



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

FLORO GALORIO y GAPAS,
Petitioner,

G.R. No. 254531

Present:

- versus -

CAGUIOA, J.,
Chairperson,
INTING,*
GAERLAN,
DIMAAMPAO, and
SINGH,* JJ.

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:
February 19, 2024

MISTOCBAH

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DECISION

GAERLAN, J.:

Before the Court is a Petition for Review on *Certiorari*¹ filed to assail both the Decision² dated February 22, 2019 and the Resolution³ dated August 28, 2020 of the Court of Appeals (CA) 20th Division in CA-G.R. CEB-CR No. 02697. Said final orders of the CA effectively denied the appeal of Floro Galorio y Gapas (petitioner) from the Decision⁴ dated July 28, 2015 of Branch 51, Regional Trial Court (RTC) of Carmen, Bohol in Criminal Case No. 0954, and affirmed the same with modifications. The trial court's Decision had convicted petitioner for the crime of Homicide as punished under Article 249 of Act No. 3815, otherwise known as the Revised Penal Code (RPC).

* On official business.

¹ *Rollo*, pp. 3–23.

² *Id.* at 32–44; penned by Associate Justice Louis P. Acosta and concurred in by Associate Justices Pamela Ann Abella Maxino and Dorothy P. Montejo-Gonzaga.

³ *Id.* at 27–30; penned by Associate Justice Pamela Ann Abella Maxino and concurred in by Associate Justices Emily R. Aliño-Geluz and Dorothy P. Montejo-Gonzaga.

⁴ *Id.* at 45–68; penned by Executive Presiding Judge Patsita Sarmiento-Gamutan.

Factual Antecedents

The Information⁵ dated September 4, 2006 states the following:

INFORMATION

The undersigned Second Assistant Provincial Prosecutor hereby accuses FLORO GALORIO y GAPAS, a resident of Brgy. La Hacienda, Alicia, Bohol of the crime of HOMICIDE, committed as follows:

That on or about the 24th day of May 2006, in the Municipality of Alicia, Province of Bohol, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and without justifiable cause, did then and there willfully, unlawfully and feloniously attack, assault and stab one ANDRES MURING thereby inflicting upon the vital part of the said victim, serious and fatal injury, which caused his death; to the damage and prejudice of the heirs of the said victim in the amount to be proved during the trial.

Acts committed contrary to the provisions of Article 249 of the Revised Penal Code, as amended.

Tagbilaran City (for Carmen, Bohol), Philippines, September 4, 2006.

(Signed)
MACARIO I. DELUSA
Second Assistant Provincial Prosecutor

APPROVED:

(Signed)
TORIBIO S. QUIWAG
Provincial Prosecutor⁶

The said Information is based on the Resolution⁷ also dated September 4, 2006 of the Office of the Provincial Prosecutor of Bohol (OPP-Bohol), which is quoted below in full for easy reference:

RESOLUTION

PREFATORY STATEMENT

This is a preliminary investigation regarding of [sic] a stabbing incident that happened during the coronation night program of [the] fiesta celebration of La Hacienda, Alicia, Bohol which resulted [in] the death of Andres Muring and the seriously wounding of Floro Galorio, Erik Galorio and Rother Galorio.

⁵ Records, pp. 46–47.

⁶ *Id.* at 46.

⁷ *Id.* at 52–53.

FACTS OF THE CASE

That in the evening of May 24, 2006, while Andres Muring (“Andres,” for brevity) did some cooking chores in [his] house for its [*sic*] fiesta preparations, a neighbor arrived to inform that Christopher Muring (son of Andres) was maltreated by respondent Floro at the public market where the coronation program was held, thus [his] wife Sylvia Muring urged Andres to verify the report.

Andres as a father reacted to the report and went to the place of the coronation program to look for Floro in order to confront the latter of [*sic*] what he did to his son.

When Andres arrived at the said place, he was already bringing a bolo and thereat met Floro resulting the start of a trouble [*sic*] and a fight ensued that caused the dispersion of the persons present and the coronation night was disrupted.

In consequence of the fight between Andres and Floro, the latter fortunately survived with fatal wounds while the former died in the Infirmary Clinic of Alicia, Bohol.

Brother[s] Erik Galorio and Rother Galorio who were present during the incident tried to pacify the trouble [*sic*], however, instead they were allegedly attacked by Andres thereby both brothers sustained serious injuries.

FINDINGS AND RECOMMENDATION

Hours prior to the stabbing/hacking incident, [the] deceased-victim had a heated altercation with respondent Floro due to his belief that the words uttered by respondents [*sic*] towards the deceased-victim were insulting statements.

Thus, we can draw an inference that deceased-victim was motivated by his emotion of anger when he went to the place of the incident, moreso [*sic*], upon [his receipt of the] report that his son was maltreated by herein respondent.

The respondent was attending a coronation rite, thus the killing of the victim when done in a spur of the moment, is an act which can hardly be characterized as treacherous and premeditated.

There could be no finding of evident premeditation if there is no evidence or showing on record when and how the respondent planned and prepared for the killing of the victim. The circumstances which would qualify the killing as murder must be proved as indubitably as the crime itself.

Both brother[s] Erik Galorio and Rother Galorio did not inflict any injury to the deceased-victim, in fact the wound sustained by the victim was solely perpetrated by respondent Floro.

Admittedly [*sic*] by respondent, he was the one who stabbed the victim with the use of his bayonet, which caused the victim’s death, hence,

although respondent interposed the theory of self and/or defense of relative [sic], all these matters are evidentiary in nature which can be better threshed out in the trial on the merits of the case.

WHEREFORE, the undersigned finds that there is sufficient evidence to engender a well-founded belief that a crime of Homicide has been committed by respondent Floro Galorio and he is probably guilty thereof and likewise, he should face trial in court.

Let therefore an information for Homicide be filed against herein respondent before RTC Branch 51, Carmen, Bohol.

SO RESOLVED.⁸

Attached to the aforementioned Resolution of OPP-Bohol are the following critical documents:

- 1) The victim's Certificate of Death⁹ dated May 26, 2006, which states the immediate cause of death as hypovolemic shock secondary to hemorrhage (antecedent cause) from a stab wound (underlying cause) that penetrated the victim's liver.
- 2) The initial Police Report¹⁰ dated June 14, 2006 of the Alicia Police Station, which certifies as to the following:

REPORT ON HOMICIDE AND FRUSTRATED HOMICIDE:

"Andres Gunting Muring, 49 years old, married and a resident of La Hacienda, Alicia, Bohol was stab[bed] dead by one Floro Galorio hitting at the right rib and penetrating the liver causing his instantaneous death. Investigation conducted by Alicia PNP at the crime scene conclude[s] that Christopher Muring[,] son of the deceased driving a motor [sic] was parked at the center of the road, [and] Floro was there and he scolded the said person not to park the said motor [be]cause it will cause jumpack [sic] of traffic. He immediately r[a]n the motor and when he came back, his father was the back rider, and seeing Floro Galorio w/out [sic] verification dr[e]w his bolo and hack[ed at] Floro Galorio many times and when Floro Galorio fell down, he stabbed [him,] hitting at his stomach and cut[ting] the right ring finger, then Floro Galorio retaliate[d] and dr[e]w his U.S.-made bayonet and stabbed Andres Muring hitting at the right rib. Erick Galorio and Rother Galorio was hit also in his two hands in pulse area [sic]. All w[ere] rushed to the nearest hospital, but Andres Muring was proclaim[ed] dead by [the] attending physician.¹¹

⁸ *Id.*

⁹ *Id.* at 4.

¹⁰ *Id.* at 5.

¹¹ *Id.*

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- 3) The Affidavit¹² dated June 27, 2006 of Leoncio Cagande (Leoncio), a supposed witness to the incident, who avers that while he was standing by the roadside near the vicinity of the La Hacienda public market where the coronation night program was being held at more or less 10:30 p.m. on the day in question, he saw the victim Andres G. Muring, Sr. (Andres) arrive on a motorcycle and was immediately confronted by petitioner and Eric¹³ Galorio (Eric), petitioner's nephew. Leoncio saw Eric draw and point his gun at Andres, which caused a commotion. Andres defended himself by striking his bolo at Eric, wounding the latter in the process and running away thereafter. Petitioner chased and caught up to Andres, who stumbled on a parked motorcycle and fell to the ground. Leoncio averred that he then saw petitioner stab Andres in the abdomen with a knife while the latter was helpless on the ground. Petitioner then allegedly fled the scene thereafter.
- 4) The Affidavit¹⁴ dated June 27, 2006 of Antonio Muring (Antonio), another supposed eyewitness and whose relationship to the victim was not indicated, but whose averments were word-for-word the same as that of Leoncio.
- 5) Petitioner's Counter-Affidavit¹⁵ dated August 2, 2006, which asserts that he actually scolded the victim's son Christopher Muring (Christopher) due to the latter's motorcycle being parked in the middle of the road during the coronation night program. Petitioner presumably did this as a member of the civilian volunteers' organization (CVO) of *Barangay La Hacienda*, as indicated by the Certification¹⁶ dated July 20, 2006 of the La Hacienda CVO President. Christopher ignored petitioner's instructions to move the motorcycle, whereupon petitioner gently pushed Christopher's ankle to urge him to comply. At this, Christopher left the scene. Petitioner continued watching the program, but the victim Andres arrived on motorcycle, shouting "*Unsay imong gusto, patay?*" and without warning hacked petitioner with a long bolo, cutting off the latter's ring finger and wounding the latter in the chest. Petitioner then retreated, but upon noticing that the victim Andres was on top of Eric and about to stab the latter, petitioner went for the bayonet located in the toolbox of his motorcycle parked nearby, and thereafter ran towards Andres and stabbed him in the right rib, with Andres's back facing him. Petitioner avers that he was weak and dazed at the time due to the wounds he had already sustained, and

¹² *Id.* at 6–7.

¹³ Spelled as "Erik" or "Erick" in some parts of the record.

¹⁴ Records, pp. 8–9.

¹⁵ *Id.* at 10–11.

¹⁶ *Id.* at 22.

was only concerned for his nephew Eric that he acted only to neutralize Andres and to prevent the latter from causing any further physical harm.

- 6) The Affidavit¹⁷ dated August 2, 2006 of Samuel Vallecera (Samuel), another witness to the incident, who avers having seen the victim Andres first approach petitioner and suddenly hack petitioner without warning with a long bolo, which resulted in petitioner losing a finger in his attempt to parry the blow. Thereafter, Samuel saw the victim Andres approach and then attacked Eric with the same bolo. Samuel also immediately attended to the wounded petitioner and moved him to a safe place nearby and left him to go call for help and medical attention. The Affidavit concludes that the victim Andres seemed to have run amok relative to the incident.
- 7) The Counter-Affidavit¹⁸ dated August 2, 2006 of Eric, petitioner's nephew, who saw the initial stabbing of petitioner by the victim Andres and came to his uncle's aid, only to be hacked in turn by Andres. His brother Rother Galorio (Rother), who was at the scene, pleaded with Andres to stop, but who was also hacked and wounded by the victim. He suddenly noticed that the victim stopped in his attack, due to petitioner stabbing him in the back despite petitioner's weakness and wounds. Eric also concluded that the victim Andres seemed to have run amok that night.
- 8) The Counter-Affidavits¹⁹ dated August 2, 2006 of Eddie Mar Galagar (Eddie Mar) and Benedicto Baluran (Benedicto), which are basically identical to each other and which both corroborate the assertion that the victim Andres first hacked petitioner without warning and cut off the latter's finger, but with nothing further due to their departure from the area along with the crowd due to the commotion caused by the running amok of the victim Andres.
- 9) The Counter-Affidavit²⁰ dated August 2, 2006 of Rother, petitioner's other nephew and Eric's brother, which corroborates petitioner's narration of events. Specifically, Rother recounts the victim Andres shouting "*Unsay imo[ng] gusto, patay?*" and suddenly hacking at petitioner, the cutting off of petitioner's finger and the victim's subsequent attack upon Eric. Rother also tried to

¹⁷ *Id.* at 12.

¹⁸ *Id.* at 13–14.

¹⁹ *Id.* at 15 and 16.

²⁰ *Id.* at 17.

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plead with the victim Andres in order for the latter to stop his violent behavior, but this was met with hacks and stabs that left both Rother's hands with injuries. Having retreated from the scene, he did not see anymore the stabbing of the victim by petitioner.

- 10) The Medico-Legal Certificate²¹ dated July 19, 2006 relative to the injuries suffered by Rother, which are indicated as follows:

*** EXT. 2 POSITIVE SUTURED WOUND[S] 5 CM AND 6 CM ON LEFT WRIST AND 5 CM SUTURED WOUND ON RIGHT WRIST (LOM), POSITIVE TENDERNESS OF BOTH FOREARMS, LEFT ARM UNABLE TO PRONATE

*** MULTIPLE STAB WOUND[S], LEFT AND RIGHT WRIST²²

- 11) The Certificate of Confinement²³ dated July 19, 2006 relative to the injuries sustained by petitioner, which are indicated as follows:

Diagnosis:

1) PENETRATING PERFORATING INCISED WOUND RIGHT PARAUMBILICAL AREA
PERFORATING ILEUM (2), MESENTERY (2), W/
HEMOPNEUMOPERITONEUM W/ EVISCERATION OF OMENTUM

2) PERITONITIS SEC. TO #1

3) OPEN FX III-B PROX PHALANGE, 4TH DIGIT (R) W/ FLEXOR
TRANSECTION²⁴

- 12) Finally, the Certificate of Confinement²⁵ dated 24 July 2006 relative to the injuries suffered by Eric, which are indicated as "MULTIPLE SUTURED INCISED WOUNDS LEFT BACK AND LEFT ARM."

At trial, the following gave their respective testimonies on the witness stand, viz.:

- 1) Leoncio, who testified that when the victim arrived at the scene, Eric pointed a gun at the victim, causing the latter to step back and fall down, after which petitioner approached and stabbed the

²¹ *Id.* at 18.

²² *Id.*

²³ *Id.* at 19.

²⁴ *Id.*

²⁵ *Id.* at 20.

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victim.²⁶ Leoncio was at a distance of five (5) to six (6) meters more or less from the scene,²⁷ and further clarified that the victim had bumped into a motorcycle upon stepping back from Eric's pointed gun, which caused the victim to fall to the ground.²⁸ According to this account, petitioner immediately approached the victim and stabbed the same using the former's left hand moving in a rightward direction.²⁹ The victim at the time was on the ground facing upward towards petitioner,³⁰ and was stabbed on the right side of his body.³¹ Leoncio, however, testified under oath that he did not notice the victim's earlier aggressive behavior and hacking of petitioner,³² and even noted that he did not notice the victim wielding a bolo knife.³³ Leoncio also testified that he did not notice anyone other than the victim receiving any wounds or suffering any blows or cuts during the incident.³⁴ Interestingly, the witness also testified under oath that he is related to the victim's widow, as they share a common great-grandfather.³⁵ On cross-examination, however, it was revealed that Leoncio noted in his initial Affidavit that he had seen the victim with a bolo and petitioner defending himself from the victim's hacking attack.³⁶ The witness apparently had the said Affidavit prepared by a certain Atty. Allan O. Legaspi, who was counsel for the victim's widow,³⁷ and the witness signed the said Affidavit without knowing its contents.³⁸

- 2) Antonio, who testified that the victim was his uncle,³⁹ and that he also saw the same stabbed by petitioner right after bumping into a motorcycle and falling to the ground.⁴⁰ The witness testified as well that he saw his uncle (i.e., the victim) on the ground facing upwards towards petitioner when the latter stabbed the former, and that petitioner stabbed with his left hand in a downward thrust.⁴¹ The witness's uncle was hit on his right side below the right armpit,⁴² and he expired before reaching the hospital.⁴³

²⁶ TSN, Leoncio Cagande, November 10, 2008, p. 2.

²⁷ TSN, Leoncio Cagande, September 14, 2009, p. 4.

²⁸ *Id.* at 6.

²⁹ *Id.*

³⁰ *Id.* at 7.

³¹ *Id.* at 8.

³² *Id.* at 14.

³³ *Id.* at 15.

³⁴ *Id.* at 17.

³⁵ *Id.* at 25.

³⁶ TSN, Leoncio Cagande, October 5, 2009, pp. 9–10.

³⁷ *Id.* at 11.

³⁸ TSN, Leoncio Cagande, December 7, 2009, pp. 2–3.

³⁹ TSN, Antonio Muring, March 15, 2010, p. 3.

⁴⁰ *Id.* at 6–7.

⁴¹ *Id.* at 7.

⁴² *Id.*

⁴³ *Id.* at 8.

- 3) Petitioner himself, who testified that he was manning the scene at an earlier time as a member of the *Barangay* La Hacienda CVO due to the festivities of the local *fiesta* and concomitant beauty pageant. During such earlier time, the victim's son Christopher arrived and had parked his motorcycle on the center of the road. Petitioner called Christopher's attention to the same and suggested that the motorcycle be parked on the side of the road. Christopher got angry at the suggestion, however, and eventually left the scene.⁴⁴ The victim thereafter arrived some time later on a motorcycle and uttered "What do you want, *pre*, we will kill each other?" towards petitioner.⁴⁵ The victim thereafter began hacking petitioner with a bolo of more or less 15 inches in length,⁴⁶ and petitioner was wounded on his fingers in an attempt to parry the blows. Petitioner even demonstrated in open court his wounds, which were on his small finger and ring finger, and on his right palm.⁴⁷ Petitioner was also stabbed by the victim in the abdomen, as demonstrated by his healed scars in open court.⁴⁸ After being stabbed, petitioner then saw his nephew Eric approach the scene and then immediately become a new target for the victim's stabbing. When the victim had petitioner's nephew pinned down, petitioner then went to his own motorcycle parked nearby, opened its toolbox, and retrieved his bayonet.⁴⁹ Petitioner described his physical condition at the time as having blurred sight and holding in his own intestines from protruding out of the stab wound on his abdomen.⁵⁰ He then approached the victim and stabbed the latter in the left lower armpit.⁵¹ The victim had also managed to inflict stabbing wounds upon petitioner's other nephew Rother.⁵² On cross-examination, petitioner confirmed that to his knowledge, he had stabbed the victim once in the lower left armpit,⁵³ and further clarified that the victim was on top of his nephew Eric pinning the latter down when petitioner stabbed the former.⁵⁴ Petitioner also noted that he stabbed the victim using his left hand (since petitioner admitted to being left-handed),⁵⁵ and that his already-wounded right hand was utilized to hold his intestines in.⁵⁶ Further clarifications include petitioner's nephew immediately arriving at the scene on a

⁴⁴ TSN, Floro Galorio, October 27, 2011, pp. 5–6.

⁴⁵ *Id.* at 6.

⁴⁶ *Id.* at 6–7. Note, however, the TSN, Floro Galorio, May 3, 2012, p. 5, which indicate that petitioner demonstrated the length of the victim's bolo to have been more or 24 inches.

⁴⁷ *Id.* at 7.

⁴⁸ *Id.* at 8.

⁴⁹ TSN, Floro Galorio, May 3, 2012, p. 8.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.* at 9–10.

⁵³ TSN, Floro Galorio, August 14, 2012, p. 2.

⁵⁴ *Id.* at 3.

⁵⁵ *Id.* at 4.

⁵⁶ *Id.* at 7.

motorcycle right after petitioner himself was stabbed,⁵⁷ and the victim attempting to strike petitioner anew even after being stabbed with petitioner's bayonet, which remained implanted on his body, and the witness Samuel dragging petitioner to safety thereafter.⁵⁸ The victim tried to go after them, but upon pulling out the bayonet from under his armpit, blood gushed from his wound and he fell to the ground.⁵⁹

- 4) Benedicto, who narrated that he saw petitioner being hacked by the victim and parrying the latter's blows.⁶⁰ Petitioner had been hacked and wounded on his hands and on his abdomen,⁶¹ but Benedicto witnessed nothing further after fleeing the scene with the crowd due to the commotion caused by the incident.⁶² In his recollection, the witness also confirmed to having seen the bolo, which was almost or about two feet in length.⁶³
- 5) Eddie Mar, who narrated that he saw the victim hack both petitioner and his nephew without warning with a long bolo measuring between two to three feet in length.⁶⁴ As the victim and petitioner's nephew were grappling for possession of the bolo, petitioner then retrieved a knife from his motorcycle, with which he stabbed the victim thereafter.⁶⁵ On cross-examination, Eddie Mar noted that the victim, upon arrival at the scene, had been shouting petitioner's name and asking where petitioner was at the time.⁶⁶ Upon being questioned by the trial court, the witness also confirmed that he saw petitioner holding his own abdomen towards his motorcycle after being stabbed by the victim,⁶⁷ and that he saw petitioner stab the victim with the knife retrieved from the said motorcycle's utility box in a forward motion with his right hand.⁶⁸
- 6) Rother, who averred under oath that the victim was actually close to their family and to him specifically as a godfather.⁶⁹ He also witnessed that when Christopher had parked his motorcycle at the center of the road prior to the incident, petitioner pushed

⁵⁷ TSN, Floro Galorio, September 4, 2012, p. 5.

⁵⁸ *Id.* at 7.

⁵⁹ *Id.*

⁶⁰ TSN, Benedicto Baluran, September 6, 2012, p. 3.

⁶¹ *Id.* at 5.

⁶² *Id.* at 6–8.

⁶³ *Id.* at 8.

⁶⁴ TSN, Eddie Mar Galagar, September 25, 2012, pp. 3–4.

⁶⁵ *Id.* at 5.

⁶⁶ *Id.* at 8.

⁶⁷ TSN, Eddie Mar Galagar, September 27, 2012, p. 3.

⁶⁸ *Id.* at 4.

⁶⁹ TSN, Rother Galorio, October 16, 2012, p. 3.

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Christopher to the side in order to prevent the latter from being hit by an approaching motorcycle.⁷⁰ Christopher thereafter left the scene, and it was the victim who returned looking for petitioner. Rother heard the victim say to petitioner: “*buang ka, ‘pre, patay di-ay imong gusto karon?’*” and ran straight towards the latter with a bolo.⁷¹ Rother then was able to see his uncle (i.e., petitioner) parry the victim’s hacking blows and suffer cuts on his right hand and fingers. The victim hacked petitioner again, hitting petitioner’s abdomen,⁷² and thereafter proceeded to hack Eric.⁷³ Rother then tried to intervene and plead with the victim to stop his violent actions, but to no avail, since the victim also hacked him.⁷⁴ The witness also saw petitioner stab the victim on the left side of the latter’s body.⁷⁵ Rother also confirmed that his brother Eric brandished a handgun at the time but fired no shots due to the said handgun having no loaded magazine.⁷⁶

Ruling of the RTC

In its Decision dated July 28, 2015, RTC-Carmen, Bohol convicted petitioner of the crime charged, viz.:

WHEREFORE, and on the ground that the prosecution was able to successfully prove the guilt of accused Floro Galorio y Gapas beyond reasonable doubt, the court therefore finds accused Floro Galorio y Gapas guilty beyond reasonable doubt for homicide[,] and after appreciating one mitigating circumstance of lack of intent to commit so grave a wrong as that committed, hereby sentences him to the penalty of six (6) years and one (1) day of *prisión mayor* to twelve (12) years *reclusión temporal*[,] and to pay the offended party the amount of Twenty Thousand Pesos (P20,000.00) as moral damages.

There shall be no adjudication as to compensatory damages as none had been proven.

SO ORDERED.⁷⁷

In fine, the trial court made the following findings with respect to the facts of the case, viz.:

⁷⁰ *Id.*

⁷¹ *Id.* at 4.

⁷² *Id.*

⁷³ *Id.* at 5.

⁷⁴ *Id.* at 5–6.

⁷⁵ *Id.* at 6.

⁷⁶ *Id.*

⁷⁷ *Rollo*, p. 68.

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- 1) The uncorroborated account of Leoncio remained unrebutted by the defense. In particular, the trial court was of the opinion that the witness's narration of the victim falling down after bumping into a motorcycle and being stabbed by petitioner while on the ground facing up was consistent throughout the testimony, and that the prosecution failed to attribute any ill motive to the said witness.⁷⁸
- 2) The theory of the defense, i.e., that petitioner killed the victim in order to defend his nephew Eric, did not convince the trial court. In particular, the trial court opined thus:

... It seems to the court that none of the elements of self-defense had been clearly supported with proof by the defense. *The court observes that the testimonial evidence coming from the accused lacks details as to how the victim started the unlawful aggression on his nephew Eric Galorio* because the accused merely testified that after he (accused) was wounded by the victim, Eric Galorio approached them and that was the time that accordingly the victim turned against him[,] but in what manner that the victim turned against Eric Galorio and accordingly directed [sic] his attention to Eric Galorio, and stabbed him on his lower armpit clearly lacks concrete details. *Such appears to be a general statement and there are no details of the facts to persuade the court as to the real reason which prompted the victim to stab Eric Galorio on his lower armpit. What did Eric Galorio do to the victim to merit the victim's action to stab him on his lower armpit? Eric Galorio was not placed on the witness stand to describe how the unlawful aggression was begun by the victim or what was the onset of the attack. The court also notes that [in] the entire narration of accused Floro Galorio of the incident particularly with the victim's attack on Eric, not a single sentence escaped his mouth to describe the reaction of Eric from the moment he was stabbed to the moment that he was pinned down by the victim to the time that he (accused) accordingly stabbed the victim. It appears to the court that Eric seems to be a deaf-mute or absent from the crime scene or was he also an aggressor?* [sic] Given the testimony that Eric's life was the one which was imperiled and accordingly impelled [sic] the accused to stab the victim with a bayonet, it therefore runs against the grain of common experience that a victim could not be shown to have any reaction to a violence that he suffered and of which he was accordingly not at fault. It runs against common experience that such victim of an alleged violent unlawful aggression would remain silent and would not even take the witness stand to enlighten the court as to what really transpired. To be credible, evidence should not only come from a mouth of a credible witness but must be by itself necessarily credible.⁷⁹ (Emphasis, italics, and underscoring supplied)

- 3) Crucially, the trial court was of the opinion that the victim's nephew and even petitioner were actually already armed and prepared for the arrival of the victim prior to the incident, and that

⁷⁸ *Id.* at 64.

⁷⁹ *Id.* at 64–65.

petitioner's account of the retrieval of his bayonet/knife from his motorcycle was a narration to incredible to believe, viz.:

The court is inclined to believe the eyewitness account of prosecution witness Leoncio Cagande as to the fact that during the incident subject of the information, Eric Galorio who is admittedly a nephew of accused Floro Galorio pointed his .45 [caliber] pistol on the victim. High probability exists that Eric Galorio was armed with a gun which he used in pointing at the victim given the un[-]rebutted testimonial fact that he is a member of the military. Therefore, he has access to the stated weapon (.45 caliber pistol). The court considers the admitted fact that the accused had earlier encountered an angry Andres Muring that evening [at] about 8:00 o'clock when he (accused) practically provoked the victim why he was eating at somebody's house during the fiesta of his own barangay. The court considers that the victim was aggrieved by such statement coming from Floro because he retorted that he could very well afford to spend for a fiesta. Accordingly, Andres was already drunk at that time and even practically challenged Floro that they will see each other at the Poblacion. It is highly possible that Floro Galorio rallied his male relatives[,] namely:] Eric and Rother Galorio to come with him to Poblacion and found out whether Andres was serious about the challenging words he had uttered earlier that evening. True to form[,] Andres Muring arrived on a motorcycle[,] and true to form[,] Eric Galorio in a show of power pointed his gun at Andres. The Court believes that during the gun[-]pointing, Floro and Rother were standing by, ready to fight it out with Andres. They failed to anticipate Andres was quick in neutralizing the gun pointing [sic] by hacking at, [sic] by striking at the latter and wounding him at his lower armpit. The court believes that at that point[,] Andres Muring was practically surrounded by the three Galorios and that Floro was already actually armed with a weapon. The court does not believe that he did not arm himself given that there was a challenge from Andres Muring that they will see each other at the Poblacion. The court believes that accused was armed and ready to fight it out with Andres Muring who was also armed and ready given that practically there was an earlier challenge from the latter that they would meet at the Poblacion and that when they finally came face[-]to[-]face they immediately begun [sic] their fight first verbally and then attempted to strike at each other. However, and on account of the intervention by Eric Galorio who pointed his gun to the victim, the victim perforced [sic], had to move backwards falling to the ground after accidentally bumping on a motorcycle parked behind him. The court believes that when he was pointed to with a gun by Eric Galorio[,] the victim swiftly defended himself by striking at the lower armpit of Eric but that he had to move backwards considering that the gun was still continuously being pointed to at him. When he fell after hitting the motorcycle behind him[,] accused Floro Galorio had the opportunity to strike the victim on his abdomen only once due to the fact that Andres Muring also swiftly retaliated by striking at the accused thereby cutting off his finger and wounding his abdomen. At this point, it is most likely that both victim and accused who were already wounded retreated. The foregoing is the most likely scenario which does not run counter to common human experience. If indeed it was true that he was merely defending his nephew, Eric Galorio[,] from unlawful aggression of the victim, the court is not persuaded from the account of the accused whether or not Eric Galorio was in danger of losing his life from the hands of the victim at the moment that he (accused) stabbed

the victim. As a matter of fact, the accused was quite incredible with his claim because accordingly upon seeing his nephew, Eric Galorio[,] already wounded and falling to the ground, he hurriedly went to his motorcycle holding his protruding intestine with his right hand, opened the U-box with a key, got his bayonet and stabbed the victim who wanted to kill both of them. How could he have hurriedly gone to the motorcycle and runs [sic] back to the victim? It defies imagination in the instant case[,] particularly because the defense failed to establish to the court the exact distance from where he had fallen after being stabbed by the victim with his intestines protruding to the place where the motorcycle was parked. Given the testimony of the accused that his little finger was cut and his abdomen was wounded, it behooved the defense to show that the U-box was bloodied and that there is blood on the ground leading to the motorcycle. Indeed, it would have been hard to believe that he could have gone to his motorcycle with [his] protruding intestine held in his right hand [sic], opened the U-box with a key with another hand, got his bayonet, returned to the scene where the victim and Eric Galorio were located if that motorcycle was more than a meter.⁸⁰ (Emphasis, italics, and underscoring supplied)

- 4) Lastly, RTC-Carmen, Bohol emphasized the supposedly sheer improbability of petitioner not being ready to defend himself, viz.:

The court notes with significance that accused Floro Galorio's testimony on cross that at the time the victim attacked him, he was not yet thinking of defending himself is indeed incredible. No person who is being violently attacked which caused [sic] his finger to be cut and his abdomen also to be cut open such that his intestine came out would shy away from defending his life. One whose life is endangered would act swiftly to defend himself as otherwise his life would soon be over. By testifying that he failed to get his bayonet at the time the victim attacked him because he was not yet thinking of defending himself during that time persuades the court that the cutting of his finger and the wounding of his abdomen by the victim were brought about by the defensive acts of the victim because he (accused Floro Galorio) was the one attacking the victim at the time. The testimony of the accused that he only thought of defending his nephew Eric who as it was un[-]rebutted, holding a gun pointed to the victim is certainly also beyond common experience. It is clear to the court that by changing his theory of being framed up to that of defense of relative, accused admits that he committed the act charged. The accused clearly admitted on the witness stand that he stabbed the victim using his US[-]made bayonet which to the eyes of prosecution witness Leoncio Cagande was a [R]ambo[-]type knife. The accused did not assail the fact of the death of the victim as alleged in the information by failing to controvert the fact of death of the victim. It is clear to the court that such is a foregone conclusion. However, and considering also the un[-]rebutted testimony of the accused that after being hit by his stab blow the victim went away and he (accused) also rode away on his motorcycle prompts the court to consider that the accused did not intend to commit so grave a wrong than that committed and therefore affords him such mitigating circumstance.⁸¹ (Emphasis, italics, and underscoring supplied)

⁸⁰ *Id.* at 66–67.

⁸¹ *Id.* at 67–68.

Petitioner accordingly interposed his Notice of Appeal.⁸²

Ruling of the Appellate Court

In its Decision dated February 22, 2019, the CA 20th Division denied petitioner's appeal and modified the trial court's Decision in the following manner:

ACCORDINGLY, the appeal is DENIED. The Decision dated 28 July 2015 of the Regional Trial Court, 7th Judicial Region, Branch 51, Carmen, Bohol in Criminal Case No. 0954 is AFFIRMED WITH MODIFICATIONS.

Accused-Appellant Floro Galorio y Gapas is adjudged to pay the Heirs of Andres G. Muring, Sr. civil indemnity *ex delicto* and moral damages in the amount of Php50,000.00 each. All monetary awards shall earn interest at the rate of six percent (6%) *per annum* from date of finality of this Decision until fully paid.

SO ORDERED.⁸³

The appellate court basically ruled that: 1) the prosecution below had been able to prove all the elements of the offense charged;⁸⁴ 2) the fact of the victim's death had been duly proven by both the death certificate and petitioner's admission under oath;⁸⁵ and 3) crucially, the elements of the justifying circumstance of either self-defense or defense of a relative were not present, viz.:

The RTC is correct when it ruled that there was no unlawful aggression on the part of the victim/

Although Muring was the initial aggressor in challenging the accused-appellant to a fight, his aggression was neither actual nor imminent. Based on the testimony of Leoncio Cagande, Muring fell on the ground when the latter bumped into a motorcycle after Eric pointed a gun at him. When Muring fell, accused-appellant attacked and stabbed him. Thus, unlawful aggression already ceased to exist when Eric pointed the gun at the victim, which made him stop and fall. Muring's unlawful aggression was neither actual nor imminent when the accused-appellant made the attack.

Considering that the accused-appellant admitted the commission of the crime but invoked self-defense or defense of a relative as a justifying circumstance, accused-appellant has the burden of proving the justification of his act in stabbing Muring by clear and convincing evidence.

⁸² *Id.* at 69.

⁸³ *Id.* at 43.

⁸⁴ *Id.* at 35–36.

⁸⁵ *Id.* at 36–41.

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Even granting in argument [*sic*] that accused-appellant was stabbed first by Muring and he fell to the ground, which caused Muring to go after Eric and attack him [*sic*]. The act of accused-appellant in leaving the scene to go to his motorcycle to look for his bayonet, the unlawful aggression of Muring already ceased to put accused-appellant's life or Eric's in peril. Accused-Appellant even found time to look for the key of his utility box while he was badly wounded, and returned to where Muring was, who was then allegedly fighting with Eric.

....

Clearly, accused-appellant's act of stabbing the victim was merely a result of retaliation [and] not self[-]defense or defense of a relative.⁸⁶

The CA also modified the amount of civil indemnity *ex delicto* and moral damages to be imposed upon petitioner in accordance with the ruling of the Court in *People v. Jugueta*,⁸⁷ and accordingly modified the same in the amount of PHP 50,000.00 each, which shall earn interest at the rate of six percent (6%) from date of finality of the CA's Decision until fully paid.

Petitioner duly filed his Motion for Reconsideration,⁸⁸ but the same was denied by the CA in its Resolution dated August 28, 2020, viz.:

WHEREFORE, accused-appellant's motion for reconsideration is denied.

SO ORDERED.⁸⁹

Hence, the instant Petition for Review on *Certiorari*.

Arguments of the Parties

Petitioner puts forth the following arguments in support of his plea for the reversal of his conviction:

- 1) Petitioner's right to speedy trial under the 1987 Constitution and Republic Act (R.A.) No. 8493, otherwise known as the Speedy Trial Act of 1998, was violated by the trial court below; and

⁸⁶ *Id.* at 42–43.

⁸⁷ 783 Phil. 806 (2016) [Per J. Peralta, *En Banc*].

⁸⁸ *Rollo*, pp. 109–116.

⁸⁹ *Id.* at 29–30.

- 2) The CA committed a reversible error in finding that there was no justifying circumstance of either self-defense or defense of a relative with regard to the facts of the case.

In Respondent's Comment,⁹⁰ the Office of the Solicitor General (OSG) interposes that petitioner resorted to an improper remedy with the present Petition due to the fact that the issues raised are not pure questions of law. Additionally, the OSG asserts that petitioner had waived his right to speedy trial multiple times at the trial court below, and failed to even raise the same as an issue before the appellate court. Finally, the OSG reiterates the reasoning of the CA in affirming petitioner's conviction, i.e., that the victim's death was un rebutted, and that all the elements of the crime of Homicide had been duly proven.

Issues before the Court

For the Court's consideration and disposition are the following three issues:

- 1) Whether or not the instant Petition properly presents issues that concern pure questions of law that are cognizable by the Court;
- 2) Whether or not petitioner's right to speedy trial had been violated; and;
- 3) Whether or not the conclusions and ultimate disposition of the trial court, as affirmed by the appellate court, should be reversed and set aside and, thus would properly entitle petitioner to an acquittal.

Ruling of the Court

The instant Petition is very much impressed with merit, and accordingly, petitioner's acquittal is in order.

Anent the first issue, the Court notes of the various exceptions to the general rule that its disposition of petitions for review on *certiorari* are limited to errors of law, and concurrently, that the findings of fact below relative to such petitions are deemed conclusive. In *Fuentes v. Court of Appeals*,⁹¹ the Court enumerated such exceptions to be as follows:

⁹⁰ *Id.* at 137-155.

⁹¹ 335 Phil. 1163 (1997) [Per J. Panganiban, Third Division].

(1) [W]hen the factual findings of the Court of Appeals and the trial court are contradictory;

(2) [W]hen the findings are grounded entirely on speculation, surmises, or conjectures;

(3) [W]hen the inference made by the Court of Appeals from its findings of fact is manifestly mistaken, absurd, or impossible;

(4) [W]hen there is grave abuse of discretion in the appreciation of facts;

(5) [W]hen the appellate court, in making its findings, goes beyond the issues of the case, and such findings are contradictory to the admissions of both appellant and appellee;

(6) [W]hen the judgment of the Court of Appeals is premised on a misapprehension of facts;

(7) [W]hen the Court of Appeals fails to notice certain relevant facts which, if properly considered, will justify a different conclusion;

(8) [W]hen the findings of fact are themselves conflicting;

(9) [W]hen the findings of fact are conclusions without citation of the specific evidence on which they are based; and

(10) [W]hen the findings of fact of the Court of Appeals are premised on the absence of evidence but such findings are contradicted by the evidence on record.⁹² (Emphases supplied)

Meanwhile, *People v. Esteban*⁹³ also cited the following principle when it comes to the findings of fact by lower courts in criminal cases, viz.:

It is well-settled that, in criminal cases, factual findings of the trial court are generally accorded great weight and respect on appeal, especially when such findings are supported by substantial [*sic*] evidence on record. It is only in exceptional circumstances, such as when the trial court overlooked material and relevant matters, that this Court will re-calibrate and evaluate the findings of the trial court below.⁹⁴

⁹² *Id.* at 1168–1169. See also *Tabingo v. People*, G.R. No. 241610, February 1, 2021 [Per C.J. Peralta, First Division]; *Alburo v. People*, 792 Phil. 876, 889 (2016); *Macayan, Jr. v. People*, 756 Phil. 202, 215–216 (2015) [Per J. Leonen, Second Division] and *Salcedo v. People*, 400 Phil. 1302, 1308–1309 (2000) [Per J. Panganiban, Third Division].

⁹³ 735 Phil. 663 (2014) [Per J. Reyes, First Division]

⁹⁴ *Id.* at 215], citing *Seguritan v. People*, 632 Phil. 415, 418 (2010) [Per J. Del Castillo, Second Division]: “In a criminal case, factual findings of the trial court are generally accorded great weight and respect on appeal, especially when such findings are supported by substantial [*sic*] evidence on record. It is only in exceptional circumstances, such as when the trial court overlooked material and relevant matters, that this Court will re-calibrate and evaluate the factual findings of the court below.”

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Such recalibration and reevaluation are in order here, for the Court cannot turn a blind eye to the egregious errors of the trial court that seem to have been overlooked by the appellate court here in a disturbingly nonchalant manner. But such shall be discussed later with regard to the third issue, as the Court must first make a short pronouncement on the second issue of whether or not petitioner's right to speedy trial was violated by the trial court below.

The Court in *Corpuz v. Sandiganbayan*⁹⁵ explained the rationale and purpose of the constitutional right to speedy trial, viz.:

The right of the accused to a speedy trial and to a speedy disposition of the case against him was designed to prevent the oppression of the citizen by holding criminal prosecution suspended over him for an indefinite time, and to prevent delays in the administration of justice by mandating the courts to proceed with reasonable dispatch in the trial of criminal cases. Such right to a speedy trial and a speedy disposition of a case is violated only when the proceeding is attended by vexatious, capricious and oppressive delays. The inquiry as to whether or not an accused has been denied such right is not susceptible by [sic] precise qualification. The concept of speedy disposition is a relative term and must necessarily be a flexible concept.

While justice is administered with dispatch, the essential ingredient is orderly, expeditious [sic] and not mere speed. It cannot be definitely said how long is too long in a system where justice is supposed to be swift, but deliberate. It is consistent with delays and depends upon circumstances. It secures rights to the accused, but it does not preclude the rights of public justice. Also, it must be borne in mind that the rights given to the accused by the Constitution and the Rules of Court are shields, not weapons; hence, courts are to give meaning to that intent.⁹⁶ (Citations omitted)

In *Coscolluela v. Sandiganbayan*,⁹⁷ the Court enumerated the following factors to be considered and balanced when determining whether a defendant had been denied his right to a speedy disposition of a case: "(1) the length of delay; (2) the reasons for the delay; (3) the assertion or failure to assert such right by the accused; and (4) the prejudice caused by the delay."⁹⁸

In the seminal and more recent case of *Cagang v. Sandiganbayan*,⁹⁹ the Court made the following comprehensive distillation of the inherent and constitutional right to speedy trial, albeit in the initial context of preliminary investigations, viz.:

⁹⁵ 484 Phil. 899 (2004) [Per J. Callejo, Sr., Second Division].

⁹⁶ *Id.* at 917.

⁹⁷ 714 Phil. 55 (2013) [Per J. Perlas-Bernabe, Second Division].

⁹⁸ *Id.* at 61.

⁹⁹ G.R. Nos. 206438 & 210141-42, July 31, 2016.

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To summarize, inordinate delay in the resolution and termination of a preliminary investigation violates the accused's right to due process and the speedy disposition of cases, and may result in the dismissal of the case against the accused. The burden of proving delay depends on whether delay is alleged within the period provided by law or procedural rules. If the delay is alleged to have occurred during the given periods, the burden is on the respondent or the accused to prove that the delay was inordinate. If the delay is alleged to have occurred beyond the given periods, the burden shifts to the prosecution to prove that the delay was reasonable under the circumstances and that no prejudice was suffered by the accused as a result of the delay.

The determination of whether the delay was inordinate is not through mere mathematical reckoning but through the examination of the facts and circumstances surrounding the case. Courts should appraise a reasonable period from the point of view of how much time a competent and independent public officer would need in relation to the complexity of a given case. If there has been delay, the prosecution must be able to satisfactorily explain the reasons for such delay[,] and that no prejudice was suffered by the accused as a result. The timely invocation of the accused's constitutional rights must also be examined on a case-to-case basis.¹⁰⁰

The Court also admonished that the failure of an accused to timely raise the consideration of his or her right to speedy trial is an essential condition for the delay to be deemed as a ground for the criminal case's dismissal. Said the Court: "[i]f it can be proven that the accused acquiesced to the delay, the constitutional right can no longer be invoked."¹⁰¹ Thus, the Court ruled that "the right to speedy disposition of cases or the right to speedy trial must be timely raised. The respondent or the accused must file the appropriate motion upon the lapse of the statutory or procedural periods. Otherwise, they are deemed to have waived their right to speedy disposition of cases."¹⁰²

In *Republic v. Sandiganbayan*,¹⁰³ the Court made the following admonition with regard to the belated invocation of the right to speedy trial and speedy disposition of cases, viz.:

While the Constitution guarantees the right of the accused to speedy disposition of cases, this right is not a magical invocation which can be cunningly used by the accused for his or her advantage. This right is not a last line of remedy when accused find themselves [sic] at the losing end of the proceedings. The State's duty to prosecute cases is equally as important, and this cannot be disregarded at the whim of the accused, especially when it appears that the contention was raised as a mere afterthought.¹⁰⁴

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ 871 Phil. 390 (2020) [Per J. Leonen, Third Division]. See also *Alarilla v. Sandiganbayan*, G.R. Nos. 236177-210, February 3, 2021 [Per J. Zalameda, First Division].

¹⁰⁴ *Id.* at 395.

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To recall, the constitutional right to speedy trial is enabled and operationalized by R.A. No. 8493, otherwise known as the Speedy Trial Act of 1998. The relevant provisions as to the timelines that trial courts must follow in criminal cases are as follows:

Section 6. *Time Limit for Trial.* – In criminal cases involving persons charged of a crime, except those subject to the Rules on Summary Procedure, or where the penalty prescribed by law does not exceed six (6) months imprisonment, or a fine of One thousand pesos (P1,000.00) or both, irrespective of other imposable penalties, the justice or judge shall, after consultation with the public prosecutor and the counsel for the accused, set the case for continuous trial on a weekly or other short-term trial calendar at the earliest possible time so as to ensure speedy trial. In no case shall the entire trial period exceed one hundred eighty (180) days from the first day of trial, except as otherwise authorized by the Chief Justice of the Supreme Court pursuant to Section 3, Rule 22 of the Rules of Court.

Section 7. *Time Limit Between Filing of Information and Arraignment and Between Arraignment and Trial.* – The arraignment of an accused shall be held within thirty (30) days from the filing of the information, or from the date the accused has appeared before the justice, judge or court in which the charge is pending, whichever date last occurs. Thereafter, where a plea of not guilty is entered, the accused shall have at least fifteen (15) days to prepare for trial. Trial shall commence within thirty (30) days from arraignment as fixed by the court.

If the accused pleads not guilty to the crime charged, he/she shall state whether he/she interposes a negative or affirmative defense. A negative defense shall require the prosecution to prove the guilt of the accused beyond reasonable doubt, while an affirmative defense may modify the order of trial and require the accused to prove such defense by clear and convincing evidence.

Section 8. *Time Limit Following an Order for New Trial.* – If the accused is to be tried again following an order of a court for a new trial, the trial shall commence within thirty (30) days from the date the order for a new trial becomes final, except that the court retrying the case may extend such period but in any case shall not exceed one hundred eighty (180) days from the date the order for a new trial becomes final if unavailability of witnesses or other factors resulting from the passage of time shall make the trial within thirty (30) days impractical.

....

Section 10. *Exclusions.* – The following periods of delay shall be excluded in computing the time within which trial must commence:

(a) Any period of delay resulting from other proceedings concerning the accused, including but not limited to the following:

- (1) delay resulting from an examination of the accused, and hearing on his/her mental competency, or physical incapacity;

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- (2) delay resulting from trials with respect to charges against the accused;
- (3) delay resulting from interlocutory appeals;
- (4) delays resulting from hearings on pre-trial motions: *Provided*, That the delay does not exceed thirty (30) days;
- (5) delay resulting from orders of inhibition, or proceedings relating to change of venue of cases or transfer from other courts;
- (6) delay resulting from a finding of the existence of a valid prejudicial question; and
- (7) delay reasonably attributable to any period, not to exceed thirty (30) days, during which any proceeding concerning the accused is actually under advisement.

(b) Any period of delay resulting from the absence or unavailability of the accused or an essential witness.

For purposes of this subparagraph, an accused or an essential witness shall be considered absent when his/her whereabouts are unknown and, in addition, he/she is attempting to avoid apprehension or prosecution or his/her whereabouts cannot be determined by due diligence. An accused or an essential witness shall be considered unavailable whenever his/her whereabouts are known but his/her presence for trial cannot be obtained by due diligence or he/she resists appearing at or being returned for trial.

(c) Any period of delay resulting from the fact that the accused is mentally incompetent or physically unable to stand trial.

(d) If the information is dismissed upon motion of the prosecution and thereafter a charge is filed against the accused for the same offense, or any offense required to be joined with that offense, any period of delay from the date the charge was dismissed to the date the time limitation would commence to run as to the subsequent charge had there been no previous charge.

(e) A reasonable period of delay when the accused is joined for trial with a co-accused over whom the court has not acquired jurisdiction, or as to whom the time for trial has not run and no motion for severance has been granted.

(f) Any period of delay resulting from a continuance granted by any justice or judge *motu proprio* or on motion of the accused or his/her counsel or at the request of the public prosecutor, if the justice or judge granted such continuance on the basis of his/her findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial. No such period of delay resulting from a continuance granted by the court in accordance with this subparagraph shall be excludable under this section unless the court sets forth, in the record of the case, either orally or in writing, its reasons for finding that the ends of justice served by

the granting of such continuance outweigh the best interests of the public and the accused in a speedy trial.

R.A. No. 8493 also provides a remedy for the accused when he or she is not brought to trial within the time limit provided in Section 7, viz.:

Section 13. *Remedy Where Accused is Not Brought to Trial Within the Time Limit.* – If an accused is not brought to trial within the time limited required by Section 7 of this Act as extended by Section 9, the information shall be dismissed on motion of the accused. The accused shall have the burden of proof of supporting such motion but the prosecution shall have the burden of going forward with the evidence in connection with the exclusion of time under Section 10 of this Act.

In determining whether to dismiss the case with or without prejudice, the court shall consider, among other factors, the seriousness of the offense, the facts and circumstances of the case which led to the dismissal, and the impact of a reprosecution [sic] on the implementation of this Act and on the administration of justice. Failure of the accused to move for dismissal prior to trial or entry of a plea of guilty shall constitute a waiver of the right to dismissal under this section.

In accordance with Section 15 of R.A. No. 8493, the Court promulgated Circular No. 38-98 on August 11, 1998, which provided for the implementing rules and regulations of R.A. No. 8493. The safeguards of the law and the Circular are also embodied in Rule 119 of the 2000 Revised Rules on Criminal Procedure. As an aside, the Revised Guidelines for Continuous Trial of Criminal Cases, as embodied in A.M. No. 15-06-10-SC (promulgated on August 17, 2015), would thus not be applicable, since petitioner was convicted the previous month on July 28, 2015.

Going now to the timeline of the trial below, the Court notes the following incidents over the course of the proceedings:

Date	Incident	Notes/Remarks
September 26, 2006	Filing of Information ¹⁰⁵	N/A
October 6, 2006	Promulgation of Arrest Warrant ¹⁰⁶	N/A
October 13, 2006	Date of petitioner's Arrest and Return of Arrest Warrant ¹⁰⁷	N/A
January 8, 2007	Date of petitioner's Arraignment ¹⁰⁸	Beyond thirty (30) days from filing of

¹⁰⁵ Records, p. 48.

¹⁰⁶ *Id.* at 57.

¹⁰⁷ *Id.* at 62.

		Information and/or Arrest of petitioner; pre-trial set for March 15, 2007 ¹⁰⁹
June 25, 2007	Supposed 1 st Day of Pre-Trial	Earlier setting of March 15, 2007 was postponed (no reason given); ¹¹⁰ private complainant failed to appear; prosecution manifested unreadiness for pre-trial (private prosecutor supposed to handle the case); pre-trial reset to September 24, 2007 ¹¹¹
September 24, 2007	Supposed 1 st Day of Pre-Trial	Private complainant again failed to appear; pre-trial reset anew to January 21, 2008 ¹¹²
January 21, 2008	Supposed 1 st Day of Pre-Trial	Both petitioner and private complainant failed to appear, but petitioner was represented by bondsman; pre-trial reset anew to March 3, 2008 ¹¹³
March 3, 2008	1 st Day of Pre-Trial	Private complainant again failed to appear; prosecution named its witnesses and pre-marked its exhibits; pre-trial set to continue on June 23, 2008; ¹¹⁴ pre-trial conducted 420 days after arraignment
June 23, 2008	Final Day of Pre-Trial	No indication if private complainant appeared;

¹⁰⁸ *Id.* at 72. Order dated October 19, 2006, 73 (Notice of Arraignment of even date), and 77 (Certificate of Arraignment dated January 8, 2007).

¹⁰⁹ *Id.* at 78 (Minutes of Session, January 8, 2007) and 79 (Order of even date).

¹¹⁰ *Id.* at 81 (Memorandum/Notice of the Trial Court dated March 9, 2007).

¹¹¹ *Id.* at 83 (Minutes of Session, June 25, 2007) and 84 (Order of even date).

¹¹² *Id.* at 92 (Minutes of Session, September 24, 2007) and 93 (Order of even date).

¹¹³ *Id.* at 104 (Minutes of Session, January 21, 2008) and 105 (Order of even date).

¹¹⁴ *Id.* at 112 (Minutes of Session, March 3, 2008), and 113 (Order of even date).

		First trial date set on September 29, 2008 ¹¹⁵
August 19, 2008	Date of Issuance of Pre-Trial Order ¹¹⁶	Not issued on the last day of pre-trial
September 22, 2008	Date of Receipt of petitioner's Motion to Dismiss ¹¹⁷ based on Constitutional Right to Speedy Trial	No notation as to whether or not this was resolved
September 29, 2008	Planned Date for First Day of Trial	Cancelled <i>via</i> Notice ¹¹⁸ dated September 26, 2008 due to seminar to be attended by the handling prosecutor on the said date
October 23, 2008	Date of petitioner's Manifestation ¹¹⁹ stating the dates of the re-settings of pre-trial	Petitioner's counsel manifested to the trial court that the pre-trial for the case was indeed set for five (5) dates
October 27, 2008	Direct Examination of Leoncio Cagande	Trial started at 11:50 a.m. and adjourned at 12:05 p.m. due to lack of material time; reset to continue on November 10, 2008 ¹²⁰
November 10, 2008	Continuation of Direct Examination of Leoncio Cagande	Trial started at 11:16 a.m. and adjourned at 11:20 a.m.; prosecution moved for continuance due to urgent personal reasons; reset to continue on November 24, 2008 ¹²¹
November 24, 2008	Supposed Continuation of Direct Examination of Leoncio Cagande	Petitioner and his counsel failed to appear; reset to

¹¹⁵ *Id.* at 116 (Minutes of Session, June 23, 2008) and 117 (Order of even date).

¹¹⁶ *Id.* at 123–124.

¹¹⁷ *Id.* at 127–132.

¹¹⁸ *Id.* at 142.

¹¹⁹ *Id.* at 153–154.

¹²⁰ *Id.* at 157 (Minutes of Session, October 27, 2008) and 159 (Order of even date). *See* TSN (of even date), pp. 1–8.

¹²¹ *Id.* at 162 (Minutes of Session, November 10, 2008) and 163 (Order of even date). *See* TSN (of even date), pp. 1–3.

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		continue on February 23, 2009 ¹²²
February 23, 2009	Supposed Continuation of Direct Examination of Leoncio Cagande	Cancelled <i>via</i> Notice ¹²³ dated February 12, 2009; hearing reset to July 6, 2009, no reason given
July 6, 2009	Supposed Continuation of Direct Examination of Leoncio Cagande	Prosecutor did not appear due to fever; reset to continue on September 14, 2009; no medical certificate of prosecutor attached ¹²⁴
September 14, 2009	Continuation of Direct Examination of Leoncio Cagande; Start of Cross-Examination	Set to continue on September 28, 2009 ¹²⁵
September 28, 2009	Supposed Continuation of Cross-Examination of Leoncio Cagande	Witness did not appear due to fever; reset to continue on October 5, 2009 ¹²⁶
October 5, 2009	Completion of Cross-Examination of Leoncio Cagande	Set to continue on December 7, 2009 ¹²⁷
December 7, 2009	Completion of Re-direct and Re-Cross Examination of Leoncio Cagande	Set to continue on January 11, 2010 for trial court's clarificatory questions ¹²⁸
January 11, 2010	Trial Court's Clarificatory Questions addressed to Leoncio Cagande	Petitioner's counsel failed to appear due to a conflict of schedule, with no further details mentioned; reset to continue on January 18, 2010 ¹²⁹
January 18, 2010	Supposed Trial Court's Clarificatory Questions addressed to Leoncio	No witnesses presented; reset to January 25, 2010; ¹³⁰ trial court also

¹²² *Id.* at 167 (Minutes of Session, November 24, 2008) and 168 (Order of even date).

¹²³ *Id.* at 170.

¹²⁴ *Id.* at 171 (Minutes of Session, July 6, 2009) and 172 (Order of even date).

¹²⁵ *Id.* at 173 (Minutes of Session, September 14, 2008).

¹²⁶ *Id.* at 174 (Minutes of Session, September 28, 2008) and 175 (Order of even date).

¹²⁷ *Id.* at 178 (Minutes of Session, October 5, 2009).

¹²⁸ *Id.* at 179 (Minutes of Session, December 7, 2009).

¹²⁹ *Id.* at 180 (Minutes of Session, January 11, 2010).

¹³⁰ *Id.* at 188 (Minutes of Session, January 18, 2010).

	Cagande	issued an Order ¹³¹ dated the same day for the cancellation of the said resetting on January 25, 2010, with no reasons given
January 25, 2010	Date of Trial Court's Notice ¹³² Cancelling Multiple Settings	Scheduled trial dates of February 8, 2010, February 22, 2010, March 22, 2010 cancelled; reset to continue on February 1, 2010; no reasons given
February 1, 2010	Supposed Start of Direct Examination of Antonio Muring	No witnesses appeared; reset to continue on March 1, 2010 ¹³³
February 3, 2010	Date of Trial Court's Notice ¹³⁴ Cancelling March 1, 2010 Setting	Trial court judge on leave of absence
February 15, 2010	Supposed Set Trial Date	No agenda mentioned; Parties failed to appear, with no reason given; reset to continue on March 8, 2010 ¹³⁵
March 8, 2010	Supposed Start of Direct Examination of Antonio Muring	Prosecutor apparently brought the wrong witness to court; reset to continue on March 15, 2010 ¹³⁶
March 15, 2010	Start and Completion of Direct Examination of Antonio Muring	Set to continue on April 19, 2010 ¹³⁷
April 26, 2010	Supposed Cross-Examination of Antonio Muring	Petitioner's counsel failed to appear due to flight delay on return from Manila; reset to August 23, 2010, with no reasons given for such date; ¹³⁸ no

¹³¹ *Id.* at 189.

¹³² *Id.* at 193.

¹³³ *Id.* at 194 (Minutes of Session, February 1, 2010).

¹³⁴ *Id.* at 201.

¹³⁵ *Id.* at 202 (Minutes of Session, February 15, 2010).

¹³⁶ *Id.* at 206 (Minutes of Session, March 8, 2010) and 207 (Order of even date).

¹³⁷ *Id.* at 216 (Minutes of Session, March 15, 2010) and 217 (Order of even date).

¹³⁸ *Id.* at 222 (Minutes of Session, April 26, 2010) and 223 (Order of even date).

		documentation as to why earlier setting on April 19, 2010 was postponed/cancelled
August 23, 2010	Supposed Cross-Examination of Antonio Muring	Witness did not appear in court; reset to continue on September 20, 2010; setting on September 13, 2010 cancelled, with no reasons given ¹³⁹
September 20, 2010	Supposed Cross-Examination of Antonio Muring	Witness did not appear and whereabouts unknown; prosecution orally made formal offer of exhibits but with the added manifestation that private complainant was no longer interested in pursuing the case; petitioner's counsel manifested intention to file demurrer; no order for resetting on record ¹⁴⁰
September 23, 2010	Date of Receipt of petitioner's Motion for Leave to File Demurrer to Evidence ¹⁴¹ and Demurrer Proper ¹⁴²	Leave to file demurrer granted by trial court <i>via</i> Order ¹⁴³ dated September 24, 2010
July 4, 2011	Date of Promulgation of Trial Court's Order ¹⁴⁴ Denying petitioner's Demurrer	No documentation of other demurrer documents, such as objections of the prosecution; trial reset to continue on October 27, 2011; in any case, decided well beyond three (3) months from demurrer being deemed

¹³⁹ *Id.* at 224 (Minutes of Session, August 23, 2010) and 225 (Order of even date).

¹⁴⁰ *Id.* at 233 (Minutes of Session, September 20, 2010).

¹⁴¹ *Id.* at 234–235.

¹⁴² *Id.* at 236–246.

¹⁴³ *Id.* at 260.

¹⁴⁴ *Id.* at 263–264.

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		submitted for decision
October 27, 2011	Start of Direct Examination of petitioner	Trial started at 10:27 a.m. and adjourned at 10:54 a.m. at trial court judge's order suspending the same; set to continue on March 15, 2012 ¹⁴⁵
March 15, 2012	Supposed Continuation of Direct Examination of petitioner	Cancelled <i>via</i> trial court's Notice ¹⁴⁶ dated March 12, 2012 due to trial court judge's leave of absence; reset to continue on April 10, 2012
April 10, 2012	Supposed Continuation of Direct Examination of petitioner	Cancelled <i>via</i> trial court's Notice ¹⁴⁷ dated March 26, 2012 due to motion to cancel from petitioner's counsel on ground of conflict of schedule; reset to continue on May 3, 2012
May 3, 2012	Completion of Direct Examination of petitioner	Set to continue on August 14, 2012 ¹⁴⁸
August 14, 2012	Cross-Examination and Re-direct Examination of petitioner	Set to continue on September 4, 2012 for trial court's clarificatory questions ¹⁴⁹
September 4, 2012	Trial Court's Clarificatory Questions Addressed to petitioner	Next hearing set for September 6, 2012 ¹⁵⁰
September 6, 2012	Direct and Cross-Examination of Benedicto Baluran	Next hearing set for September 25, 2012; ¹⁵¹ earlier setting of September 11, 2012

¹⁴⁵ *Id.* at 265 (Minutes of Session, October 27, 2011) and 266 (Order of even date). See TSN (of even date), pp. 1–10.

¹⁴⁶ *Id.* at 269.

¹⁴⁷ *Id.* at 277.

¹⁴⁸ *Id.* at 279 (Minutes of Session, May 3, 2012) and 280 (Order of even date).

¹⁴⁹ *Id.* at 288 (Minutes of Session, August 14, 2012) and 289 (Order of even date).

¹⁵⁰ *Id.* at 295 (Minutes of Session, September 4, 2012) and 296 (Order of even date).

¹⁵¹ *Id.* at 302 (Minutes of Session, September 6, 2012) and 303 (Order of even date).

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		cancelled <i>via</i> trial court's Order ¹⁵² of even date, no reasons given
September 25, 2012	Direct and Cross-Examination of Eddie Mar Galagar	Next hearing for trial court's clarificatory questions set for September 27, 2012 ¹⁵³
September 27, 2012	Trial Court's Clarificatory Questions Addressed to Eddie Mar Galagar	Next hearing set for October 2, 2012 ¹⁵⁴
October 2, 2012	Direct and Cross-Examination of Celerina Galagar	Next hearing set for October 9, 2012 ¹⁵⁵
October 16, 2012	Direct Examination of Rother Galorio	Next hearing set for January 3, 2013; ¹⁵⁶ no explanation for why October 9, 2012 seems to have been postponed/cancelled
January 3, 2013	Supposed Cross-Examination of Rother Galorio	Prosecutor and petitioner's counsel failed to appear; reset to continue on date to be agreed upon ¹⁵⁷
January 13, 2014	Date of Trial Court's Notice ¹⁵⁸ Setting Continuation of Trial on February 18, 2014	No documentation as to what happened in the intervening time of more than one (1) year
February 18, 2014	Continuation of Trial	Reset to continue on May 20, 2014; petitioner's counsel absent due to illness; no medical certificate attached ¹⁵⁹
May 20, 2014	Date of Last Hearing; Cross-Examination and Re-Direct Examination	Case submitted for resolution; parties ordered to file their

¹⁵² *Id.* at 303.

¹⁵³ *Id.* at 307 (Minutes of Session, September 25, 2012) and 308 (Order of even date).

¹⁵⁴ *Id.* at 312 (Minutes of Session, September 27, 2012) and 313 (Order of even date).

¹⁵⁵ *Id.* at 319 (Minutes of Session, October 2, 2012) and 320 (Order of even date).

¹⁵⁶ *Id.* at 324 (Minutes of Session, October 16, 2012) and 325 (Order of even date).

¹⁵⁷ *Id.* at 326 (Minutes of Session, January 3, 2013) and 327 (Order of even date).

¹⁵⁸ *Id.* at 333.

¹⁵⁹ *Id.* at 334 (Minutes of Session, February 18, 2014) and 335 (Order of even date).

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	of Rother Galorio; Parties' Formal Offer of Evidence	respective memoranda; ¹⁶⁰ no memoranda appear in the records; no minutes of session in the record
July 29, 2015	Promulgation of Trial Court's Decision	Date of promulgation should be July 29, 2015, instead of July 28, 2015; ¹⁶¹ in any case, the case was decided more than three (3) months from the time was deemed submitted for resolution

Given the exhaustive documentation of the foregoing, the Court laments at the sheer number of delays that plagued the trial below, and the lack of explanations for many of the same. The nearly nine years from the date of the filing of the Information to the date of the promulgation of the trial court's Decision, while not unheard of in the annals of administration of justice in the Philippines, is still a fact both deplorable and unconscionable.

Reviewing the aforementioned dates and incidents *in seriatim*, the Court easily notes that the trial court set petitioner's arraignment nearly three months after his arrest, in clear violation of Section 7 of R.A. No. 8493. Additionally, the pre-trial was reset four times: the first resetting had no indicated reasons, the second and third were because the victim's widow, i.e., the private complainant, failed to appear, the fourth was because both petitioner and the private complainant failed to appear. The case's pre-trial was finally conducted nearly a year after the initial set date of March 15, 2007, and the pre-trial order was only issued on August 19, 2008. **Petitioner's counsel then duly filed a Motion to Dismiss based on petitioner's constitutional right to speedy trial, but the trial court does not have any order or resolution in record of its disposition of the said Motion—an egregious error on the part of the trial court judge.**¹⁶²

Thereafter, the setting for the first day of trial, i.e., September 29, 2008, was postponed due to the prosecutor's attendance at a seminar. The direct examination of the prosecution's first witness finally began on October 27, 2008, but evidently lasted for only 15 minutes due to the trial court's supposed lack of material time. The continuation of the said direct examination on November 10, 2008 only lasted four minutes, with the prosecutor requesting a

¹⁶⁰ See TSN, Rother Galorio, May 20, 2014, pp. 1-14.

¹⁶¹ Records, pp. 338 (Minutes of Session, July 29, 2015) and 339-362 (Decision of the Trial Court).

¹⁶² *Id.* at 127-132 (Minutes of Session, June 23, 2008) and 117 (Order of even date).

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continuance due to urgent personal reasons. Various delays are also evident from the record: 1) the hearing on February 23, 2009 was cancelled by the trial court with no indicated reasons in its Notice dated February 12, 2009; 2) the hearing on July 6, 2009 was cancelled due to the non-appearance of the prosecutor, who had taken ill but did not apparently submit any medical certificate for the record; the hearing set for January 25, 2010 was cancelled by the trial court, but no reasons were given in its Notice dated January 18, 2010; 3) the hearing on February 1, 2010 was cancelled due to the failure of the prosecution's witness to appear; 4) the hearing on February 15, 2010 was cancelled due to the unexplained failure of the prosecutor himself to appear; 5) the hearing on March 8, 2010 was cancelled due to the prosecutor's bringing of the wrong witness; 6) the hearing set for April 19, 2010 was cancelled with no documentation of any order or notice from the trial court advising or ordering the resetting, and any reasons therefor; 7) the planned cross-examination of the witness Antonio on August 23, 2010 and September 20, 2010 were both cancelled due to the unexplained unavailability of the said witness, and it appears that the said cross-examination never took place thereafter; 8) the trial court's Order that denied petitioner's Demurrer to Evidence was promulgated on July 4, 2011, more than nine months after the latter was filed; 9) the trial resumed nearly four months on October 27, 2011 after the promulgation of the trial court's Order that denied petitioner's Demurrer to Evidence; 10) the next hearing was conducted nearly seven months thereafter, i.e., on May 3, 2012, after two cancellations; 11) the hearing on September 11, 2012 was cancelled by the trial court with no indicated reasons in its Order dated September 6, 2012; 12) the scheduled hearing on October 9, 2012 was cancelled by the trial court with no indicated reasons, and with no documentation of the trial court's order or notice advising or ordering the said cancellation; 13) an unexplained gap of more than one year exists between the hearing on January 3, 2013 and the hearing on February 18, 2014; 14) and finally, the trial court took more than one year to decide the case, with the parties memoranda notably and apparently absent from the records.

In *Lumanlaw v. Peralta, Jr.*,¹⁶³ the Court had the occasion to discuss the importance of the mandate to timely conduct the arraignment of the accused within the strict time limitations of R.A. No. 8493, viz.:

This Court reviewed the other reasons for the postponements in this case, but finds them far from being reasonable. There were fourteen postponements in all. Going over the causes of the delays, we see the lack of earnest effort on the part of respondent to conduct the arraignment as soon as the court calendar would allow. Most of the postponements could have easily been avoided if he had been more keen on respecting and upholding petitioner's constitutional right to speedy trial and speedy disposition [of cases].

¹⁶³ 517 Phil. 588 (2006) [Per C.J. Panganiban, First Division].

Given the length and the unreasonableness of the majority of the delays, the violation of the right of petitioner to speedy trial becomes manifest. **Almost two years elapsed from the filing of the Information against him until the filing of this Petition; incredibly, he has not [yet] been arraigned. An arraignment takes, at most ten minutes of the court's business and does not normally entail legal gymnastics. It consists simply of reading to the accused the charged leveled against them, ensuring their understanding of those charges, and obtaining their plea to the charges. A prudent and resolute judge can conduct an arraignment as soon as the accused are present before the court.**

In fact, by fixing a period of only thirty days from the filing of the information to the conduct of an arraignment, RA 8493 recognizes that this fundamental right should and can be done with minimal delay. **For this reason alone, we are astonished that the court *a quo* could not complete such a simple but fundamental stage in the proceedings. The protracted delay became all the more oppressive and vexatious when viewed from the perspective that the liberty of the accused was being curtailed for the entire duration.**¹⁶⁴ (Emphases supplied)

Verily, petitioner's arraignment of nearly three months after being arrested was unexplained here by the trial court. With no explanation for such delay, petitioner's constitutional right to speedy trial was already infringed upon by the trial court.

But the violations of petitioner's constitutional right to speedy trial do not end there. The Court also immediately notes that there was no need for the pre-trial below to be postponed for such an appallingly long time. In *People v. Tac-An*,¹⁶⁵ the Court had already ruled that the presence of the private complainant during pre-trial is not required. The Court also said therein that even R.A. No. 8493 itself does not require the same.¹⁶⁶ **Thus, pre-trial should have already proceeded without further delay on June 25 2007, and petitioner's counsel was also thus correctly prompted to accordingly file prior to trial (in accordance with Section 13 of R.A. No. 8493) the aforementioned Motion to Dismiss to precisely invoke petitioner's constitutional right to speedy trial.**

Clearly, petitioner was not brought to trial on time, and clearly, the trial court below appears to have failed in resolving at all the aforementioned Motion to Dismiss. Obviously, it was not petitioner's fault that the said Motion remained unresolved to this day. But petitioner did in fact fail to raise his constitutional right to speedy trial on appeal with the CA. The circumstances of the case, however, merit the Court's keen consideration of the said constitutional right, which seems to have been left beleaguered by the banalities

¹⁶⁴ *Id.* at 600. (Emphases supplied).

¹⁶⁵ 446 Phil. 496 (2003) [Per J. Callejo, Sr., Second Division].

¹⁶⁶ *Id.*

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of the Philippine justice system. The Court is reminded of its ruling in *Callangan v. People*,¹⁶⁷ wherein the recognized exceptions to the rule that the negligence of counsel generally binds his or her client were restated: “(1) where reckless or gross negligence of counsel deprives the client of due process of law, (2) when its application will result in an outright deprivation of the client’s liberty or property, or (3) where the interests of justice so require. In such cases, courts must step in and accord relief to a party-litigant.”¹⁶⁸ While the failure of petitioner’s counsel to raise his constitutional right to speedy trial before the CA may not seem to be negligence so gross or reckless—and the Court sees fit to consider the same as a regrettable oversight, but a blunder nonetheless—the effect upon both the liberty of petitioner and the overarching interests of justice here are what the Court considers as decisive of the second issue of this case. The paramount importance of the constitutional right to speedy trial thus should prevail over the failure to raise the same as an issue on appeal in light of the disquieting number of delays that had been perennially besetting petitioner’s case below since 2006.

Anent the length of the trial below, the Court notes that from the first day of the start of the direct examination of the prosecution’s witness, i.e., October 27, 2008, to the last trial date on May 20, 2014, a total of 2,031 days had elapsed. Even if the Court were to remove from the said counting any and all of the trial delays attributable to the defense, the remaining period would still be beyond the 180 days prescribed as the mandatory period within which a criminal trial should be completed, as stated in Section 6 of R.A. No. 8493; Rule 119, Section 2 of the 2000 Revised Rules on Criminal Procedure; and the Court’s own Circular No. 38-98.¹⁶⁹ To illustrate, the unexplained gap of more than one year between the hearing on January 3, 2013 and the hearing on February 18, 2014 is enough to deserve the Court’s attention and well-deserved consternation here.

All told with regard to the second issue of this case, petitioner is entitled to a dismissal of the charge against him due to the numerous and abominable violations heaped upon his constitutional right to speedy trial. While jurisprudence has consistently stated that the determination of delay when considering the constitutional right to speedy trial is not an entirely mathematical evaluation,¹⁷⁰ the sheer number of the vexatious, capricious, and oppressive delays here are enough to warrant the Court’s recognition of the said constitutional right of herein petitioner. The dismissal of the charges against petitioner is indeed in order, but even brushing aside this critical issue of

¹⁶⁷ 526 Phil. 239 (2006) [Per J. Corona, Second Division].

¹⁶⁸ *Id.* at 245.

¹⁶⁹ See *People v. Hernandez, et al.*, 531 Phil. 289 (2006) [Per J. Puno, Second Division].

¹⁷⁰ See, among others, *Domondon v. Sandiganbayan*, 512 Phil. 852 (2005) [Per J. Ynares-Santiago, First Division, citing *People v. Tee*, 443 Phil. 521 (2003) [Per J. Quisumbing, *En Banc*], and *Ty-Dazo v. Sandiganbayan*, 424 Phil. 945 (2002) [Per J. Kapunan, First Division]. See also *Solar Team Entertainment, Inc. v. How*, 393 Phil. 172 (2000) [Per J. Gonzaga-Reyes].

petitioner's constitutional right to speedy trial, the acquittal of petitioner on the merits is appropriately merited.

Going now to the third and final issue, the Court first requires a summary review of the proven facts and the evidence on record. To recall, it is beyond doubt here that the victim died due to hypovolemic shock secondary to hemorrhaging from a stab wound to his right side, which penetrated the liver, as indicated in the Certificate of Death dated May 26, 2006. It is also undoubted that petitioner suffered multiple cuts and stab wounds caused by the victim, including stabs to his torso/abdominal area and an open fracture/deep cut on his right ring finger, as indicated on the Certificate of Confinement dated July 19, 2006. Additionally, Rother and Eric also suffered multiple cuts and stab wounds caused by the victim, as gathered from the Medico-Legal Certificate dated July 19, 2006 and the Certificate of Confinement dated July 24, 2006. There is also no dispute as to the weapon wielded by the victim at the time, which was a long bolo knife, and that Eric is petitioner's nephew.

The crux of the matter is thus to determine how the victim's death actually came about. The Affidavit of Leoncio avers that he saw the victim causing no undue provocation upon arrival at the scene, and that the victim was actually defending himself from Eric, who was apparently wielding a handgun and pointing the same at the victim. The Affidavit also states that Leoncio saw the victim fall down after bumping into a motorcycle, and the victim being stabbed by petitioner while helpless on the ground facing upwards. These narrations were corroborated by the near-identical Affidavit of Antonio.

But on the witness stand, Leoncio testified that he did not actually notice the victim wielding a weapon, and that he noticed no other persons suffering any blows or cuts during the incident. Leoncio also revealed his bias with regard to the case, since he admitted to being distantly related to the victim's widow. He also admitted that his initial Affidavit was prepared by the counsel of the victim's widow without the contents thereof sufficiently explained to him. Antonio, for his part, testified that the victim, who was his uncle, was on the ground facing upwards when stabbed by petitioner, the latter using his left hand in a downward thrust and hitting the victim's right side below the right armpit. This, however, contradicts Leoncio's account of petitioner stabbing in a rightward direction. It also goes without saying that despite being an actual witness to the incident, Antonio's bias here cannot be discounted.

Petitioner's Counter-Affidavit, on the other hand, states that he was immediately challenged and attacked without warning by the victim upon the latter's arrival at the scene, which caused the deep cut into petitioner's right ring finger (as petitioner tried to block the blow) and the stabs to petitioner's torso/abdominal area. Having retreated and upon seeing that the victim was

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attacking his nephew Eric, petitioner then went to his motorcycle, retrieved his knife, returned to the scene, and thereafter stabbed the victim in the latter's right rib, but petitioner averred a note of haziness of his memory due to the possible delirium he was suffering at the time, since he remembers that he was facing the victim's back while the latter was facing towards and stabbing Eric. On the witness stand, petitioner confirmed the victim's initial challenge and immediate attack upon arrival at the scene, as well as the wounds petitioner sustained—even demonstrating the same in open court.¹⁷¹ He then described

¹⁷¹ TSN, Floro Galorio, October 27, 2011, pp. 6–8.

Q While watching that coronation, what other things transpired, if any?

A And Andres Muring arrived.

Q The same Andres Muring who is the father of that Christopher Muring?

A Yes.

Q When he arrived, meaning when Andres Muring arrived, how far was he to where you were located?

A Very near. He was at my side when he arrived.

Q Did this Andres Muring say anything upon his arrival?

A And he said, "What do you want pre, we will kill each other?"

Q Did you know to whom Andres Muring directed such statement?

A It was directed to me.

Q With such statement coming from Andres Muring, what else happened?

A And he hacked me.

Q What did he use in hacking you?

A A bolo.

INTERPRETER:

And witness is indicating the length of the bolo which is 15 inches more or less.

ATTY. J. ALBERT R. TINAMPAY: (to witness)

Q Were you hit when he delivered that hacking blow?

A I was hit on my fingers.

INTERPRETER:

And witness is showing his right palm and pointing to the two digits finger.

ATTY. J. ALBERT R. TINAMPAY: (to witness)

Q Please show or point out to the Honorable Court which particular finger was hit that hacking blow?

INTERPRETER:

And the witness is indicating his small finger and the ring finger and added that the ring finger was cut off and it was reconnected.

ATTY. J. ALBERT R. TINAMPAY: (to witness)

Q Aside from that ring finger which you said was cut off but later on reconnected, do you have any scars to show to the Honorable Court as a result of that hacking blow?

A Yes.

INTERPRETER:

And witness is showing a long scar at the side of his right palm from the base of the small finger up to the side of the palm down to the writ.

ATTY. J. ALBERT R. TINAMPAY: (to witness)

Q If you know, where is that bolo used by Andres Muring during that time?

A He brought with him the bolo.

Q After delivering that hacking blow resulting to the cutting off of your ring finger and the corresponding scar down on the side of your palm, what else happened?

A And he stabbed me.

Q Were you hit with the second blow which was to stab you?

A Yes.

INTERPRETER:

And witness is unfolding his shirt and showing a scar on his abdomen a big scar measuring 4 to 5 inches at the left side and there is also a scar measuring 2 inches and also a 2-inches scar situated at the right side of his abdomen.

ATTY. J. ALBERT R. TINAMPAY: (to witness)

Q On the first blow cutting your rights ring finger, was there any occasion that you ever hit back Andres Muring?

A I was not able to hit him back when he hacked my small ring because he immediately stabbed me.

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his condition when he saw the victim attacking Eric, which made him decide to retrieve the knife in his motorcycle's utility box nearby. Petitioner, in his own words, had blurred sight, was suffering from the obvious pain from his wounds, and was even preventing his intestines from protruding out of a stab wound on his torso/abdominal area. Petitioner then clarified that according to his own memory, he stabbed the victim below the latter's left armpit while the victim had Eric pinned down, and thereafter the victim was still able to inflict stab wounds upon Rother. Petitioner also admitted to being left-handed.¹⁷²

Three other witnesses filed their sworn statements and took to the witness stand to aver as to the victim's initial aggression. In fact, Benedicto, Eddie Mar, and Rother (although obviously a biased witness) all testified that they saw the victim challenging petitioner upon arrival at the scene and immediately attacking with his bolo knife. Both Benedicto and Rother were able to see petitioner sustaining injuries to the latter's hand and abdomen, while Eddie Mar was able to see petitioner holding his own abdomen while the latter struggled towards his motorcycle to retrieve the knife therein. Eddie Mar also confirmed that the victim was shouting petitioner's name upon arriving at the scene, and asking people regarding petitioner's whereabouts.

Article 11, *paragraph 2* of Act No. 3815, otherwise known as the RPC, states the following:

2. Anyone who acts in defense of the persons or rights of his spouse, ascendants, descendants, or legitimate, natural or adopted brothers or sisters,

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- Q After you were stabbed hitting your stomach, was there any occasion that you were able to hit back Andres Muring.
- A It was when he also stabbed my nephew that I was able to hit him back.
- Q What is the name of that nephew of yours that was subsequently stabbed?
- A Eric Galorio.
- ¹⁷² TSN, Floro Galorio, May 3, 2012, pp. 8-9.
- Q So, when your nephew Erik was already wounded, what happened next?
- A I went up and got near to Andrrers Muring because Andres Muring is pinning down to Erik.
- Q In your observation what was Andres Muring doing while pinning down your nephew Erik?
- A It is just very near, from here to a distance of 2 meters.
- Q So, observing what Andres Muring was continuously doing to your nephew, what happened next?
- A I went to my motorcycle which was parked nearby and opened my toolbox and get my bayonet.
- Q Were you able to get hold of the bayonet of the toolbox of your motorcycle?
- A Yes.
- Q Your physical condition at that time while you were already suffering 2 wounds on your body, please describe it to the Honorable Court?
- A I already have a blurred sight and I was even holding my intestine that protruding from my stomach.
- Q So, with that condition what did you do with your bayonet?
- A I stabbed Andres Muring and hit his left lower armpit.
- ATTY. J. ALBERT TINAMPAY: (to witness)
- Q What was your purpose in delivering that stabbing blow to Andres Muring?
- A So that he won't kill us.
- Q With that Andres Muring was already hit by you, what happened to Andres Muring?
- A He went away.
- Q What about you, what did you do after Andres Muring left?
- A We ride a motorcycle ad go to the municipal hali office of Alicia.

or of his relatives by affinity in the same degrees, and those by consanguinity within the fourth civil degree, provided that the first and second prerequisites prescribed in the next preceding circumstance are present, and the further requisite, in case the provocation was given by the person attacked, that the one making defense had no part therein.

The first and second requisites mentioned above refer to the first and second circumstances required to concur for the invocation of the previously justifying circumstance of self-defense as defined in Article 11, *paragraph 1* of the RPC, namely: 1) unlawful aggression; and 2) reasonable necessity of the means employed to prevent or repel the said aggression.

In the most recent restatement of the commentaries of the eminent and late former CA Associate Justice Luis B. Reyes (Reyes), the justifying circumstance of defense of relatives is noted to be “founded not only upon a humanitarian sentiment, but also upon the impulse of blood which impels men to rush, on the occasion of great perils, to the rescue of those close to them by ties of blood.”¹⁷³ In *Velasquez v. People*,¹⁷⁴ the Court had the occasion to elaborate on the proper invocation of justifying circumstances in criminal cases, viz.:

A person invoking self-defense (or defense of a relative) admits to having inflicted harm upon another person—a potential criminal act under Title Eight (Crimes Against Persons) of the Revised Penal Code. However, he or she makes the additional, defensive contention that even as he or she may have inflicted harm, he or she nevertheless incurred no criminal liability as the looming danger upon his or her own person (or that of his or her relative) justified the infliction of protective harm to an erstwhile aggressor.

The accused’s admission enables the prosecution to dispense with discharging its burden of proving that the accused performed acts which would otherwise be the basis of criminal liability. All that remains to be established is whether the accused were justified in acting as he or she did. To this end, the accused’s case must rise on its own merits[.]¹⁷⁵

In *Belbis, Jr. v. People*,¹⁷⁶ the Court reiterated that the standard of proof for a successful invocation of a justifying circumstance, albeit the discussion therein pertained to the justifying circumstance of self-defense, is clear and convincing evidence on the part of the accused, viz.:

It is settled that when an accused admits killing the victim but invokes self-defense to escape criminal liability, the accused assumes the burden to establish his plea by credible, clear and convincing evidence; otherwise,

¹⁷³ LUIS REYES, 1 CRIMINAL LAW: THE REVISED PENAL CODE (2021 ed.), p. 207.

¹⁷⁴ 807 Phil. 438 (2017) [Per J. Leonen, Second Division].

¹⁷⁵ *Id.* at 449.

¹⁷⁶ 698 Phil. 706 (2012) [Per J. Peralta, Third Division].

conviction would follow from his admission that he killed the victim. Self-defense cannot be justifiably appreciated when uncorroborated by independent and competent evidence or when it is extremely doubtful by itself. Indeed, in invoking self-defense, the burden of evidence is shifted and the accused claiming self-defense must rely on the strength of his own evidence and not on the weakness of the prosecution.¹⁷⁷

Verily, petitioner then needs to have proven by clear and convincing evidence the following: 1) the unlawful aggression on the part of the victim; 2) the reasonable necessity of the knife he used to stab the victim; and 3) that he did not provoke the victim.

Going into the first of the aforementioned requisites, the Court notes that petitioner and three other witnesses all confirm as to the initial and unanticipated attack of the victim upon immediate arrival at the scene, accompanied by challenging words addressed to petitioner to the effect of basically threatening him with mortal harm. How the trial court relied on the biased and uncorroborated testimonies of Leoncio and Antonio leaves one astounded, since the unlawful aggression on the part of the victim is also very much proven by the wounds suffered by petitioner and his relatives. Verily, the accounts under oath of two other witnesses who regrettably did not appear on the witness stand, i.e., Eric and Samuel, point to the victim running amok that night. One immediately notes that the trial court made no mention of the threatening words uttered by the victim upon arrival (i.e., only stating that he and petitioner exchanged words and then thereafter began attacking each other), or even the wounds suffered by petitioner and his relatives, in the reasoning of the Decision dated July 28, 2015.

In fact, the trial court's reasoning seems to have gone with a theory that is unsupported by the evidence on record: as mentioned above, the Decision dated July 28, 2015 states that the victim was actually surrounded, and was repelling the gun supposedly pointed by Eric. This gun-pointing was what prompted the victim to allegedly step back and thus bump into a motorcycle and accordingly fall flat on the ground facing upwards, after which, petitioner then, and without any justification, stabbed the victim, as the trial court believed. According to the trial court, due to the supposed remark of petitioner addressed to the victim earlier that day which seems to have insulted the latter, the victim basically challenged petitioner that they would see each other soon. The trial court then made the conclusion without any supporting evidence that petitioner had, in the intervening time, gathered male relatives in order to anticipate and repel any violent action that may come from the victim. The trial court then presumed—again without citing any evidence on the record—that petitioner and his relatives were ready to fight the victim, and that they were already sufficiently armed before the victim's arrival.

¹⁷⁷ *Id.* at 719.

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The Court cannot countenance the erroneous and unacceptable conclusions of the trial court here on the facts duly proven. The trial court basically took it as a given that the victim and petitioner had a mutual agreement to fight, despite nothing in the record indicating that petitioner had agreed to a time and place for their violent meeting. It is true that there would have been no unlawful aggression had there been such an agreement,¹⁷⁸ but without such acceptance by petitioner proven or even remotely indicated here, the Court is thus confounded as to how the trial court came to such a finding.

The Court also cannot understand how the victim, who was supposedly trying to repel a pointed gun at him, came to such close proximity with regard to his opponents to the point of inflicting multiple cuts and stab wounds upon petitioner and his relatives, and still come out to be the non-aggressor in the trial court's eyes. If the victim were really trying to repel a gun pointed at him, he would have surely not approached any further, or would have at least maintained his distance. Surprisingly, the trial court did not even discuss or narrate who made the first approach after the gun was pointed—the Decision simply jumped to the scenario where the victim supposedly neutralized the gun in the hands of Eric. Verily, the Decision simply mentioned that the victim and petitioner moved in to strike at each other simultaneously after a few initial verbal exchanges, only to be interrupted by Eric's gun-pointing—a supposed factual scenario which again has no supporting evidence on record. Moreover, it is very telling that the victim suffered only one wound: the fatal blow to his right lower armpit that penetrated his liver and caused his demise. Had there been an actual melee here where, as the trial court erroneously presumed, petitioner was already armed, it goes without saying that the victim would definitely have suffered more injuries that would have been evident and indicated in his death certificate. Also, the fact that petitioner and his two other relatives suffered multiple cuts and stab wounds belies the assertion that the victim was the recipient of any attack, and in turn strongly supports the notion that the victim started his attack in a sudden and unprovoked manner, and was actually running amok that night.

Further, the trial court found that the victim neutralized Eric by hacking at the same and hitting the latter's lower armpit. However, this is easily dispelled by the injuries actually suffered by Eric as stated in his Certificate of Confinement, which indicate that his wounds were on his left back and left arm. Clearly, this slapdash evaluation of the facts and evidence by the trial court merits the Court's disapprobation here. Despite the accounts of two disinterested persons, i.e., Benedicto and Eddie Mar, who confirm that the victim started the unprovoked attack upon petitioner, the trial court failed to mention the same in its Decision's reasoning. Despite the fact that at least one witness, i.e., Eddie Mar, confirmed the fact of petitioner's retrieval of the knife in his motorcycle's utility box while holding in his own intestines, and again,

¹⁷⁸ LUIS REYES, *I CRIMINAL LAW: THE REVISED PENAL CODE* (2021 ed.), pp. 175–176.

despite the confirmed injuries sustained by petitioner and his relatives due to the victim's hacking and stabbing, the trial court still viewed the situation as one where the victim was basically surrounded and ganged upon before being fatally stabbed while on the ground by petitioner.

Worse, the trial court even faulted petitioner for his non-readiness to defend himself from the initial attack, and then in changing tack to state that the petitioner's non-readiness was not believable, the trial court made another baseless assumption without any evidentiary foundation that the wounds he sustained were from the victim's own attempts at self-defense. Again, this is despite overwhelming evidence on the record pointing to the more-than-believable fact of the victim charging towards petitioner for the initial attack with the bolo knife, and petitioner parrying the same unarmed. Without even discussing this in its Decision's reasoning, the trial court thus so gravely erred in a way that showed its apparent bias readily in favor of petitioner's conviction.

To the eyes of this Court, the overwhelming evidence points to the fact that the victim did indeed challenge, threaten, and attack petitioner in a swift and unprovoked manner, which caused the successive number of injuries upon the latter, and which in turn prompted petitioner to temporarily retreat and procure a weapon in order to, in turn neutralize the victim before he could cause more bodily harm. The trial court's supply of facts not in evidence here is more than a regrettable series of errors—this veritably amounts to a grave injustice that the Court must correct.

Moreover, the reasoning of the appellate court is quite telling as to its unfortunately perfunctory review of the facts here. The CA actually found the victim to be the aggressor, albeit initially, since the biased testimony of Leoncio was fully appreciated and not thoroughly scrutinized on appeal. According to the CA, which heavily and uncritically relied on the said testimony, the victim's initial unlawful aggression had already ended when Eric pointed his gun, and thus the victim's unlawful aggression had become no longer actual or imminent, and especially when he was already lying on the ground. And even assuming that petitioner's account of retrieving the knife from his motorcycle's utility box were true, the same was done only out of retaliation and not in the defense of his nephew.

Had the CA taken the time to thoroughly scrutinize the case records, other unrebutted pieces of evidence in favor of petitioner would have readily been noticeable. The CA did not even bother to mention in its reasoning the fact that petitioner and his relatives sustained multiple injuries from the victim's bolo knife, whereas the victim only suffered one (1) injury that ultimately led to his demise. The independent accounts that verify the fact of

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the victim's unlawful aggression, as well as petitioner's retrieval of the knife from his motorcycle's utility box, should have put the CA on notice that there were many things amiss in the trial court's Decision. Moreover, the CA's finding that the victim's unlawful aggression had ceased upon Eric's gun-pointing is again belied by the fact that petitioner and his relatives all suffered multiple cuts and stab wounds—a clear indication that the victim was being a clear, present, and active danger to anyone in the vicinity as long as he was wielding his bolo knife. It also clearly indicates—and there is nothing in the record showing otherwise—that at no point during the incident (that is, until he finally fell after sustaining the lone stab wound from petitioner, and not without making his final slashes directed at petitioner) was the victim disarmed—which again still made him a present threat to petitioner and his relatives until finally and effectively neutralized by petitioner. Thus, in the eyes of the Court, the victim's unlawful aggression had not ended at all until finally being mortally wounded, and thus petitioner's compulsion to repel or even neutralize the victim, who remained an active threat unless sufficiently repelled or neutralized, must be deemed to have been proper given the circumstances.

On a further note, the Court notes its relatively recent ruling in *People v. Olarbe*,¹⁷⁹ (*Olarbe*) where the Court considered the state of mind of the accused therein, who invoked the justifying circumstances of self-defense and defense of a stranger. For a better understanding of the said case, a brief mention of its facts is warranted:

Let us now revisit the events of that fateful night of May 7, 2006. Arca, armed with the rifle (described as an airgun converted into a caliber .22) and the bolo, went to the house of Olarbe towards midnight. The latter and his household [we]re already slumbering, but were roused from bed because Arca fired his gun and was loudly shouting, *Mga putang ina ninyo, pagpapatayin ko kayo*. Thereafter, Arca forcibly entered Olarbe's house. Olarbe managed [sic] to get the gun of Arca, and they struggled for control of it. Upon wresting the gun from Arca, Olarbe fired at him, causing him to totter. But Arca next took out the bolo from his waist and charged at Olarbe's common-law spouse. This forced Olarbe to fight for possession of the bolo, and upon seizing the bolo, he hacked Arca with it.

Arca's death was certified to have been due to the gunshot on the head and hacking wounds. The CA noted the following injuries, aside from the gunshot wound in the head, namely:

- Lacerated wound on the forehead;
- Lacerated wound, front rib area;
- Lacerated wound on the left upper quadrant;
- Lacerated wound on the left lower quadrant;
- Lacerated wound on the occipital area;
- Two (2) hacking wounds posterior of neck; and

¹⁷⁹ 836 Phil. 1015 (2018) [Per J. Bersamin, Third Division]. See also *Abuyo v. People*, G.R. No. 250495, July 6, 2022 [Per J. Lopez, M., Second Division].

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-Hacking wound on lumbar area

Only Olarbe's account of the incident existed in the records, but instead of giving weight to the account, the RTC and the CA rejected his pleas of self-defense and defense of stranger based on their common holding that Arca had been weakened from being hit on the head; and concluded that consequently, Arca could not have charged with his bolo.¹⁸⁰

The Court here rejected the conclusions of both the trial and appellate courts as unwarranted surmises and speculations, viz.:

The CA's rejection of Olarbe's pleas of self defense and defense of stranger was unwarranted.

To start with, there was no credible showing that the shot to the head had rendered Arca too weak to draw the bolo and carry on with his aggression in the manner described by Olarbe. The conclusion of the RTC and the CA thereon was obviously speculative. Secondly, the State did not demonstrate that the shot from the airgun converted to .22 caliber fired at close range sufficed to disable Arca from further attacking with his bolo. Without such demonstration, the RTC and the CA clearly indulged in pure speculation. Thirdly, nothing in the record indicated Arca's physical condition at the time of the incident. How could the CA then reliably conclude that he could not have mounted the bolo assault? And lastly, to rule out any further aggression by Arca with his bolo after the shot in the head was again speculative. On the other hand, our substantial judicial experience instructs that an armed person boldly seeking to assault others—like Arca—would have enough adrenaline to enable him to persist on his assault despite sustaining a wound that might otherwise be disabling.

To us, Olarbe's account of what did happen on that fateful night was highly plausible. At the minimum, the details and sequence of the events therein described conformed to human experience and the natural course of things. Armed with both the gun and the bolo, Arca not only disturbed Olarbe's peace but physically invaded the sanctity of [the] latter's home at midnight. Given that the aggression by Arca was unprovoked on the part of Olarbe, and with no other person disputing the latter's account, we should easily see and understand why Olarbe would feel that his and his common[-]law spouse's lives had been put in extreme peril.¹⁸¹

The Court therein ruled that “[t]o disbelieve Olarbe's account is to give primacy to surmise and speculation.”¹⁸² In determining whether or not therein accused was able to prove therein victim's continued unlawful aggression, the Court had this to say:

¹⁸⁰ *Id.* at 1026.

¹⁸¹ *Id.* at 1027.

¹⁸² *Id.* at 1028.

We find that Arca committed continuous and persistent unlawful aggression against Olarbe and his common-law spouse that lasted from the moment he forcibly barged into the house and brandished his gun until he assaulted Olarbe's common-law spouse with the bolo. Such armed assault was not a mere threatening act. Olarbe was justified in believing his and his common-law spouse's lives to be in extreme danger from Arca who had just fired his gun in anger outside their home and whose threats to kill could not be considered idle in the light of his having forced himself upon their home. The imminent threat to life was positively strong enough to induce Olarbe to act promptly to repel the unlawful and unprovoked aggression. For Olarbe to hesitate to act as he had done would have cost him his own life. Arca's being dispossessed of his gun did not terminate the aggression, for, although he had been hit on the head, he quickly reached for the bolo and turned towards Olarbe's common-law spouse. Olarbe was again forced to struggle for control of the bolo. The swiftness of the action heightened Olarbe's senses that the danger to their lives was present and imminent.¹⁸³

And in a crucial discussion, the Court therein emphasized that when deciding invocations of justifying circumstances, the state of mind of the accused at the time of the incident must always be taken into consideration, viz.:

In judging pleas of self-defense and defense of stranger, the courts should not demand that the accused conduct himself with the poise of a person not under imminent threat of fatal harm. He had no time to reflect and to reason out his responses. He had to be quick, and his responses should be commensurate to the imminent harm. This is the only way to judge him, for the law of nature—the foundation of the privilege to use all reasonable means to repel an aggression that endangers one's own life and the lives of others—did not require him to use unerring judgment when he had the reasonable grounds to believe himself in apparent danger of losing his life or suffering great bodily injury. The test is whether his subjective belief as to the imminence and seriousness of the danger was reasonable or not, and the reasonableness of his belief must be viewed from his standpoint at the time he acted. The right of a person to take a life in self-defense arises from his belief in the necessity for doing so; and his belief and the reasonableness thereof are to be judged in the light of the circumstances as they then appeared to him, not in the light of the circumstances as they would appear to others or based on the belief that others may or might entertain as to the nature and imminence of the danger and the necessity to kill.¹⁸⁴ (Emphasis, italics and underscoring supplied)

The aforementioned statement carries echoes from the old case of *United States v. Esmedia*,¹⁸⁵ wherein the Court exempted the two accused therein from criminal liability upon their honest belief that the victim they killed would have continued his bolo knife attack on the father of the two accused.

¹⁸³ *Id.*

¹⁸⁴ *Id.* at 1028–1029.

¹⁸⁵ 17 Phil. 260 (1910) [Per J. Trent].

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Returning to the facts and evidence of the present controversy, the Court notes that petitioner's state of mind is indeed decisive of his invocation of the justifying circumstance of defense of his nephew. Just like in *Olarbe*, petitioner was threatened with death and thereafter attacked in a swift and unprovoked manner, to which he was unprepared to repel or prevent. The multiple cuts and stab wounds suffered by petitioner and his relatives are again the main sticking point here, since they prove the imminent presence of danger of bodily harm that actually befell their persons. Having suffered a deep cut to his right ring finger and stabs in his torso/abdominal area, it was only natural for petitioner to retreat momentarily, and right then and there, make a decision to find a way to end the violent confrontation still ongoing between the victim and his relatives—most especially Eric. Indeed, the imminent threat to petitioner personally had ceased, but the danger of bodily harm to his relatives had not. It is thus reasonable for the Court to conclude—especially with no credible evidence on record that the victim had at any point been disarmed—that the victim, as an imminent threat to petitioner and his relatives, had persisted in his determination and actions, and still presented a clear and present danger to those remaining on the scene.¹⁸⁶

And with at least one eyewitness confirming petitioner's short trek to his motorcycle in order to retrieve the knife in its utility box, and with another eyewitness confirming that petitioner tried to parry the victim's initial assault with his own bare hands, the Court easily sees that petitioner was indeed unarmed beforehand and during the initial assault, and that petitioner had decided to come to the aid of his relatives still confronting the bolo knife-wielding victim, whose actions (and the aftermath thereof) show determination and zeal to either kill or seriously maim petitioner and his relatives. To fault petitioner for returning to the scene in order to help repel the still-unabated danger presented by the victim, and when in his mind the danger to his relatives had still not yet gone away, would be to precisely fault him for the very thing that the law allows him to do when a relative is in imminent peril. This is not retaliation, as the CA viewed it, but a person acting upon impulse while sustaining wounds, bodily weakness, obvious shock, and indescribable pain in order to ensure that his relatives would not be further harmed by the victim's indiscriminate hacking.

Unlike in *Olarbe*, petitioner here has independent accounts confirming the victim's unlawful and determined aggression and his temporary retreat to procure a weapon. But like in *Olarbe*, petitioner's own account of what happened was subjected to twisting surmises and speculations by the trial court below. Verily, the trial court did precisely what the Court in *Olarbe* warned about: using ordinary standards to judge upon the thinking and reasonableness of the actions of the accused invoking a justifying circumstance.

¹⁸⁶ See *People v. Rabandaban*, 85 Phil. 636 (1950) [Per J. Reyes].

Going now to the second requisite of reasonable necessity of the means employed by petitioner, the Court is now reminded of its discussion in *Cano v. People*,¹⁸⁷ (*Cano*) viz.:

The particular circumstances which confronted the petitioner at the time of the incident condoned the means he employed to protect his life. It must be remembered that the measure of rational necessity is to be found in the situation as it appeared to petitioner at the time when the blow was struck. The law does not require that he should mete out his blows in such a manner that upon a calm and deliberate review of the incident it will not appear that he exceeded the precise limits of what was absolutely necessary to put his antagonist *hors de combat*, or that he struck one blow more than was absolutely necessary to save his own life; or that he failed to hold his hand so as to avoid inflicting a fatal wound where a less severe stroke might have served the purpose. Under such conditions, an accused cannot be expected to reflect coolly nor wait after each blow to determine the effects thereof.¹⁸⁸

Further, the commentator Reyes opined that “[w]hether the means employed is reasonable, will depend upon the nature and quality of the weapon used by the aggressor, his physical condition, character, size, and other circumstances, and those of the person defending himself, and also the place and occasion of the assault.”¹⁸⁹ Crucially, Reyes points out that “[p]erfect equality between the weapon used by the one defending himself and that of the aggressor is not required, because the person assaulted does not have the sufficient tranquility of mind to think, to calculate and to choose which weapon to use.”¹⁹⁰

And in *People v. Samson*,¹⁹¹ the Court therein considered that “the nature and location of wounds are considered important indicators whether or not to disprove a plea of self-defense.”¹⁹² The Court noted that the victim therein suffered only a lone stab wound to the chest, which was seen as reasonable given the circumstances of the accused, viz.:

In the case at bench, the lone stab wound located on the victim’s chest supports the argument that Cristina feared for her life and this fear impelled her to defend it by stabbing him. It was a reasonable means chosen by her in view of the attending circumstances, to wit: that her strong husband, who had earlier pointed the said knife to her throat, approached her and grabbed her arm, despite her plea that he refrain from coming near her; and that she had no other available means or any less deadly weapon to repel the threat other than the knife in her hand. She did not have the time or sufficient tranquility of mind to think, calculate and choose the weapon to be used. In predicaments like this, human nature does not act upon the processes of formal reason but

¹⁸⁷ 459 Phil. 416 (2003) [Per J. Ynares-Santiago, First Division].

¹⁸⁸ *Id.* at 436.

¹⁸⁹ LUIS REYES, I CRIMINAL LAW: THE REVISED PENAL CODE (2021 ed.), p. 196.

¹⁹⁰ *Id.*

¹⁹¹ 768 Phil. 487 (2015) [Per J. Mendoza, Second Division].

¹⁹² *Id.* at 499–500.

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in obedience to the instinct of self-preservation. When it is apparent that a person has reasonably acted upon this instinct, it is the duty of the courts to sanction that act or to mitigate his liability.¹⁹³ (Citations omitted)

Returning again to the facts and evidence of the present controversy, there actually seems to be a degree of equivalence between the American-made “Rambo”-style knife or bayonet of petitioner and the bolo knife wielded by the victim, despite the testimonies of petitioner, Benedicto, and Eddie Mar pointing to the victim’s bolo knife as, in all likelihood, significantly longer in length than petitioner’s knife. Moreover, the fact that petitioner inflicted only one wound upon the victim’s person, which hit the latter in the right lower armpit and penetrated the victim’s liver, becomes all the more reasonable considering the number of cuts and stab wounds petitioner and his relatives sustained due to the victim’s bolo knife. Comparing this to the blows inflicted by the accused (who was duly acquitted) upon the victim in *Olarbe*, the reasonableness of the single stab wound here becomes even more evident. Clearly, petitioner’s intention in only inflicting one blow is manifest: to simply stop the victim from causing any more bodily harm upon petitioner’s relatives.

Going to the third and final requirement of lack of participation in the provocation of the person being defended (had there been indeed such provocation), the commentator Reyes opined the following:

The clause, “in case the provocation was given by the person attacked,” used in stating the third requisite of defense of relatives does not mean that the relative defended should give provocation to the aggressor. The clause merely states an event which may or may not take place.

The phrase “in case” means “in the event that.”

There is still a legitimate defense of relative even if the relative being defended has given provocation, provided that the one defending such relative has no part in the provocation.

Reason for the rule:

That although the provocation prejudices the person who gave it, its effects do not reach the defender who took no part therein, because the latter was prompted by some noble or generous sentiment in protecting and saving a relative.¹⁹⁴

Reyes also explained how “[t]he fact that the relative defended gave provocation is immaterial,” viz.:

¹⁹³ *Id.* at 500.

¹⁹⁴ LUIS REYES, I CRIMINAL LAW: THE REVISED PENAL CODE (2021 ed.), pp. 210–211.

Thus, even if A had slapped the face of B who, as a consequence of the act of A, immediately commenced to retaliate by drawing a knife and trying to stab A, and C, father of A, killed B in defense of his son, C is completely justified, notwithstanding the fact that the provocation was given by his son A.

But if C had induced his son A to injure B, thereby taking part in the provocation made by A, C would not be completely justified in killing B while the latter was about to stab A, because the third requisite of defense of relative is lacking.

Suppose, the person defending his relative was also induced by revenge or hatred, would there be a legitimate defense of relative? As long as the three requisites of defense of relatives are present, it will still be a legitimate defense.¹⁹⁵

In *Cano*, the Court also had the occasion to expound on the principle, albeit with a focus on the justifying circumstance of self-defense, viz.:

When the law speaks of provocation either as a mitigating circumstance or as an essential element of self-defense, it requires that the same be sufficient or proportionate to the act committed and that it be adequate to arouse one to its commission. It is not enough that the provocative act be unreasonable or annoying. This third requisite of self-defense is present: (1) when no provocation at all was given to the aggressor; (2) when, if provocation was given, it was not sufficient; (3) when even if the provocation was sufficient, it was not given by the person defending himself; or (4) when even if a provocation was given by the person defending himself, it was not proximate and immediate to the act of aggression.¹⁹⁶ (Citations omitted)

From the facts and evidence of the present controversy, the only plausible provocation directed towards the victim by petitioner's nephew would have been the gun-pointing that came after the victim's initial assault. However, nothing in the record points to any participation on the part of petitioner, with the trial court even noting in its erroneous speculation that petitioner and Rother were standing by at the ready-to-fight the victim if necessary. There is nothing to indicate that petitioner prompted his nephew to brandish a gun, or even to show that the victim gave his nephew any weapon. Moreover, to surmise that Eric's gun-pointing was provocative in the first place would be to discount entirely the fact that it was the victim's threatening and violent behavior that prompted the drawing and brandishing of such firearm in the first place. It is an obvious statement, then, that it is not provocation when one acts in preparation to defend oneself from an impending attack, and that there is an element of reasonable proportionality here between the victim's unlawful aggression and petitioner's defensive response.¹⁹⁷

¹⁹⁵ *Id.* at 211.

¹⁹⁶ *Cano v. People*, 459 Phil. 416, 436-437 (2003) [Per J. Ynares-Santiago, First Division].

¹⁹⁷ *See Velasquez v. People*, 807 Phil. 438 (2017) [Per J. Leonen, Second Division].

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And crucially, petitioner's supposed encounters antecedent to the incident, i.e., his supposed remark directed towards the victim which the latter took to mean that petitioner was insulting the victim's earning capacity, and petitioner's handling of the situation of the motorcycle of the victim's son, cannot possibly be considered as petitioner's participation in provoking the victim to violent anger. Such events were clearly so cut off by the long intervening time between them and the incident that night. Again, the trial court's surmises and speculations in its Decision dated July 28, 2015 come to view, and the Court must reiterate here that the conclusions that petitioner and his relatives had somehow agreed to the confrontation that happened, and that they were in the wrong in preparing themselves for the assault (which, clearly, they and especially petitioner, were not), cannot stand to be uncorrected here.

All in all, the Court here finds that petitioner was actually able to prove by clear and convincing evidence that he indeed was justified in killing the victim in order to defend his nephew. His state of mind at the time of the incident, the independent accounts that verify the victim's unlawful aggression (that did not cease until the said victim was mortally wounded) and petitioner's retrieval of the knife from the utility box in his motorcycle nearby, and the undoubted fact that petitioner and his relatives sustained multiple cuts and stab wounds due to the victim's bolo knife attack, all point to a harrowing ordeal that petitioner and his relatives had to endure, and which only and finally ended when the victim was effectively neutralized with just one stab to his right lower armpit. The Court also notes that petitioner had to endure the longer and even more harrowing ordeal of court proceedings (both trial and appellate) that has lasted a little over 17 years. He now merits the Court's favorable action, which lawfully confirms his justification in defending his own kin within the third civil degree of consanguinity that fateful night.


ACCORDINGLY, the instant Petition for Review on *Certiorari* is **GRANTED**. The Decision dated July 28, 2015 of Branch 51, Regional Trial Court of Carmen, Bohol in Criminal Case No. 0954, as well as the Decision dated February 22, 2019 and the Resolution dated August 28, 2020 of the Court of Appeals 20th Division in CA-G.R. CEB-CR No. 02697, are all **REVERSED and SET ASIDE**, and petitioner Floro Galorio y Gapas is thus **ACQUITTED** on the ground of DEFENSE OF A RELATIVE in accordance with Article 11, paragraph 2 of Act No. 3815, otherwise known as the Revised Penal Code, as amended. Petitioner Floro Galorio y Gapas is also **ADJUDGED and DECLARED to be NOT CIVILLY LIABLE** to the heirs of the late Andres G. Muring, Sr.

Petitioner Floro Galorio y Gapas is also **ORDERED to be IMMEDIATELY RELEASED** from confinement if he is still detained, unless he is being held for other lawful cause.

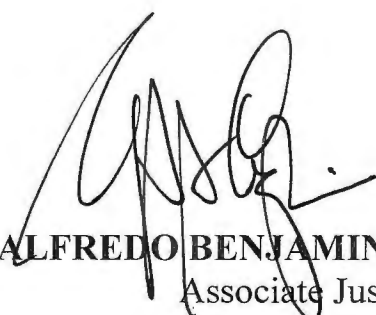
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Let entry of judgment be issued immediately.


SO ORDERED.


SAMUEL H. GAERLAN
Associate Justice

WE CONCUR:


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

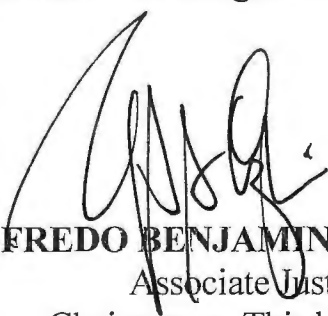
(On official business)
HENRI JEAN PAUL B. INTING
Associate Justice


JAFAR B. DIMAAMPAO
Associate Justice

(On official business)
MARIA FILOMENA D. SINGH
Associate Justice

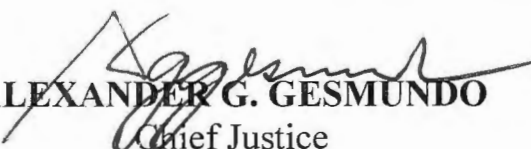
ATTESTATION

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
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.


ALEXANDER G. GESMUNDO
Chief Justice

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