



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

NICOLAS VELASQUEZ and G.R. No. 195021
VICTOR VELASQUEZ,
Petitioners, Present:

-versus-

CARPIO, *Chairperson*,
PERALTA,
MENDOZA,
LEONEN, and
MARTIRES, *JJ.*

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:
MAR 15 2017

X-----X

DECISION

LEONEN, *J.*:

An accused who pleads a justifying circumstance under Article 11 of the Revised Penal Code¹ admits to the commission of acts, which would

¹ REV. PEN. CODE, art. 11 provides:

Article 11. Justifying Circumstances. — The following do not incur any criminal liability:

1. Anyone who acts in defense of his person or rights, provided that the following circumstances concur:

First. Unlawful aggression;

Second. Reasonable necessity of the means employed to prevent or repel it;

Third. Lack of sufficient provocation on the part of the person defending himself.

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

3. Anyone who acts in defense of the person or rights of a stranger, provided that the first and second requisites mentioned in the first circumstance of this article are present and that the person defending be not induced by revenge, resentment, or other evil motive.

4. Any person who, in order to avoid an evil or injury, does an act which causes damage to another, provided that the following requisites are present:

First. That the evil sought to be avoided actually exists;

otherwise engender criminal liability. However, he asserts that he is justified in committing the acts. In the process of proving a justifying circumstance, the accused risks admitting the imputed acts, which may justify the existence of an offense were it not for the exculpatory facts. Conviction follows if the evidence for the accused fails to prove the existence of justifying circumstances.

Through this Petition for Review on Certiorari² under Rule 45 of the Rules of Court, the accused petitioners pray that the assailed March 17, 2010 Decision³ and December 10, 2010 Resolution⁴ of the Court of Appeals in CA-G.R. CR. No. 31333 be reversed and set aside, and that they be absolved of any criminal liability.

The Court of Appeals' assailed rulings sustained the July 25, 2007 Decision⁵ of the Regional Trial Court, Branch 41, Dagupan City, which found petitioners guilty beyond reasonable doubt of attempted murder.

In an Information, petitioners Nicolas Velasquez (Nicolas) and Victor Velasquez (Victor), along with four (4) others – Felix Caballeda (Felix), Jojo Del Mundo (Jojo), Sonny Boy Velasquez (Sonny), and Ampong Ocumen (Ampong) – were charged with attempted murder under Article 248,⁶ in relation to Article 6,⁷ of the Revised Penal Code, as follows:

Second. That the injury feared be greater than that done to avoid it;

Third. That there be no other practical and less harmful means of preventing it.

5. Any person who acts in the fulfillment of a duty or in the lawful exercise of a right or office.

6. Any person who acts in obedience to an order issued by a superior for some lawful purpose.

² *Rollo*, pp. 24–40.

³ *Id.* at 49–59. The Decision was penned by Associate Justice Arcangelita M. Romilla-Lontok and concurred in by Associate Justices Portia Aliño-Hormachuelos and Mario V. Lopez of the Second Division, Court of Appeals, Manila.

⁴ *Id.* at 60–62. The Resolution was penned by Associate Justice Mario V. Lopez and concurred in by Associate Justices Josefina Guevara-Salonga and Juan Q. Enriquez, Jr. of the Special Former Second Division, Court of Appeals, Manila.

⁵ No copy annexed to any of the parties' submissions.

⁶ REV. PEN. CODE, art. 248 provides:

Article 248. Murder. — Any person who, not falling within the provisions of article 246 shall kill another, shall be guilty of murder and shall be punished by reclusión temporal in its maximum period to death, if committed with any of the following attendant circumstances:

1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity.

2. In consideration of a price, reward or promise.

3. By means of inundation, fire, poison, explosion, shipwreck, stranding of a vessel, derailment or assault upon a street car or locomotive, fall of an airship, by means of motor vehicles, or with the use of any other means involving great waste and ruin.

4. On occasion of any of the calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic, or any other public calamity.

5. With evident premeditation.

6. With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse.

⁷ REV. PEN. CODE, art. 6 provides:

Article 6. Consummated, Frustrated, and Attempted Felonies. — Consummated felonies, as well as those which are frustrated and attempted, are punishable.

A felony is consummated when all the elements necessary for its execution and accomplishment are present; and it is frustrated when the offender performs all the acts of execution which would produce

That on May 24, 2003 in the evening at Brgy. Palua, Mangaldan, Pangasinan and within the jurisdiction of this Honorable Court, the above named accused while armed with stones and wooden poles, conspiring, confederating and mutually helping one another, with intent to kill, with treachery and abuse of superior strength, did, then and there willfully, unlawfully and feloniously attack, maul and hit JESUS DEL MUNDO inflicting upon him injuries in the vital parts of his body, the said accused having thus commenced a felony directly by overt acts, but did not perform all the acts of execution which could have produced the crime of Murder but nevertheless did not produce it by reason of some causes or accident other than their own spontaneous desistance to his damage and prejudice.

Contrary to Article 248 in relation to Article 6 and 50 of the Revised Penal Code.⁸

All accused, except Ampong, who remained at large, pleaded not guilty upon arraignment.⁹ Trial then ensued.¹⁰

According to the prosecution, on May 24, 2003, at about 10:00 p.m., the spouses Jesus and Ana Del Mundo (Del Mundo Spouses) left their home to sleep in their nipa hut, which was about 100 meters away.¹¹ Arriving at the nipa hut, the Del Mundo Spouses saw Ampong and Nora Castillo (Nora) in the midst of having sex.¹² Aghast at what he perceived to be a defilement of his property, Jesus Del Mundo (Jesus) shouted invectives at Ampong and Nora, who both scampered away.¹³ Jesus decided to pursue Ampong and Nora, while Ana Del Mundo (Ana) left to fetch their son, who was then elsewhere.¹⁴ Jesus went to the house of Ampong's aunt, but neither Ampong nor Nora was there.¹⁵ He began making his way back home when he was blocked by Ampong and his fellow accused.¹⁶

Without provocation, petitioner Nicolas hit the left side of Jesus' forehead with a stone. Petitioner Victor also hit Jesus' left eyebrow with a stone.¹⁷ Accused Felix did the same, hitting Jesus above his left ear.¹⁸ Accused Sonny struck Jesus with a bamboo, hitting him at the back, below

the felony as a consequence but which, nevertheless, do not produce it by reason of causes independent of the will of the perpetrator.

There is an attempt when the offender commences the commission of a felony directly by overt acts, and does not perform all the acts of execution which should produce the felony by reason of some cause or accident other than his own spontaneous desistance.

⁸ *Rollo*, pp. 187–188. Memorandum.

⁹ *Id.* at 188.

¹⁰ *Id.*

¹¹ *Id.* at 136. Comment.

¹² *Id.* at 136–137. Comment.

¹³ *Id.* at 137.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

his right shoulder.¹⁹ Among punched Jesus on his left cheek. The accused then left Jesus on the ground, bloodied. Jesus crawled and hid behind blades of grass, fearing that the accused might return. He then got up and staggered his way back to their house.²⁰

Jesus testified on his own ordeal. In support of his version of the events, the prosecution also presented the testimony of Maria Teresita Viado (Maria Teresita). Maria Teresita was initially approached by Jesus' wife, Ana, when Jesus failed to immediately return home.²¹ She and Ana embarked on a search for Jesus but were separated.²² At the sound of a man being beaten, she hid behind some bamboos.²³ From that vantage point, she saw the accused mauling Jesus.²⁴ The prosecution noted that about four (4) or five (5) meters away was a lamp post, which illuminated the scene.²⁵

At the Del Mundo Spouses' residence, Maria Teresita recounted to them what she had witnessed (Jesus had managed to return home by then).²⁶ Ana and Maria Teresita then brought Jesus to Barangay Captain Pilita Villanueva, who assisted them in bringing Jesus to the hospital.²⁷

After undergoing an x-ray examination, Jesus was found to have sustained a crack in his skull.²⁸ Dr. Jose D. De Guzman (Dr. De Guzman) issued a medico-legal certificate indicating the following findings:

x.x. Positive Alcoholic Breath
 3 cms lacerated wound fronto-parietal area left
 1 cm lacerated wound frontal area left
 Abrasion back left multi linear approximately 20 cm
 Abrasion shoulder left, confluent 4x10 cm
 Depressed skull fracture parietal area left.

x.x.²⁹

Dr. De Guzman noted that Jesus' injuries required medical attention for four (4) to six (6) weeks.³⁰ Jesus was also advised to undergo surgery.³¹ He was, however, unable to avail of the required medical procedure due to shortage of funds.³²

¹⁹ Id.
²⁰ Id. at 137-138.
²¹ Id. at 138.
²² Id.
²³ Id.
²⁴ Id.
²⁵ Id.
²⁶ Id.
²⁷ Id. at 138-139.
²⁸ Id. at 139.
²⁹ Id.
³⁰ Id. at 140.
³¹ Id. at 139.
³² Id.

The defense offered a different version of events.

According to the accused, in the evening of May 24, 2003, petitioner Nicolas was roused in his sleep by his wife, Mercedes Velasquez (Mercedes), as the nearby house of petitioner Victor was being stoned.³³

Nicolas made his way to Victor's place, where he saw Jesus hacking Victor's door. Several neighbors – the other accused – allegedly tried to pacify Jesus.³⁴ Jesus, who was supposedly inebriated, vented his ire upon Nicolas and the other accused, as well as on Mercedes.³⁵ The accused thus responded and countered Jesus' attacks, leading to his injuries.³⁶

In its July 25, 2007 Decision,³⁷ the Regional Trial Court, Branch 41, Dagupan City found petitioners and Felix Caballeda guilty beyond reasonable doubt of attempted murder.³⁸ The court also found Sonny Boy Velasquez guilty beyond reasonable doubt of less serious physical injuries.³⁹ He was found to have hit Jesus on the back with a bamboo rod. Jojo Del Mundo was acquitted.⁴⁰ The case was archived with respect to Ampong, as he remained at large.⁴¹

The dispositive portion of its Decision read:

WHEREFORE, premises considered, judgment is hereby rendered finding accused NICOLAS VELASQUEZ, VICTOR VELASQUEZ and FELIX CABALLEDA guilty beyond reasonable doubt of the crime of Attempted Murder defined and penalized under Article 248 in relation to Articles 6, paragraph 3 and 51 of the Revised Penal Code, and pursuant to the law, sentences each of them to suffer on (sic) indeterminate penalty of four (4) years and one (1) day of Arrested (sic) Mayor in its maximum period as minimum to eight (8) years of Prison (sic) Correctional (sic) in its maximum period to Prison (sic) Mayor in its medium period as maximum and to pay proportionately to private complainant Jesus del Mundo the amount of Php55,000.00 as exemplary damages, and to pay the cost of suit.

The Court likewise finds the accused SONNY BOY VELASQUEZ [guilty] beyond reasonable doubt of the [crime] of Less Serious Physical Injuries defined and penalized under Article 265 of the Revised Penal Code and pursuant thereto, he is hereby sentenced to suffer the penalty of

³³ Id. at 27.

³⁴ Id.

³⁵ Id.

³⁶ Id.

³⁷ No copy annexed to any of the parties' submissions.

³⁸ Id. at 28.

³⁹ Id.

⁴⁰ Id.

⁴¹ Id. at 28–29.

Arresto Mayor on one (1) month and one (1) day to six (6) months.

Accused JOJO DEL MUNDO is hereby acquitted on the ground of absence of evidence.

With respect to accused AMPONG OCUMEN, the case against him is archived without prejudice to its revival as soon as he is arrested and brought to the jurisdiction of this Court.⁴²

Petitioners and Felix Caballeda filed a motion for reconsideration, which the Regional Trial Court denied.⁴³

On petitioners' and Caballeda's appeal, the Court of Appeals found that petitioners and Caballeda were only liable for serious physical injuries because "first, intent to kill was not attendant inasmuch as the accused-appellants, despite their superiority in numbers and strength, left the victim alive and, second, none of [the] injuries or wounds inflicted upon the victim was fatal."⁴⁴ The Court of Appeals thus modified the sentence imposed on petitioners and Caballeda.

The dispositive portion of its assailed March 17, 2010 Decision⁴⁵ read:

WHEREFORE, premises considered, the July 25, 2007 Decision of Branch 41, Regional Trial Court of Dagupan City is hereby **MODIFIED**. Instead, accused-appellants are found guilty of Serious Physical Injuries and each of them is sentenced to suffer the penalty of imprisonment of six (6) months of *arresto mayor* as minimum to four (4) years and two (2) months of *prisión correccional* as maximum.

SO ORDERED.⁴⁶ (Emphasis in the original)

Following the denial of their Motion for Reconsideration, petitioners filed the present Petition.⁴⁷ They insist on their version of events, particularly on how they and their co-accused allegedly merely acted in response to Jesus Del Mundo's aggressive behavior.

For resolution is the issue of whether petitioners may be held criminally liable for the physical harm inflicted on Jesus Del Mundo. More specifically, this Court is asked to determine whether there was sufficient evidence: first, to prove that justifying circumstances existed, and second, to convict the petitioners.

⁴² Id. at 28.

⁴³ Id. at 189. Memorandum.

⁴⁴ Id. at 56.

⁴⁵ Id. at 49–59.

⁴⁶ Id. at 59.

⁴⁷ Id. at 24–40.

I

Petitioners' defense centers on their claim that they acted in defense of themselves, and also in defense of Mercedes, Nicolas' wife and Victor's mother. Thus, they invoke the first and second justifying circumstances under Article 11 of the Revised Penal Code:

ARTICLE 11. Justifying Circumstances. — The following do not incur any criminal liability:

1. Anyone who acts in defense of his person or rights, provided that the following circumstances concur:

First. Unlawful aggression;

Second. Reasonable necessity of the means employed to prevent or repel it;

Third. Lack of sufficient provocation on the part of the person defending himself.

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

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:

It is settled that when an accused admits [harming] 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, conviction would follow from his admission that he [harmed]

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.⁴⁸

To successfully invoke self-defense, an accused must establish: “(1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel such aggression; and (3) lack of sufficient provocation on the part of the person resorting to self-defense.”⁴⁹ Defense of a relative under Article 11 (2) of the Revised Penal Code requires the same first two (2) requisites as self-defense and, in lieu of the third “in case the provocation was given by the person attacked, that the one making the defense had no part therein.”⁵⁰

The first requisite – unlawful aggression – is the condition *sine qua non* of self-defense and defense of a relative:

At the heart of the claim of self-defense is the presence of an unlawful aggression committed against appellant. Without unlawful aggression, self-defense will not have a leg to stand on and this justifying circumstance cannot and will not be appreciated, even if the other elements are present. Unlawful aggression refers to an attack amounting to actual or imminent threat to the life and limb of the person claiming self-defense.⁵¹

The second requisite – reasonable necessity of the means employed to prevent or repel the aggression – requires a reasonable proportionality between the unlawful aggression and the defensive response: “[t]he means employed by the person invoking self-defense contemplates a rational equivalence between the means of attack and the defense.”⁵² This is a matter that depends on the circumstances:

Reasonable necessity of the means employed does not imply material commensurability between the means of attack and defense. What the law requires is rational equivalence, in the consideration of which will enter as principal factors the emergency, the imminent danger to which the person

⁴⁸ *Belbis v. People*, 698 Phil. 706, 719 (2012) [Per J. Peralta, Third Division], citing *People v. Tagana*, 468 Phil. 784, 800 (2004) [Per J. Austria-Martinez, Second Division]; and *Marzonia v. People*, 525 Phil. 693, 702–703 (2006) [Per J. Quisumbing, Third Division].

⁴⁹ *Id.* at 719–720, citing *People v. Silvano*, 403 Phil. 598, 606 (2001) [Per J. De Leon, Jr., Second Division]; *People v. Plazo*, 403 Phil. 347, 357 (2001) [Per J. Quisumbing, Second Division]; *Roca v. Court of Appeals*, 403 Phil. 326, 335 (2001) [Per J. Quisumbing, Second Division].

⁵⁰ *People v. Eduarte*, 265 Phil. 304, 309 (1990) [Per J. Gutierrez, Jr., Third Division].

⁵¹ *People v. Caratao*, 451 Phil. 588, 602 (2003) [Per J. Azcuna, First Division], citing *People v. Saure*, 428 Phil. 916, 928 (2002) [Per J. Puno, First Division]; and *People v. Enfectana, et al.*, 431 Phil. 64, 77 (2002) [Per J. Quisumbing, Second Division].

⁵² *People v. Obordo*, 431 Phil. 691, 712 (2002) [Per J. Kapunan, First Division], citing *People vs. Encomienda*, 150-B Phil. 419, 433 (1972) [Per J. Makasiar, First Division].

attacked is exposed, and the instinct, more than the reason, that moves or impels the defense, and the proportionateness thereof does not depend upon the harm done, but rests upon the imminent danger of such injury . . . As WE stated in the case of *People vs. Lara*, in emergencies of this kind, human nature does not act upon processes of formal reason but in obedience to the instinct of self-preservation; and when it is apparent that a person has reasonably acted upon this instinct, it is the duty of the courts to sanction the act and hold the act irresponsible in law for the consequences.⁵³ (Citations omitted)

The third requisite – lack of sufficient provocation – requires the person mounting a defense to be reasonably blameless. He or she must not have antagonized or incited the attacker into launching an assault. This also requires a consideration of proportionality. As explained in *People v. Boholst-Caballero*,⁵⁴ “[p]rovocation is sufficient when it is proportionate to the aggression, that is, adequate enough to impel one to attack the person claiming self-defense.”⁵⁵

II

We find petitioners’ claims of self-defense and defense of their relative, Mercedes, to be sorely wanting.

Petitioners’ entire defense rests on proof that it was Jesus who initiated an assault by barging into the premises of petitioners’ residences, hacking Victor’s door, and threatening physical harm upon petitioners and their companions. That is, that unlawful aggression originated from Jesus.

Contrary to what a successful averment of self-defense or defense of a relative requires, petitioners offered nothing more than a self-serving, uncorroborated claim that Jesus appeared out of nowhere to go berserk in the vicinity of their homes. They failed to present independent and credible proof to back up their assertions. The Regional Trial Court noted that it was highly dubious that Jesus would go all the way to petitioners’ residences to initiate an attack for no apparent reason.⁵⁶

The remainder of petitioners’ recollection of events strains credulity. They claim that Jesus launched an assault despite the presence of at least seven (7) antagonists: petitioners, Mercedes, and the four (4) other accused. They further assert that Jesus persisted on his assault despite being outnumbered, and also despite their and their co-accused’s bodily efforts to

⁵³ *People v. Encomienda*, 150-B Phil. 419, 433–434 (1972), citing *People vs. Lara*, 48 Phil. 153 , 159 (1925) [Per J. Street, En Banc]; *People vs. Paras*, 9 Phil. 367, 370 (1907) [Per J. Makasiar, First Division].

⁵⁴ 158 Phil. 827(1974) [Per J. Muñoz-Palma, First Division].

⁵⁵ Id. at 845.

⁵⁶ *Rollo*, p. 196. Memorandum.

restrain Jesus. His persistence was supposedly so likely to harm them that, to neutralize him, they had no other recourse but to hit him on the head with stones for at least three (3) times, and to hit him on the back with a bamboo rod, aside from dealing him with less severe blows.⁵⁷

As the Regional Trial Court noted, however:

The Court takes judicial notice of (the) big difference in the physical built of the private complainant and accused Victor Velasquez, Sonny Boy Velasquez, Felix Caballeda and Jojo del Mundo, private complainant is shorter in height and of smaller built than all the accused. The said accused could have had easily held the private complainant, who was heavily drunk as they claim, and disarmed him without the need of hitting him.⁵⁸

The injuries which Jesus were reported to have sustained speak volumes:

3 cms lacerated wound fronto-parietal area left
1 cm lacerated wound frontal area left
Abrasion back left multi linear approximately 20 cm
Abrasion shoulder left, confluent 4x10 cm
Depressed skull fracture parietal area left.⁵⁹

Even if it were to be granted that Jesus was the initial aggressor, the beating dealt to him by petitioners and their co-accused was still glaringly in excess of what would have sufficed to neutralize him. It was far from a reasonably necessary means to repel his supposed aggression. Petitioners thereby fail in satisfying the second requisite of self-defense and of defense of a relative.

III

In addition to their tale of self-defense, petitioners insist that the testimony of Maria Teresita is not worthy of trust because she parted ways with Ana while searching for Jesus.⁶⁰ They characterize Maria Teresita as the prosecution's "lone eyewitness."⁶¹ They make it appear that its entire case hinges on her. Thus, they theorize that with the shattering of her credibility comes the complete and utter ruin of the prosecution's case.⁶² Petitioners claim that Maria Teresita is the prosecution's lone eyewitness at the same time that they acknowledge Jesus' testimony, which they dismissed

⁵⁷ Id. at 27.

⁵⁸ Id. at 196.

⁵⁹ Id.

⁶⁰ Id. at 34-37.

⁶¹ Id. at 34.

⁶² Id. at 34-37.

as laden with inconsistencies.⁶³

These contentions no longer merit consideration.

Petitioners' averment of justifying circumstances was dispensed with the need for even passing upon their assertions against Maria Teresita's and Jesus' testimonies. Upon their mere invocation of self-defense and defense of a relative, they relieved the prosecution of its burden of proving the acts constitutive of the offense. They took upon themselves the burden of establishing their innocence, and cast their lot on their capacity to prove their own affirmative allegations. Unfortunately for them, they failed.

Even if we were to extend them a measure of consideration, their contentions fail to impress.

Petitioners' primordial characterization of Maria Teresita as the "lone eyewitness," upon whose testimony the prosecution's case was to rise or fall, is plainly erroneous. Apart from her, Jesus testified about his own experience of being mauled by petitioners and their co-accused. Maria Teresita's testimony was only in support of what Jesus recounted.

Moreover, we fail to see how the mere fact of Maria Teresita's having parted ways with Ana while searching for Jesus diminishes her credibility. No extraordinary explanation is necessary for this. Their having proceeded separately may be accounted for simply by the wisdom of how independent searches enabled them to cover more ground in less time.

Regarding Jesus' recollection of events, petitioners' contention centers on Jesus' supposedly flawed recollection of who among the six (6) accused dealt him, which specific blow, and using which specific weapon.⁶⁴ These contentions are too trivial to even warrant an independent, point by point audit by this Court.

Jurisprudence is replete with clarifications that a witness' recollection of crime need not be foolproof: "Witnesses cannot be expected to recollect with exactitude every minute detail of an event. This is especially true when the witnesses testify as to facts which transpired in rapid succession, attended by flurry and excitement."⁶⁵ This is especially true of a victim's recollection of his or her own harrowing ordeal. One who has undergone a horrifying and traumatic experience "cannot be expected to mechanically

⁶³ Id. at 37-38.

⁶⁴ Id.

⁶⁵ *People v. Alolod*, 334 Phil. 135, 141 (1997) [Per J. Bellosillo, First Division].

keep and then give an accurate account”⁶⁶ of every minutiae.

Certainly, Jesus’ supposed inconsistencies on the intricacies of who struck him which specific blow can be forgiven. The merit of Jesus’ testimony does not depend on whether he has an extraordinary memory despite being hit on the head multiple times. Rather, it is in his credible narration of his entire ordeal, and how petitioners and their co-accused were its authors. On this, his testimony was unequivocal.

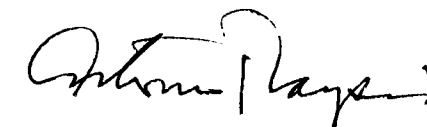
WHEREFORE, the Petition is **DENIED**. The Decision of the Court of Appeals in CA-G.R. CR. No. 31333 is **AFFIRMED**.

SO ORDERED.




MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice



JOSE CATRAL MENDOZA
Associate Justice

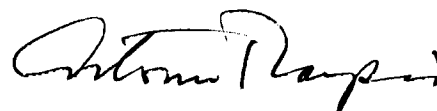


SAMUEL R. MARTIRES
Associate Justice

⁶⁶ *People v. Rabosa*, 339 Phil. 339, 346 (1997) [Per J. Kapunan, First Division], citing *People v. Ching*, 310 Phil. 269, 286 (1995) [Per J. Regalado, Second Division].

A T T E S T A T I O N

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.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

C E R T I F I C A T I O N

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.



MARIA LOURDES P. A. SERENO
Chief Justice