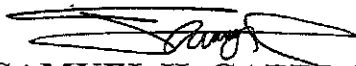


**WE CONCUR:**

  
**ALEXANDER G. GESMUNDO**  
Chief Justice

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

  
**ROSMARI B. CARANDANG**  
Associate Justice

  
**SAMUEL H. GAERLAN**  
Associate Justice

**CERTIFICATION**

Pursuant to the 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.

  
**ALEXANDER G. GESMUNDO**  
Chief Justice