EN BANC

[G.R. No. 259916. July 25, 2025]

EDUARDO ILAYAT *Y* BUENO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

D E C I S I O N

INTING, J.:

Before the Court is a Petition for Review on *Certiorari*[1] assailing the Decision[2] dated June 1, 2021 and the Resolution[3] dated March 17, 2022, of the Court of Appeals (CA) in CA-G.R. CR No. 44252 which affirmed the Decision[4] dated September 24, 2019, of Branch 16, Regional Trial Court (RTC), Ilagan City, Isabela in Criminal Case No. 5629. The RTC found Eduardo Ilayat *y* Bueno (petitioner) guilty beyond reasonable doubt of Homicide penalized under Article 249[5] of the Revised Penal Code.

The Antecedents

The case stemmed from an Information[6] charging petitioner with Homicide, the accusatory portion of which reads:

> That on or about the 23rd day of January 2011, in the [M]unicipality of Benito Soliven, province of Isabela, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with intent to kill and without any just motive, did then and there, willfully, unlawfully, and feloniously, assault, attack, and stab with a kitchen knife one Efren Cortez, Jr. *y* Agus, inflicting upon him, stab wound, LVQ, complete fracture of anterior 12th rib, which directly caused his death.
>
> CONTRARY TO LAW.[7]

Upon arraignment, petitioner entered a plea of "not guilty" to the crime charged.[8]

Petitioner interposed self-defense. Thus, reverse trial ensued.

Petitioner testified that on January 23, 2011, at around 8:30 p.m., he and Alberto Macuroy, Jr. (Alberto) were walking towards his house when his wife called him

through his phone. Petitioner answered his wife's call. Warlito Ganado (Warlito), who was near petitioner and Alberto, told them that they were being noisy; he then pushed them from behind.[9] Petitioner told Warlito to stop bothering them. Thereafter, he removed his knife from its scabbard. Upon seeing the knife, Warlito ran away while shouting, "He has a knife!" Petitioner and Alberto then left the area.[10]

After that, four men suddenly attacked petitioner.[11] One of the attackers was the victim, Efren Agus, Jr.[12] (Efren), who grabbed him by the neck and choked him; thus, causing him to fall on the ground. While petitioner was on the ground, the other men kept on kicking and punching him. To defend himself, petitioner aimlessly swung his knife until it hit Efren. The other men continued to kick him, but he was able to escape and run away. He reached Mario Casinding's (Mario) house and sought shelter.[13] Later on, several police officers arrived at Mario's house. He then surrendered himself to the police officers.[14]

The prosecution disproved petitioner's assertion of self-defense and narrated its version.

On January 23, 2011, at around 8:00 p.m., petitioner and Alberto were on their way to petitioner's house[15] after a drinking session.[16] Warlito was also in the area. While walking, petitioner received a call from his wife. As he was talking loudly to his wife, Warlito told him, "You are noisy." Petitioner got irritated and uttered, "What do you want?" Then, Warlito replied, "It's up to you what you want." Warlito's retort angered petitioner; thus, he drew his knife. As a result, Warlito ran away and shouted, "He has a knife!"[17]

Petitioner and Alberto then continued on their way. However, some bystanders accosted them, including the victim, Efren. Efren and petitioner fought and wrestled.[18] Unfortunately, petitioner was able to swing the knife towards Efren and hit him on his chest.[19] Ronaldo Agustin (Ronaldo) separated petitioner from Efren while Allan de Guzman (Allan) took hold of Efren. After a while, petitioner fled. Allan then brought Efren to a hospital where he was later pronounced dead on arrival.[20]

The father of the victim, Efren Agus, Sr., testified that he incurred expenses in the amount of PHP 59,000.00 for the wake and funeral of his son.[21]

The Ruling of the RTC

In the Decision dated September 24, 2019, the RTC found petitioner guilty beyond reasonable doubt of Homicide. It sentenced him to suffer the penalty of imprisonment ranging from six years of *prision correccional*, as minimum, to eight years and one day of *prision mayor*, as maximum.[22] It likewise ordered petitioner to pay Efren's heirs PHP 59,000.00 as actual damages, PHP 30,000.00 as moral damages, and PHP 50,000.00 as death indemnity.[23]

The RTC ruled that petitioner failed to prove the elements of self-defense. It found that the petitioner was the cause of the melee as testified by Alberto and the prosecution witnesses. The RTC, however, considered two mitigating circumstances: intoxication on petitioner's part and positive provocation on the part of Efren.[24]

Aggrieved, petitioner appealed to the CA.[25]

The Ruling of the CA

In the assailed Decision dated June 1, 2021, the CA denied the appeal and affirmed the RTC Decision, with modification in that it awarded the amount of PHP 25,000.00 as temperate damages in lieu of actual damages and increased the award for moral damages to PHP 50,000.00.[26]

The CA held that the prosecution proved all the elements of homicide beyond reasonable doubt. It concurred with the factual findings of the RTC and upheld the presence of the following mitigating circumstances: intoxication and sufficient provocation.[27]

Petitioner moved for reconsideration,[28] but the CA denied it in its Resolution dated March 17, 2022.

Hence, the instant Petition.

Petitioner avers that the CA erred in ruling that he failed to establish the elements of self-defense. He insists that during the incident, he had every reason to believe that his life was in danger considering that the victim, Efren, and his cohorts suddenly attacked him. He asserts that it was Efren and his cohorts who were the unlawful aggressors. Efren even choked him to the extent that his tongue had already come out.[29] Because he was acting on the instinct of self-preservation, he found it reasonably necessary to use the only instrument available to him, the knife. Thus, he acted in self-defense.[30]

In its Comment,[31] respondent, through the Office of the Solicitor General, prays that the Petition be denied for lack of merit. It asserts that the instant Petition raises a question of fact which is not the proper subject of a petition for review on *certiorari*. A reexamination of the RTC's finding on the absence of the elements of self-defense is clearly a question of fact rather than law.[32] Even for the sake of argument that a question of fact is allowed, petitioner still failed to prove the justifying circumstance of self-defense.[33]

The Issue

Whether the CA correctly affirmed petitioner's conviction for Homicide.

The Ruling of the Court

The Petition is without merit.

Preliminary, an appeal in criminal cases throws the whole case open for review, and the Court is mandated to rule on errors as may be found in the judgment appealed from, even if unassigned.[34] The appeal confers upon the appellate court full jurisdiction to examine records, revise the judgment appealed from, and even increase the penalty.[35]

Guided by the foregoing, the Court affirms petitioner's conviction for Homicide.

Petitioner invokes self-defense and argues that the unlawful aggressor during the incident was the victim, Efren.[36] In raising the plea of self-defense, petitioner admits that he killed Efren due to the latter's aggression.[37]

The Court is not convinced.

An admission of self-defense "frees the prosecution from the burden of proving that the accused committed the act charged against him or her."[38] "The burden is shifted to the accused to prove that his or her act was justified."[39]

To prove self-defense, the accused must establish the following essential elements: "(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 defending himself or herself."[40] In *People v. Lalap*,[41] the Court explained:

> To successfully invoke self-defense, there must have been an unlawful and unprovoked attack that endangered the life of the accused, who was then forced to inflict severe wounds upon the assailant by employing reasonable means to resist the attack.
>
> The claim of self-defense must rely, first and foremost, on proof of unlawful aggression on the part of the victim. Unlawful aggression is a *conditio sine qua non* for upholding the justifying circumstance of self-defense; if there is nothing to prevent or repel, the other two requisites of self-defense will have no basis. If no unlawful aggression is proved, no self-defense may be successfully pleaded.[42] (Citations omitted)

Here, petitioner and his witness, Alberto, could not even agree on how and when the supposed unlawful aggression started. As the RTC aptly ruled:

> From the above-statements, two essential claims run counter to each other. One, Eduardo said that he met Efren Cortez, Jr. *y* Agus [*sic*] with companion and suddenly, Efren Cortez, Jr. *y* Agus [sic] choked him. On the other hand, Alberto Macuroy clearly stated that it was the men of Efren who ran after

> them and Eduardo was caught by four (4) men reason for which [sic] melee ensued. Two, in Eduardo's statement, unlawful aggression against him started when Efren, Jr. choked him[,] however, in Macuroy's story, unlawful aggression started when they were pushed to a corner and continued to become a melee. These contradictions are substantial making it short to establish clear and convincing proof to justify the killing of Efren, Jr.[43]

Simply told, it was petitioner who was being *unruly*, brandishing a knife, and endangering the life and limbs of innocent persons. Records reveal that Efren, the barangay officials, and some bystanders, *pacified* the petitioner. Despite the presence of the barangay officials, petitioner continued to react violently.[44] Thus, Efren grappled with petitioner. Unfortunately, in the course of the melee, petitioner stabbed Efren in the chest, causing his death.[45]

Thus, given that the core element of unlawful aggression was not proven, petitioner's claim of self-defense falls, and his criminal liability for Homicide, defined and penalized under Article 249 of the Revised Penal Code, stands.

"The elements of Homicide are the following: (a) a person was killed; (b) the accused killed him/her without any justifying circumstance; (c) the accused had the intention to kill, which is presumed; and (d) the killing was not attended by any of the qualifying circumstances of murder, or by that of parricide or infanticide."[46]

The prosecution was able to establish all of the elements specified above: (1) that petitioner killed Efren when he raised self-defense;[47] (2) that the prosecution witnesses positively and categorically identified petitioner as the person who stabbed Efren and caused the latter's death; (3) that petitioner had the intention to kill the victim, as shown in the wound on Efren's chest; and (4) that the killing was not attended by any qualifying circumstances of Murder, Parricide, or Infanticide.[48]

The testimony of the prosecution witnesses was not tainted with any ill motive in instituting the case against petitioner or implicating him in a serious crime. The defense is bereft of evidence that the prosecution witnesses were motivated to testify against petitioner by reasons other than their intention to get justice for the death of Efren.[49]

Still, the RTC and the CA ruled that Efren and the bystanders sufficiently provoked petitioner to kill Efren.

The Court does not agree.

Under Article 13, paragraph 4 of the Revised Penal Code, criminal liability may be mitigated if there is sufficient provocation on the part of the offended party that immediately preceded the complained act. For the accused to avail himself or herself of this mitigating circumstance, he or she must prove "*that the alleged provocation originated from the offended party*."[50]

As a mitigating circumstance, "sufficient provocation is any unjust or improper conduct or act of the victim adequate enough to excite a person to commit a wrong, which is accordingly proportionate in gravity."[51] For provocation on the victim's part to mitigate the crime, it "must be sufficient and should immediately precede the act of the offender."[52]

In *People v. Racal*,[53] the Court discussed the elements of sufficient provocation as a mitigating circumstance, to wit:

> For sufficient provocation under Article 13, paragraph 4 of the Revised Penal Code of the Philippines to apply, three requisites must be present:
>
> a) provocation must be sufficient;
> b) it must be immediate to the commission of the crime; and
> c) it must originate from the offended party.
>
> "Sufficient" according to jurisprudence means adequate to excite a person to commit the crime and must accordingly be proportionate to its gravity . . . . [I]t is not enough that the provocating act be unreasonable or annoying. Certainly, calling a person gay as in this case is not the sufficient provocation contemplated by law that would lessen the liability of the accused.
>
> "Immediate" on the other hand means that there is no interval of time between the provocation and the commission of the crime. Hence, in one case . . . the Supreme Court ruled that provocation occurring more than one hour before the stabbing incident is not immediate . . . . Per admission of the defense witnesses, the taunting done by the victim occurred days before the stabbing incident hence the immediacy required by law was absent. The lapse of time would have given the accused [chance] to contemplate and to recover his serenity enough to refrain from pushing through with his evil plan.[54] (Citations omitted)

Petitioner alleges that Efren's group started the scuffle by grabbing and choking, and then kicking and punching him. However, Efren did not in any way provoke petitioner into a fight that fateful night. There was no argument or physical struggle that ensued between them before petitioner stabbed him. Efren's group was just innocently walking along the road when petitioner suddenly surfaced and acted unruly. In other words, they were simply acting to *de-escalate* an otherwise intense and potentially lethal situation not knowing that Efren himself would become the victim of petitioner's acts.

Even the medical certificates[55] and testimony of the attending physicians affirmed that the injuries of petitioner were merely *superficial* and *slight*. Dr. Reynaldo Badua, Surgeon at the Governor Faustino N. Dy, Sr. Memorial Hospital, testified:

> COURT:

Q: How did you consider the nature of the injuries being sustained by the patient Eduardo Ilayat?
A: I think it is like a slight physical injury.

Q: With that kind of injuries, how many days will it take to be healed?
A: For that kind or injury, it's about one (1) week.

. . . .

Q: Good Doctor, may we call it as superficial wounds?
A: Yes, sir.

Q: And the possibility of having been inflicted on the neck was, as you say, through human scratch?
A: Yes.

Q: Doctor, I have here in this medical certificate your diagnosis. Kindly read for us the written notes here, Doctor.
A: Abrasions wherein maybe due to human scratch, in the neck, the leg, and the scapular area at the back.[56]

Dr. Cherry Lou Tapales, the Municipal Health Officer of Rural Health Unit of Benito Soliven, Isabela, corroborated the above-quoted testimony, viz.:

ATTY. CLARAVALL TO THE WITNESS ON DIRECT-EXAMINATION:

. . . .

Q: To proceeding to the case at bar, are you familiar with one Eduardo Ilayat, the accused in this case?
A: Yes.

Q: Why do you know him?
A: He was brought to me for medical examination last January 24, 2011.

Q: You said, he was brought to you. Who brought this Eduardo Ilayat to you doctor for medical examination?
A: I could not remember, maybe he was brought by the mother or the police.

Q: And what happened when he came to your office?
A: So, the findings of my examination was, there was an abrasion at the right auxiliary area and another abrasion at the right knee.

. . . .

Q: You have your findings here, doctor, there is an abrasion.
What is the meaning of that doctor, in layman's term, what is that, doctor?
A: Gasgas or scratch.

Q: How many abrasion did you see?
A: Two (2), sir.

. . . .

Q: You said abrasions that you noted. How long will these abrasions heal?
A: Few days to one (1) week.

COURT:

Q: How did you consider the nature of the injuries that you noted on the body of the patient Eduardo Ilayat?
A: Those are only mild injuries, Your Honor.

Q: You mean, they are minor injuries?
A: Yes, Your Honor.[57]

Verily, the mitigating circumstance of sufficient provocation should not be appreciated in favor of petitioner. In the absence of evidence as to how the quarrel arose, petitioner is not entitled to the mitigating circumstance of sufficient provocation.[58]

As regards the RTC's finding of the alternative circumstance of intoxication, the Court finds that petitioner is also not entitled to it as an alternative mitigating circumstance.

Under Article 15[59] of the Revised Penal Code, the alternative circumstance of intoxication shall be treated as a mitigating circumstance when the offender proves that his intoxication is not (a) habitual or (b) subsequent to a plan to commit a felony; otherwise, it shall be treated as an aggravating circumstance.

Notably, during the deliberations of the case, Associate Justice Alfredo Benjamin S. Caguioa pointed out that notwithstanding the straightforward language of the Revised Penal Code, the Court has ruled in several cases that before intoxication can be appreciated as a mitigating circumstance, the accused must also prove that at the time of the commission of the crime, he has taken such quantity of alcoholic drinks as to blur his reason and deprive him of a certain degree of control.

In *People v. Boduso*,[60] the Court, citing *People v. Noble*,[61] ruled in this wise:

> We cannot, however, consider the application of the mitigating circumstance of intoxication. In order that an accused may be entitled to the mitigating circumstance of intoxication, it must be shown that (a) at the time of the commission of the criminal act, he has taken such quantity of alcoholic

drinks as to blur his reason and deprive him of a certain degree of control, (b) that such intoxication is not habitual, or subsequent to the plan to commit the felony.[62]

The pronouncement in *Boduso* was subsequently reiterated in *People v. Bautista*,[63] *Licyayo v. People*,[64] *People v. Mondigo*,[65] *Bacerra v. People*.[66]

While the Court in the aforementioned cases ruled that the offenders failed to prove that their mental faculties were diminished when they committed the crime—implying that proof of diminished or impaired willpower is necessary for intoxication to be considered a mitigating circumstance—a review of the factual circumstances of the cases shows that the accused failed to prove that they were indeed intoxicated.

In *Boduso*, it was proved that accused only had a bottle of beer. In *Mondigo*, it was mentioned that accused had about three to four bottles of beer. In *Bautista, Licyayo*, and *Bacerra,* what was only mentioned was that therein accused had a drinking spree or session. In other words, what was simply alleged, or proven in these cases, was that accused consumed alcohol.

Thus, the Court finds it necessary to settle the apparent inconsistency between the Revised Penal Code and existing cases.

First, before the alternative circumstance of intoxication can be considered, the fact of intoxication must first be clearly established. To establish this fact, there must be evidence of acts or circumstances indicative of intoxication, i.e., *slurred speech, stumbling, or a swaying walk*, other than mere consumption of alcohol. Neither is the quantity of consumed alcoholic drinks sufficient proof of the fact of intoxication, as the alcohol tolerance for each person may differ. In other words, proof of alcohol intake alone, regardless of quantity, does not *ipso facto* equate to intoxication.

Second, once the fact of intoxication is established from the factual milieu of the case or proved by the prosecution or the accused, the court is mandated to appreciate it as an aggravating circumstance when the intoxication is habitual or intentional; and mitigating circumstance when it is not habitual or subsequent to the plan to commit the felony. There is no need for the accused to prove that the alcoholic drinks affected his/her mental faculties before he/she can avail himself/herself of it as a mitigating circumstance.

Here, the conclusion of the RTC that petitioner was intoxicated was merely based on his testimony that he had a drinking spree with his friends, including Alberto. However, a judicious review of the testimony of petitioner does not show that he was intoxicated:

COURT DURING THE CROSS-EXAMINATION OF PETITIONER:

Q: And what did you drink, if any?
A: Only one (1) 4x4, Your Honor, but we were not able to consume its content, Your Honor.

Q: And what time did you finish drinking?
A: About 9:00 o'clock, Your Honor.

Q: Is that 4x4 gin?
A: Yes, Your Honor.

Q: Can you tell this court how many bottles of 4x4 gin did you consume?
A: One (1) bottle only, Your Honor.

Q: You are very sure of that?
A: Yes, Your Honor.

Q: And you were able to consume that one (1) bottle?
A: The content of the 4x4 gin was not yet consumed when I asked permission to leave, Your Honor.

. . . .

Q: How many of you again participated in drinking that 4x4 gin?
A: Me, Alberto Macuroy and I don't know the others. Your Honor.

Q: More or less how many of you?
A: All in all, Your Honor, we're six (6).

Q: And you started at 5:00 o'clock and you finished at 9:00 o'clock?
A: Yes, Your Honor.

Q: After 9:00 o'clock, what did you do?
A: I asked permission to go home, Your Honor.[67]

From the foregoing, there is no doubt that petitioner consumed liquor. However, without *independent proof* of the fact of intoxication, the Court finds that the RTC incorrectly concluded that the petitioner was intoxicated when he stabbed Efren.

On the contrary, petitioner was fully aware of the details when the incident happened, i.e., that Warlito pushed him and told him that they were noisy, that the victim and some bystanders accosted him, and that he stabbed the victim in self-defense.[68] Verily, absent proof of the fact of intoxication, the Court cannot consider it as a mitigating circumstance in his favor.

As to the penalty, "Article 249 of the Revised Penal Code provides that the crime of Homicide is penalized with *reclusion temporal*, the range of which is from 12 years and one day to 20 years."[69] Under the Indeterminate Sentence Law, the Court shall

sentence the accused to an indeterminate sentence, the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the Revised Penal Code, and the minimum term of which shall be within the range of the penalty next lower to that prescribed by the Revised Penal Code for the offense.[70] Article 64, paragraph 1 of the Revised Penal Code reads:

> Art. 64. *Rules for the Application of Penalties Which Contain Three Periods*. — In cases in which the penalties prescribed by law contain three periods, whether it be a single divisible penalty or composed of three different penalties, each one of which forms a period in accordance with the provisions of articles 76 and 77, the courts shall observe for the application of the penalty the following rules, according to whether there are or are not mitigating or aggravating circumstances:
>
> 1. When there are neither aggravating nor mitigating circumstances, they shall impose the penalty prescribed by law in its medium period.

Applying the foregoing, one degree lower than *reclusion temporal* is *prision mayor*, which has a medium period of eight years and one day to 10 years. On the other hand, the medium period of *reclusion temporal* is 14 years, eight months, and one day to 17 years and four months.

Pursuant to the Indeterminate Sentence Law and there being no modifying circumstance present, it is proper to sentence petitioner to suffer the penalty of imprisonment for the indeterminate period of eight years and one day of *prision mayor*, as minimum, to 14 years, eight months, and one day of *reclusion temporal*, as maximum.[71]

Finally, in conformity with jurisprudence, petitioner is directed to pay the heirs of Efren: PHP 50,000.00 as civil indemnity; PHP 50,000.00 as moral damages; and PHP 50,000.00 as temperate damages[72] (for failure of the prosecution to provide documentary evidence to substantiate the expenses of PHP 59,000.00).[73]

All damages awarded to the heirs of the victim, Efren shall earn legal interest at the rate of 6% per annum from the date of the finality of this Decision until full payment.[74]

ACCORDINGLY, the Petition for Review on *Certiorari* is **DENIED**. The Decision dated June 1, 2021, and the Resolution dated March 17, 2022, of the Court of Appeals in CA-G.R. CR No. 44252 are **AFFIRMED** with **MODIFICATION**. Petitioner Eduardo Ilayat *y* Bueno is found **GUILTY** beyond reasonable doubt of Homicide penalized under Article 249 of the Revised Penal Code in Criminal Case No. 5629 filed before Branch 16, Regional Trial Court, Ilagan City, Isabela. He is sentenced to suffer the indeterminate penalty of eight years and one day of *prision mayor*, as minimum, to 14 years, eight months, and one day of *reclusion temporal*, as maximum. He is, likewise, **ORDERED** to **PAY** the heirs of Efren Agus, Jr. the following amounts: PHP

50,000.00 as temperate damages, PHP 50,000.00 as civil indemnity, and PHP 50,000.00 as moral damages. All the damages awarded shall earn legal interest at the rate of 6% per annum from the date of the finality of this Decision until fully paid.

SO ORDERED.

Gesmundo, C.J., Leonen, SAJ., Hernando, Zalameda, Gaerlan, Rosario, J. Lopez, Marquez, Kho, Jr., and *Villanueva, JJ.*, concur.
Caguioa[*] and *Lazaro-Javier*,[**] *JJ.*, on official business but left a concurring vote.
Dimaampao[***] and *Singh*,[****] *JJ.*, on leave.

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[*] On official business but left a concurring vote.

[**] On official business but left a concurring vote.

[***] On leave.

[****] On leave.

[1] *Rollo*, pp. 11-31.

[2] *Id.* at 33-47. The Decision was penned by Associate Justice Louis P. Acosta and concurred in by Associate Justices Myra V. Garcia-Fernandez and Carlito B. Calpatura of the Special Thirteenth Division, Court of Appeals, Manila.

[3] *Id.* at 49-50. The Resolution was penned by Associate Justice Louis P. Acosta and concurred in by Associate Justices Myra V. Garcia-Fernandez and Carlito B. Calpatura of the Former Special Thirteenth Division, Court of Appeals, Manila.

[4] *Id.* at 73-79. The RTC Decision was penned by Judge Isaac R. De Alban.

[5] Art. 249. *Homicide*. — Any person who, not falling within the provisions of article 246 shall kill another without the attendance of any of the circumstance enumerated in the next preceding article, shall be deemed guilty of homicide and be punished by *reclusion temporal*.

[6] RTC records, pp. 1-2.

[7] *Id.* at 1.

[8] *Rollo*, p. 34.

[9] *Id.*

[10] *Id.* at 34-35.

[11] *Id.* at 35.

[12] The Information refers to the victim as "Efren Cortez, Jr. *y* Agus." However, records of the case consistently show his name as "Efren Agus, Jr." and refer to his father, a prosecution witness, as "Efren Agus, Sr." *See rollo*, pp. 34, 36, 74, 79, 83, 85, 126, 131. But *see rollo*, pp. 73, 78.

[13] *Id.*

[14] *Id.*

[15] *Id.* at 36.

[16] *Id.* at 74.

[17] *Id.* at 36.

[18] *Id.*

[19] *Id.*

[20] *Id.*

[21] *Id.* at 37.

[22] *Id.* at 79.

[23] *Id.*

[24] *Id.* at 78.

[25] CA *rollo*, p. 13.

[26] *Id.* at 46.

[27] *Id.* at 43-45.

[28] *Id.* at 99-105.

[29] *Id.* at 20-21.

[30] *Id.* at 23-25.

[31] *Id.* at 119-135.

[32] *Id.* at 124-125.

[33] *Id.* at 126-130.

[34] **Gelig v. People**, 640 Phil. 109, 112, 115 (2010) [Per J. Del Castillo, First Division].

[35] **People v. Olpindo**, 919 Phil. 1024, 1046-1047 (2022) [Per C.J. Gesmundo, *En Banc*].

[36] *Rollo*, pp. 21-23.

[37] *Id.* at 23-25.

[38] **People v. Antonio**, 869 Phil. 773, 784 (2020) [Per J. Leonen, Third Division].

[39] *Id.*

[40] **People v. Lalap**, 904 Phil. 812, 820 (2021) [Per J. Inting, Third Division], *citing* **Casilac v. People**, 870 Phil. 888, 900 (2020) [Per J. Peralta, First Division].

[41] *Id.*

[42] *Id.*

[43] *Rollo*, p. 78.

[44] *Id.*

[45] *Id.* at 13, 36.

[46] **Anisco v. People**, 890 Phil. 772, 782 (2020) [Per J. Delos Santos, Third Division].

[47] *Rollo*, pp. 23-24.

[48] *Id.* at 43.

[49] **Gumawid v. People**, 921 Phil. 746, 755 (2022) [Per J. Inting, First Division].

[50] **Licyayo v. People**, 571 Phil. 310, 324 (2008) [Per J. Chico-Nazario, Third Division].

[51] **People v. Racal**, 817 Phil. 665, 683 (2017) [Per J. Peralta, Second Division].

[52] **PO2 Cruz v. People**, 882 Phil. 484, 501 (2020) [Per J. Caguioa, First Division].

[53] 817 Phil. 665 (2017) [Per J. Peralta, Second Division].

[54] *Id.* at 683-684.

[55] RTC records, pp. 11-12.

[56] TSN, Dr. Reynaldo Badua, March 22, 2012, pp. 7-8.

[57] TSN, Dr. Cherry Lou Tapales, March 22, 2012, pp. 13-14.

[58] **Licyayo v. People**, 571 Phil. 310, 327 (2008) [Per J. Chico-Nazario, Third Division].

[59] ART. 15. *Their concept*. — Alternative circumstances are those which must be taken into consideration as aggravating or mitigating according to the nature and effects of the crime and the other conditions attending its commission. They are the relationship, intoxication and the degree of instruction and education of the offender.

The alternative circumstance of relationship shall be taken into consideration when the offended party is the spouse, ascendant, descendant legitimate, natural, or adopted brother or sister, or relative by affinity in the same degrees of the offender.

The intoxication of the offender shall be taken into consideration as a mitigating circumstance when the offender has committed a felony in a state of intoxication, if the same is not habitual or subsequent to the plan to commit said felony; but when the intoxication is habitual or intentional it shall be considered as an aggravating circumstance.

[60] 158 Phil. 273 (1974) [Per J. Antonio, *En Banc*].

[61] 77 Phil. 93 (1946) [Per J. Tuason, *En Banc*].

[62] *Id.* at 285.

[63] 468 Phil. 173 (2004) [Per. J. Carpio-Morales, Third Division].

[64] 571 Phil. 310 (2008) [Per J. Chico-Nazario, Third Division].

[65] 567 Phil. 361 (2008) [Per J. Carpio, Second Division].

[66] 812 Phil. 25 (2017) [Per J. Leonen, Second Division].

[67] TSN, Eduardo Ilayat, February 27, 2014, pp. 29-30.

[68] *Rollo*, pp. 14-15, 76.

[69] **Anisco v. People**, 890 Phil. 772, 785 (2020) [Per J. Delos Santos, Third Division].

[70] Act No. 4103 (1933), sec. 1.

[71] **People v. Cortez**, 844 Phil. 1086, 1097 (2018) [Per J. Perlas-Bernabe, Second Division].

[72] **People v. Jugueta**, 783 Phil. 806, 852 (2016) [Per J. Peralta, *En Banc*].

[73] *Rollo*, p. 45.

[74] **People v. Jugueta**, 783 Phil. 806, 854 (2016) [Per J. Peralta, *En Banc*].

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