

## THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SERAFIN ENANO @ “APIN”, ACCUSED-APPELLANT.

Ponente: QUIJANO-PADILLA, J.

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### QUIJANO-PADILLA, J.:

This is an appeal[1] from the September 9, 2013 Decision[2] of the Regional Trial Court (RTC), Branch 19, Catarman, Northern Samar in Criminal Case No. C-4578 finding accused-appellant Serafin Enano y De Silva @ “Apin” guilty beyond reasonable doubt for the crime of Homicide.

#### The Antecedents

Accused-appellant was charged of the crime of Homicide punishable under Article 249 of the Revised Penal Code, docketed as Criminal Case No. C-4578. The accusatory portion of the Information[3] against accused-appellant reads:

“That on April 06, 2007 at about 7:00 o'clock in the evening, at Sitio Cagpepe, Barangay San Isidro, [M]unicipality of Mondragon, Province of Northern Samar, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, armed with homemade shotgun locally known as “Bardog”, with deliberate intent to kill without justifiable cause, did then and there, willfully, unlawfully and feloniously, attack, assault and shoot BASELIZA BATO OSIAS (sic) with the use of said weapon, which the accused had provided himself for the purpose, thereby inflicting upon said Baseliza Bato Osias multiple gunshot wounds which caused the instant death of the victim.

With the aggravating circumstance of used (sic) of unlicensed firearm.

CONTRARY TO LAW.”

When arraigned on July 27, 2009, accused-appellant, duly assisted by counsel, pleaded not guilty to the charge against him.[4] Upon agreement of the parties, pre-trial conference was held on October 21, 2009[5] and terminated on same date.[6]

Thereafter, trial on the merits ensued.

#### Evidence for the Prosecution

The prosecution's account of the events pieced together from the testimonies of their witnesses Rodolfo Osias y Turla, Bryan Morillo, Dr. Maria Carol Hermosilla and Percila Bato, as summarized[7] by the RTC in its Decision, is as follows:

“Rodolfo Osias y Turla, the first witness for the prosecution, is a resident of Brgy. San Isidro, Mondr(a)gon(.) N. Samar and husband of the victim Baselisa Osias y Bato.

On April 6, 2007 at 12:00 o'clock noon, he and his wife Baselisa Osias, the victim in this case, were invited by the accused Serafin Enano to have a drinking spree at the latter's house in Brgy. San Isidro, Mondragon, Norther Samar, being a holiday, as it was GOOD FRIDAY.

They acceded to the invitation and went to the house of the accused and engaged in a drinking spree with the accused and wife Etang taking “Tanduay” rum. Later, they were joined by Villamor Enano @ Takong upon the invitation of the accused, and the drinking continued until evening.

At around 7:00 P.M., accused Serafin Enano and Villamor Enano @ Takong got into a heated argument over a parcel of land which made the accused mad. The accused got his gun, locally known as 'bardog'. Out of fear, Villamor Enano jumped going downstairs in the direction of Baselisa (victim) and accused shot at Takong but hitting instead Baselisa who was near Takong and hitting her at the back of her neck and she fell to the ground.

He attended to his wife Baselisa and saw blood flowing from her body so he shouted for help and asked the accused why he shot his wife. The accused approached and poked his gun at him and threatened at gun point to tell that it was Villamor Enano @ Takong who shot his wife and instructed him to tell his parents-in-law of the matter.

He went to his parents-in-law's house and met his brother-in-law Venancio Bato @ Bembem. He told the latter that his wife was shot to death by Villamor Enano @ Takong as instructed by the accused and his wife. Thereafter, he went to Manila and stayed thereat for four (4) months. On 29 January 2008, he executed an affidavit (Exh. 'A'), pointing to the accused as the person who actually killed his wife, and filed this case in court for he was bothered by his conscience that his children became orphan due to his wife's death.

BRYAN CASTILLO (MORILLO),[8] the second witness for the prosecution, is the son of the victim Baselisa Osias from her previous marriage.

On 6 April 2007, the accused Serafin Enano invited his parents to have a drinking spree at his house in Brgy. San Isidro, Mondragon(,) Northern Samar and he went with his parents. Present in the house of Enero (Enano) were the accused and wife Dianita, his mother Baselisa (sic) and step-father Rodolfo Osias. Later, his uncle Villamor Enano @ Takong arrived with a certain Titing and the two joined the drinking spree.

At around 4:00 o'clock in the afternoon, his mother Baselisa bought Ligo sardines and noodles and instructed him to go home to cook the food for their dinner. He went home to Sitio Cagpepe and cooked and waited for his parents to come but until 7:00 pm they failed to arrived (sic). So he went back to the house of the accused with his half siblings Val, Mayjane and Erojane but they were scolded by his step-father upon their arrival. His mother sought permission from the group to go home for dinner but was prevented by the accused as he wanted them to stay overnight. Thereafter, the accused and his uncle Takong engaged in a heated argument over a parcel of land.

His uncle Takong went out to urinate in a cacao tree and when he came back, he offered a drink to his mother Baselisa Osias (victim) and the accused Serafin Enano. The accused, went inside the room and never answered his uncle Takong's call and then he saw the accused holding a gun and shot his uncle Takong.

The shot missed Takong but instead hit his mother Baselisa at the back of her neck. His mother died in front of him. His stepfather asked the accused why he shoot the victim which incident also surprised the accused. The wife of the accused Dianita got the firearm from the accused and the accused instructed his step-father Rodolfo Osias to inform the (sic) his mother's parents and siblings that it was his uncle Villamor Enano @ Takong who shot his mother. On that same evening, his uncle Bembem, the brother of his mother, shot to death his uncle Takong. Later his step-father Rodolfo Osias together with his uncles Bimbo, Titing and a certain Joel arrived and brought the cadaver of his mother to their house in Sitio Cagpepe.

Dr. Maria Carol Hermosilla, the Rural Health Physician of Mondragon Northern Samar, is the third witness for the prosecution. She examined the cadaver of the victim and conducted the post-mortem examination of the body of the victim.

The Post Mortem Examination Report (Exh. 'D') issued by Dr. Hermosilla revealed that the victim sustained a single gunshot wound measured 4x4 cms. located at left aspect of her posterior neck with no exit wounds.

Defense admitted the fact of death of the victim, so the testimony of Maribel Pinangay, the Local Civil Registrar of Mondragon Northern Samar, was dispensed by the court as its fourth witness.

Percila Bato, the mother of the victim, is the fifth witness for the prosecution. She incurred expenses for the wake and burial of the victim. She made a list of here (sic) expenses totaling in the amount of Php 79,150.00 with her signature (Exh. 'C').

The 6[th] and last witness for the prosecution is SPO1 Claudio Alcera, a member of the Philippine National Police (PNP) assigned at Mondragon Police Station, Mondragon Northern Samar. However, his testimony was dispensed with by the court by defense's admission that the date of the police blotter in this case is January 21, 2008 instead of 2007."

### Evidence for the Accused-Appellant

After the prosecution has rested, the defense proceeded with the presentation of its evidence. The narration of defense' witnesses Janita Bato Enano, Jhon Anthony Infante and SPO1 Danilo Picardal, on what purportedly transpired during the aforesaid time and date, similarly summarized[9] by the RTC, is as follows:

"Janita Bato Enano, the first witness for the defense, is the wife of the accused Serafin Enano. She knows the victim Baselisa Bato Osias as well as Takong Enano. Baselisa is her niece while Takong is the cousin of her husband.

On 6 April 2007 at 6:00 p.m., she was at their house in Brgy. San Isidro, Mondragon(,) N. Samar(,) cooking rice. Other persons around were her husband Serafin Enano, grandchild Jhon Anthony Infante, the victim Baselisa and husband Ompong. Suddenly, Takong Enano arrived and offered to sell a gun to the spouses Baselisa and Ompong. Her husband was lying on the floor. Baselisa wanted to buy the gun but her husband objected for they have no money. Takong Enano shot Baselisa with the gun and fell down. Takong Enano ran away together with Ompong. She tried to pick up the victim but she was frightened and she was alone.

The house became dark due to the smoke from the gunfire so her husband lighted a lamp. Later, the siblings of the victims arrived and brought the cadaver of the victim to the barangay hall and she followed them. She has no knowledge of the present whereabouts of Takong Enano.

Jhon Anthony Infante, a 10 year old boy and Grade 3 pupil of Imelda Elementary School, Mondragon(,) N. Samar(,) is the second witness for the defense.

On 6 April 2007, at 7:00 P.M.(,) he was at their house in Sitio Cagpepe, Brgy. San Isidro, Mondragon(,) N. Samar playing with Belen, the daughter of the victim. The other people around were his Nanay Itang, Tatay Apin (the accused Serafin Enano), Auntie Basing (the victim Baselisa Osias) and her husband Ombrong. Suddenly, he saw Takong Enano walking along a human trail toward their house carrying a gun. His Tatay Apin was then sleeping beside him while his Nanay Itang was cooking.

Takong Enano dropped in their house and talked to his Uncle Ombrong (Rodolfo Osias), whispering to each other. When they parted, Takong Enano shot his auntie Basing at the stairs hitting her neck and she fell down. Their house was full of smoke due to gunfire and his Tatay Apin and Nanay Itang went out while his uncle Ombrong (Rodolfo Osias) chased Takong Enano.

His Nanay Itang cried as she can do nothing about the cadaver of the victim and the cadaver was brought by the barangay tanod to barangay San Isidro and they followed them.

The third and last witness for the defense is SPO1 Danilo Picardal, a member of the Philippine National Police (PNP) assigned at Mondragon Police Station, Mondr(a)gon, Northern Samar.

He was sent by their Chief of Police to testify on the entry in their Police Blotter regarding this case, Entry No. 2007 dated April 6, 2007. He read the entry of the subject Police Blotter and the prosecution affirmed its

excerpt except the time, which is 11:45 A.M. instead of 11:00 A.M.”

### The Ruling of the RTC

On September 9, 2013, the RTC rendered its Decision[10] convicting accused-appellant of homicide, holding that the evidence at hand led to no other conclusion but that his guilt was shown beyond reasonable doubt. The dispositive portion[11] of the assailed Decision reads:

“From all the foregoing, the Court finds the accused SERAFIN ENANO y DE SILVA @ APIN, GUILTY of HOMICIDE, and applying Art. 246 of RPC, is ordered to suffer the imprisonment of TEN (10) YEARS of PRISION MAYOR, as minimum to FOURTEEN (14) YEARS, EIGHT (8) MONTHS and ONE (1) day of RECLUSION TEMPORAL, as maximum and to pay P50,000.00 civil indemnity, P25,000.00 temperate damages and P25,000.00 moral damages. “

Insisting on his innocence, accused-appellant is now before Us with the following assigned errors:

I.

THE COURT A QUO GRAVELY ERRED IN FINDING THAT PROSECUTION WITNESSES HAVE POSITIVELY IDENTIFIED APPELLANT AS THE PERPETRATOR OF THE CRIME DESPITE EXISTING INCONSISTENCIES AND INCREDIBILITY THEREBY CREATING DOUBT AS TO THE TRUTHFULNESS OF THEIR TESTIMONIES.

II.

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.[12]

### This Court's Ruling

Accused-appellant now assails that the RTC gravely erred in finding him guilty beyond reasonable doubt of homicide because the State did not discharge its burden to prove beyond reasonable doubt every fact and circumstance constituting the crime charged.

Accused-appellant's insistence on his acquittal of the crime charged hinges on the following reasons, to wit:

1. the testimonies of the prosecution witnesses Rodolfo Osias and Bryan Morillo were infested with inconsistencies which are not inconsequential or minor but could affect the credibility of their testimonies;
2. the finding of the trial court of mistake in the blow is improbable;
3. that it is highly improbable to believe that the accused-appellant, after allegedly having killed someone, would still stay in the area where the incident took place; and
4. that the affidavits of the prosecution witnesses were made only after several months from the time of the incident, hence, it can be inferred that their testimonies were concocted or fabricated in order to facilitate the conviction of the accused-appellant.[13]

In contrast, the Office of the Solicitor General (OSG), in its Appellee's Brief, supports the appealed judgment and counters that the guilt of accused-appellant was established beyond reasonable doubt through the testimonies of prosecution witnesses who positively and categorically pointed to the accused-appellant as the perpetrator of the crime.[14]

The OSG placed emphasis on the trial court's observation that the testimonies of prosecution witnesses are worthy of credit as they are the husband and the son of the victim and that these witnesses testified in a positive, categorical, straightforward and spontaneous manner. The OSG submits that the combination of the testimonies of

prosecution witnesses and the physical evidence presented during trial particularly the autopsy report describing the injury sustained by the victim, taken together, produced a conviction beyond reasonable doubt of accused-appellant's guilt for homicide.[15]

The OSG posits that where the bone of the contention is the credibility of witnesses, such as in this case, the trial court's assessment of their credibility is generally accorded great weight. Finally, the OSG submits that the denial of the accused-appellant merit no weight in law and cannot prevail over the positive declarations of prosecution witnesses.[16]

We sustain accused-appellant's conviction.

As the issues raised are interrelated, they shall be discussed jointly hereunder.

#### Sufficiency of Prosecution Evidence

Article 249 of the Revised Penal Code defines and punishes the crime of homicide, viz:

ART. 249. Homicide. – Any person who, not falling within the provisions of Article 246, shall kill another without the attendance of any of the circumstances enumerated in the next preceding article, shall be guilty of homicide and be punished by reclusión temporal.

From the above-quoted provision, the elements of homicide are as follows: 1) a person was killed; and 2) the accused killed him without any justifying circumstance; 3) the accused had the intention to kill, which is presumed; and 4) the killing was not attended by any of the qualifying circumstances of murder, or by that of parricide or infanticide.[17]

In this case, the RTC convicted the accused-appellant based on positive and categorical declarations of the prosecution witnesses Rodolfo Osias and Bryan Morillo. The RTC likewise ruled that there was 'aberratio ictus' or mistake in the blow in this case.

First of all, the accused-appellant challenges the reliability and credibility of the prosecution witnesses, Rodolfo Osias and Bryan Morillo, by contending that their testimonies are replete with material inconsistencies.

The contention deserves no serious consideration.

Time and again, this Court has consistently reiterated that basic is the rule that the trial court's factual findings, especially its assessment of the credibility of witnesses, are generally accorded great weight and respect on appeal. When the issue is one of credibility, the Court will generally not disturb the findings of the trial court unless it plainly overlooked certain facts of substance and value that, if considered, might affect the outcome of the case. The reason therefore is not hard to discern. The trial courts are in a better position to decide questions of credibility having heard the witnesses and observed their deportment and manner of testifying during the trial.[18] The trial court's determination proceeds from its first-hand opportunity to observe the demeanor of the witnesses, their conduct and attitude under grilling examination, thereby placing the trial court in the unique position to assess the witnesses' credibility and to appreciate their truthfulness, honesty and candor.[19]

Here, accused-appellant has not projected any strong and compelling reasons to sway this Court into rejecting or revising such factual findings and evaluation in his favor.

Accused-appellant tries to discredit prosecution witnesses, Rodolfo Osias and Bryan Morillo, by arguing that the recollection of Rodolfo Osias regarding the time of the filing of the affidavit was mind boggling and that the testimony of Bryan Morillo raises doubts as to his position at the time of the shooting, it being unclear whether he was between his mother and the accused-appellant or at the back of his mother in witnessing the incident.

Accused-appellant also argues that Morillo's perception as to who, between the victim and alias Takong, was the target also belies what he himself saw.

We are not persuaded.

Accused-appellant questions the portion of the testimony of Rodolfo Osias relating to the time when he left for Manila and the time that had lapsed before he prepared his affidavit and filed a complaint with the prosecutor's office accusing accused-appellant for the killing of his wife.

As the OSG had observed, the aforesaid inconsistency is immaterial and irrelevant for it does not involve any matter related to the elements of the crime committed. This inconsistency did not in any way detract from the fact that Rodolfo Osias witnessed the shooting incident and that he was instructed at gunpoint to make it appear that it was another person who had shot and killed his wife. If the purpose of bringing up this portion of the testimony is to discredit Rodolfo Osias because of his belated filing of the complaint, this would not have a negative effect considering that Rodolfo Osias took the witness stand and swore to tell the whole truth and nothing but the truth and was subjected to a grueling cross-examination on his actions during and after the said shooting incident. In fact, as testified to by Rodolfo Osias, the belated filing of the case was due to the fact that he feared for his life after the accused-appellant poked a gun at him and told him to inform the victim's family that alias Takong was the culprit and not the accused-appellant. The OSG likewise pointed out that Rodolfo Osias cannot be faulted if he took some time to gain the strength and resolve to file this case against the accused-appellant for it is painful for a husband to witness the killing of his wife and even more painful for a father to lie to his wife's family and their children as to the identity of the person who took the victim's life.

The observation of the OSG on this point is well-taken. Such inconsistency is merely trivial, minor and immaterial. It refers only to irrelevant and collateral matters, which have nothing to do with the elements of the crime.[20] It has been established that where the inconsistency is not an essential element of the crime, such inconsistency is insignificant and cannot have any bearing on the essential fact testified to. Inconsistencies and discrepancies in the testimony referring to minor details and not upon the basic aspect of the crime do not diminish the witnesses' credibility.[21] More so, an inconsistency, which has nothing to do with the elements of a crime, is not a ground to reverse a conviction.[22]

On the other hand, it is not rare for witnesses to delay reporting a crime and the delay, if adequately explained as in this case, does not destroy their credibility.[23] We are convinced that prosecution witnesses Rodolfo Osias and Bryan Morillo were indeed held back in terror because of accused-appellant's act of poking a gun at Rodolfo Osias and telling him to lie as to the real identity of the culprit, which was likewise witnessed by Bryan Morillo. They could not ignore the possibility of reprisals should they go against the accused-appellant's instruction as the latter was capable of carrying out any threat he might make. Death threats and fear of reprisals are adequate reasons why witnesses are reluctant to get involved in criminal cases.[24]

Accused-appellant likewise asks this Court to take note of the fact that in the information filed against him, the indictment reads that the accused allegedly inflicted multiple gunshot wounds to the victim yet as testified by the prosecution witnesses and affirmed by the doctor who conducted the post-mortem examination of the body of the victim, the latter sustained only one gunshot wound. Just the same, this fact will still not work in accused-appellant's advantage.

It must be emphasized that variance between the allegations of the information and the evidence offered by the prosecution does not of itself entitle the accused to an acquittal,[25] more so if the variance relates to a mere formal defect, which does not prejudice the substantial rights of the accused.[26] We are of the opinion that when an offense have been described with sufficient certainty so as to identify the act, such as in this case, an erroneous

allegation as to the number of wounds sustained by the victim is deemed immaterial.

Proceeding now to the alleged inconsistencies in the testimony of prosecution Bryan Morillo relating to his position when the shot was fired, this does not deviate from the fact that he admittedly witnessed the accused-appellant shoot his mother. Whether accused-appellant intended to shoot alias Takong or his mother, the victim herein, is irrelevant in light of the categorical and positive identification of accused-appellant as the one whom Bryan Morillo saw fired the gun with its bullet hitting the victim. In the case at bar, the fact that the target of accused-appellant's assault was alias Takong, not the victim, did not excuse his hitting and killing of the victim. The fatal hitting of the victim was the natural and direct consequence of accused-appellant's felonious deadly assault against alias Takong. Accused-appellant's poor aim amounted to *aberratio ictus*, or mistake in the blow, a circumstance that neither exempted him from criminal responsibility nor mitigated his criminal liability. *Lo que es causa de la causa, es causa del mal causado* (what is the cause of the cause is the cause of the evil caused).[27] Under Article 4 of the Revised Penal Code,[28] criminal liability is incurred by any person committing a felony although the wrongful act done be different from that which he intended.

Moreover, accused-appellant contends that defense witness Jhon Anthony Infante gave a more straightforward and consistent testimony as opposed to prosecution witness Bryan Morillo. According to accused-appellant, Infante's behavior when he testified showed he is little influenced by the suggestion of others and describes objects and occurrences as he has really seen them. That his naivete and apparent accuracy made his testimony most impressive.

However, the trial court did not give Infante's testimony much credence. The RTC ruled that:

"The accused, Serafin Enano(.), did not testify in his behalf. Only his wife Janita Bato and one John Anthony Infante were presented as defense witnesses. The defense witnesses testified that it was Takong Enano who shot the victim and not accused. However, their testimonies were not consistent with each other. John Anthony Infante testified that the accused (Tatay Apin) was sleeping beside him in the house, when the incident happened. Janita did not testify that her husband was sleeping in their house at the time of the incident." [29]

As the OSG correctly observed, Infante's testimony will not provide solace to accused-appellant for the simple reason that Infante did not witness what had transpired as his own testimony has shown. In his cross-examination,[30] he testified that at the time he would have allegedly witnessed the incident, he was with accused-appellant who was sleeping inside the house beside him while in his testimony during direct examination,[31] he testified that he was playing with one of the children of the victim at that time. Certainly, Infante's credibility on the matter of whether or not he witnessed the shooting incident is placed in serious doubt.

Reviewing the records, We find that accused-appellant's guilt as the perpetrator of the unlawful killing of the victim Baselisa Osias had been adequately proven by prosecution evidence, both testimonial and physical. The credible and categorical testimonies of two (2) eyewitnesses during the entire incident on the night of April 6, 2007, Rodolfo Osias and Bryan Morillo, positively point to accused-appellant as the one who inflicted a fatal gunshot wound upon the victim. The post-mortem examination findings of Dr. Hermosilla sufficiently corroborate the account of said eyewitnesses that the victim suffered a gunshot wound to the posterior portion of the neck.

Contrary to accused-appellant's contention, the totality of prosecution evidence more than satisfactorily proves the commission of the offense and accused-appellant's authorship thereof. Moreover, accused-appellant's defense of denial is worthless in the face of his positive identification by prosecution witnesses as the assailant of the victim herein. Positive identification where categorical and consistent and without any showing of ill-motive on the part of the eyewitnesses testifying on the matter prevails over a denial. Denial being negative evidence which is self-serving in nature, cannot prevail over the positive identification of prosecution witnesses. More so in this

case where the defense of denial is not corroborated by disinterested and credible witnesses.[32] The defense of denial, like alibi, is considered with suspicion and always received with caution, not only because it is inherently weak and unreliable, but also because it can be fabricated easily.[33]

In addition, the witnesses incriminating accused-appellant were not only credible but were not shown to have harbored any ill-motive towards him. They were surely entitled to full faith and credit for those reasons and the RTC did well in according such credence to them. Their positive identification of him as the assailant prevailed over his mere denial, because such denial, being negative and self-serving evidence, was undeserving of weight by virtue of its lack of substantiation by clear and convincing proof.[34] Hence, his denial had no greater evidentiary value than the affirmative testimonies of the credible witnesses presented against him.[35]

To reiterate, it is a hornbook doctrine that the evaluation of the trial court of the credibility of the witnesses and their testimonies is entitled to great weight and is generally not disturbed upon appeal.[36] This is so because the trial court is in a unique position to observe the witnesses' demeanor on the witness stand.[37] Thus, this Court will not disturb the findings of the trial court in assessing the credibility of the witnesses, unless some facts or circumstances of weight and influence have been overlooked or the significance of which has been misinterpreted by the trial court.[38] In this case, the circumstances that, when properly appreciated, would warrant the acquittal of accused-appellant, are wanting.

In sum, We so hold and find that the prosecution has discharged its burden of proving the guilt of accused-appellant beyond reasonable doubt.

We likewise find the award of the RTC of temperate damages as proper but the awards of civil indemnity and moral damages in this case should be modified in order to conform to the current judicial policy on the matter.[39]

Based on Article 100 of the Revised Penal Code, every person criminally liable for a felony is also civilly liable. The damages to be awarded when death occurs due to a crime may include: (a) civil indemnity ex delicto for the death of the victim; (b) actual or compensatory damages; (c) moral damages; (d) exemplary damages; and (e) temperate damages.[40] In cases of murder and homicide, civil indemnity of P75,000.00 and moral damages of P50,000.00 are awarded automatically. Indeed, such awards are mandatory without need of allegation and proof other than the death of the victim, owing to the fact of the commission of murder or homicide.[41]

Applying the foregoing rule in this case, this Court needs to raise the civil indemnity from P25,000.00 to P75,000.00.

The award of moral damages amounting to P25,000.00 shall likewise be increased to P50,000.00. The death indemnity compensated the loss of life due to crime, but appropriate and reasonable moral damages would justly assuage the mental anguish and emotional sufferings of the surviving family of the victim.[42] Given the circumstances, the amount of P50,000.00 is reasonable as moral damages, which, pursuant to prevailing jurisprudence,[43] We are bound to award despite the absence of any allegation and proof of the heirs' mental anguish and emotional suffering.

Finally, this Court upholds the indeterminate sentence of 10 years of prison mayor, as minimum, to 14 years, 8 months and 1 day of reclusion temporal, as maximum, imposed by the RTC as the same was fixed entirely within the parameters of the Indeterminate Sentence Law.

WHEREFORE, the appeal is hereby DENIED. The Decision of the RTC, Branch 19, Catarman, Northern Samar in Criminal Case No. C-4578 dated September 9, 2013 is hereby AFFIRMED WITH MODIFICATION that the civil indemnity is increased to P75,000.00 and moral damages is likewise increased to P50,000.00.

**SO ORDERED.**

Delos Santos, J., Chairperson and Azcarraga-Jacob, JJ., concur.

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- [1] Records, pages 228-229.
- [2] Penned by Judge Norma Megencio-Cardenas, records, pages 219-225.
- [3] Records, pages 9-10.
- [4] See Certificate of Arraignment, records, page 35; See Order dated July 27, 2009, records, page 38.
- [5] Erroneously dated June 3, 2009 in Pre-Trial Order, records, pages 54-55; See Minutes of Pre-Trial, records, page 57.
- [6] See Order dated July 15, 2008, records, page 19; see also Minutes of Pre-Trial, records, page 20.
- [7] See Pages 2-3 of RTC Decision, records, pages 220-210.
- [8] See TSN-Morillo dated 6/3/2010, pages 1-8; TSN-Morillo dated 8/16/2010, pages 2-6; TSN-Morillo dated 4/7/2011, pages 2-10; See also Affidavit-Morillo, records, page 152.
- [9] See Pages 4-5 of RTC Decision, records, pages 222-223.
- [10] Supra, at note 2.
- [11] Records, pages 216-217.
- [12] See Appellant's Brief, rollo, page 33.
- [13] See Appellant's Brief, rollo, pages 38-43.
- [14] See Appellee's Brief, rollo, page 70-75.
- [15] Supra.
- [16] Supra.
- [17] L. Reyes, THE REVISED PENAL CODE, Book Two, p. 470 (15<sup>th</sup> ed., 2001).
- [18] Tindoy v. People, G.R. No. 157106, September 3, 2008, 564 SCRA 39, 47, citing People v. Laceste, G.R. No. 127127, July 30, 1998, 293 SCRA 397.
- [19] People v. Villacorta, G.R. No. 186412, September 7, 2011.
- [20] People v. Villahermosa, G.R. No. 186465, June 1, 2011; People v. Ignas, 458 Phil. 965, 987-988 (2003).
- [21] People v. Villahermosa, supra; People v. Sabardan, G.R. No. 132135, 21 May 2004, 429 SCRA 9, 19 citing People v. Monieva, G.R. No. 123912, 8 June 2000, 333 SCRA 244, 252.
- [22] People v. Villahermosa, supra; People v. Ignas, supra.
- [23] People v. Cariño, G.R. No. 131203, August 2, 2001; People v. Padoa, 267 SCRA 64, 76 (1997).
- [24] People v. Cariño, supra; People v. Leoterio, 264 SCRA 608, 615 (1996); People v. Castillo, 261 SCRA 493, 500-501 (1996).
- [25] Senador v. People, G.R. No. 201620, March 6, 2013; People v. Catli, No. L-11641, November 29, 1962.

[26] *Senador v. People*, supra; *Ricarze v. Court of Appeals*, G.R. No. 160451, February 9, 2007.

[27] *Talampas v. People*, G.R. No. 180219, November 23, 2011; Quotation is taken from *Feria and Gregorio*, *Comments on the Revised Penal Code*, Volume I, 1958 First Edition, Central Book Supply, Inc., p. 49.

[28] Article 4. Criminal liability. — Criminal liability shall be incurred:

1. By any person committing a felony (*delito*) although the wrongful act done be different from that which he intended.

2. By any person performing an act which would be an offense against persons or property, were it not for the inherent impossibility of its accomplishment or an account of the employment of inadequate or ineffectual means.

[29] Page 6 of Decision, records, page 224.

[30] *TSN-Infante* (Cross-examination), 11/14/2012, page 11.

[31] *TSN-Infante* (Direct Examination), 11/14/21012, page 4.

[32] *Medina v. People*, G.R. No. 161308, January 15, 2014.

[33] *People vs. Batidor*, G.R. No. 126027, 303 SCRA 335, 350 (1999).

[34] *People v. Agcanas*, G. R. No. 174476, October 11, 2011, 658 SCRA 842, 847, citing *People v. Caisip*, 290 SCRA 451, 456.

[35] *Supra*.

[36] *People v. Casimiro*, G.R. No. 146277, June 20, 2002.

[37] *People v. Torres*, G.R. No. 191730, June 5, 2013; *People v. Ariola*, 418 Phil. 808, 816 (2001).

[38] *People v. Campones*, G.R. No. 187741, August 8, 2010; *People v. Cruz*, G.R. No. 185381, December 16, 2009.

[39] *Medina v. People*, supra; *People v. Bokingo*, G.R. No. 187536, August 10, 2011, 655 SCRA 313, 334; *People v. Teriapil*, G.R. No. 191361, March 2, 2011, 644 SCRA 491, 495.

[40] *People v. Fontanilla*, G.R. No. 177743, January 25, 2012; *People v. Domingo*, G.R. No. 184343, March 2, 2009, 580 SCRA 436, 455. 41 *People v. Elarcosa*, G.R. No. 186539, June 29, 2010; *People v. Lucero*, G.R. No. 179044, December 6, 2010.

[42] Article 2206, (3), in relation to Article 2217 and Article 2219, Civil Code, and Article 107, Revised Penal Code.

[43] *People v. Salva*, G.R. No. 132351, January 10, 2002, 373 SCRA 55, 69; *People v. Osianas*, G.R. No. 182548, September 30, 2008, 567 SCRA 319, 340; *People v. Buduhan*, G.R. No. 178196, August 6, 2008, 561 SCRA 337, 367-368; *People v. Berondo, Jr.*, G.R. No. 177827, March 30, 2009, 582 SCRA 547.

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