

PEOPLE OF THE PHILIPPINES, PLAINTIFF, RODOLFO M. MANGAOANG, SR., PRIVATE COMPLAINANT-APPELLANT, VS. JESSIE DULATRE, ANTON DULATRE, ALDIN MANGAOANG, ABBET MANGAOANG, ACCUSED-APPE...

Ponente: PERALTA, JR., E. B., J.

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PERALTA, JR., E. B., J.:

Concomitant with the exoneration of three co-defendants, and co-accused Jessie Dularte's conviction for Frustrated Murder in Criminal Case No. A-5047[1] was the imposition of temperate damages for P25,000.00 in favor of the victim. Such civil aspect is now the subject matter of the private complainant's appeal.[2]

Per inculpatory facts,[3] accused-appellees Jessie Dulatre (Jessie), Anton Dulatre (Anton), Aldrin Mangaoang (Aldrin), and Abbet Mangaoang Abbet), were charged with the crime of Frustrated Murder. When arraigned for the corresponding indictment[4] and with the assistance of counsel, all the accused pleaded not guilty to the charge.[5] After the pre-trial conference,[6] trial ensued.

PROSECUTION'S VERSION

In the early morning of December 31, 2003, while private complainant Rodolfo Mangaoang, Sr. (Rodolfo) was on his way to buy pandesal, he chanced upon Anton, who invited Rodolfo to join him and his group composed of, among other people, Jessie, Aldrin, Abbet in a drinking spree at Sto. Rosario West, Aringay, La Union.[7] Rodolfo accepted Anton's invitation and even gave Anton money to buy more drinks.[8]

After about 15 minutes of drinking, Jessie told Rodolfo, "Mayabang ka na seaman, nakaipon ka lang, nagpunta dito na magnenegosyo"[9] to which Rodolfo replied, "awan ti atrasok ken awan ti araramidek a dakes" (I have to [sic] fault to you and I not [sic] doing anything wrong).[10] Jessie repeatedly told Rodolfo that Rodolfo was boastful because he once prevented Jessie from lifting his net at the victim's fishpond. Rodolfo denied the imputation and explained to Jessie that he needed to tell him (Jessie) to put down his net to prevent the fish from dying.[11] Jessie then pulled out a knife. When Rodolfo saw the knife, Rodolfo tried to stand but Aldrin hit his head with a bottle of beer which stunned Rodolfo momentarily.[12] Rodolfo regained consciousness and grabbed a chair to parry Jessie's thrusts.[13]

The victim was unsuccessful as he was hit on his thigh.[14] Bottles were also thrown at Rodolfo by Anton, Aldrin and Abet.[15] Jessie repeatedly stabbed Rodolfo, who was hit on the right and left portions of the body.[16] Wounded, Rodolfo was brought to the house of Dalen Mangaoang (Dalen), which was more or less ten meters away from the scene.[17] Rodolfo entered the house and when he saw Jessie and his companions were coming to attack, Rodolfo closed the door and used a handsaw in hitting the electric bulb to switch off the light.[18] Instead of following him inside the house, the accused threw stones at Dalen's residence and hit Dalen.[19] Rodolfo stood by the door of the house watching if Jessie would enter the house through the window.[20] Thereafter, he called his daughter Rowena with his mobile phone and informed her that he was stabbed. He also instructed

Rowena to go to the police to ask for assistance and to call his uncle Rodolfo de Vera ,[21] who, together with Rowena, brought Rodolfo to the hospital.[22]

Initially, Rodolfo was brought to the Agoo Hospital where he received initial medical treatment.[23] Subsequently, Rodolfo was referred by Dr. Aspiras to the La Union Medical Center in Nazareno, Agoo, La Union where he was confined for nine days.[24]

At the La Union Medical Center, it was Dr. Juan Komiya, Jr., (Dr. Komiya), who examined Rodolfo's injuries:[25]

(1)

stab wound on the right lower quadrant of the abdomen with intestinal evisceration;

(2)

stab wound at the left lower quadrant of the abdomen;

(3)

another stab wound at the left thigh middle 3rd lateral aspect;

(4)

stab wound on the left zygoma;

(5)

a lacerated wound at the left parietal; and

(6)

a contusion at the left parietal hear area

Since Rodolfo sustained stab wounds in intestinal herniations, he was scheduled for an emergency operation, to preclude the victim's death.[26] When the patient was opened up, Dr. Komiya noticed four point perforations, which, according to him, if left untreated, would cause an infection and lead to the victim's death.[27] Dr. Komiya observed that the wounds were clear cut and deeply penetrated.[28] He stated that the instrument possibly utilized was a sharp pointed object[29] and opined that the assailant was likely in front of Rodolfo at the time the victim was stabbed.[30]

VERSION OF THE DEFENSE

About 5:00 o'clock in the early morning of December 31, 2003, Jun Gatchalian (Jun), Albert "Abbet" Mangaoang (Abbet), Rodel Mangaoang (Rodel), Jun Mangaoang (Jun), Aldrin Mangaoang (Aldrin) and their companions were having a drinking spree at the auditorium of 15th Avenue, Sto. Rosario West Aringay, La Union.[31] Jessie, who was a barangay tanod, sat with and watched the group.[32] After a while, Rodolfo arrived with bottles of Pale Pilsen and placed them on the table where the group was drinking.[33] Rodolfo was welcomed by the group and invited to sit.[34] When Rodolfo was drunk, he told the group, "mano met laeng ti bayad yo (I can afford [sic] how much your price [sic] will be)." Jessie then told the victim that he (Rodolfo) was boastful.[35] Rodolfo retorted that he was really boastful.[36] Jessie was about to leave but Rodolfo got hold of a monoblock chair and struck Jessie on the head.[37] The rest of the group fled the scene.[38] Jessie fell on the ground and chanced upon a knife which he took hold of just to warn the victim.[39] But he was struck once more by Rodolfo with a monoblock chair.[40] As articulated, Jessie stabbed Rodolfo in self-defense.[41] Rodolfo

darted towards the house of Jessie's aunt.[42] Jessie did not run after the victim anymore as Rodolfo already entered the house and was using a child and a woman as shields.[43]

On September 30, 2008, the court a quo rendered the appealed Decision, the decretal portion of which reads thusly:[44]

WHEREFORE, premises considered, finding Jessie Dulatre GUILTY beyond reasonable doubt of the crime of frustrated homicide, the court sentences him to suffer an indeterminate penalty of four (4) years and two (2) months of prision correccional as minimum to eight (8) years and one (1) day of prision mayor as maximum

Accused Jessie Dulatre is also ordered to pay Rodolfo Mangaoang temperate damages in the amount of P25,000.

And for insufficiency of evidence accused Anton Dulatre, Aldrin Mangaoang and Abel Mangaoang are hereby ACQUITTED of the crime charged.

SO ORDERED.

x x x (Emphasis Supplied)

Appellant's Motion for Reconsideration with respect to the civil aspect of the foregoing Decision was rejected by the trial court in its Order of December 15, 2008.[45]

Hence, the instant appeal[46] was interposed by private complainant-appellant which revolved entirely on the civil aspect of the assailed September 30, 2008 Decision, premised on perceived errors of the court a quo:[47]

I.

... IN NOT AWARDING ACTUAL, MORAL AND CONSEQUENTIAL DAMAGES

II.

... [IN] AWARDING TEMPERATE DAMAGES CONSIDERING THAT PRIVATE COMPLAINANT PRESENTED EVIDENCE ON THE ACTUAL EXPENSES INCURRED AND MONEY UNEARNED/UNREALIZED BY VIRTUE OF THE INJURIES SUSTAINED.

To recapitulate, the trial court only awarded temperate damages for P25,000 sans pronouncement as to actual and other damages allegedly proven by the appellant.

Was appellant entitled to actual, moral and compensatory damages?

Actual damages, to be recoverable, must not only be capable of proof, but must actually be proved with a reasonable degree of certainty. Courts cannot simply rely on speculation, conjecture or guesswork in determining the fact and amount of damages. To justify an award of actual damages, there must be competent proof of the actual amount of loss, and credence can be given only to claims which are duly supported by receipts.[48]

With respect to documentation on actual damages, the receipts presented by appellant consisted of: (1) an official receipt issued by the La Union Medical Center for Nineteen Thousand Eighty Two Pesos and Ninety Centavos (P19,082.90);[49] (2) the alleged receipt from Dra. Delia Arellano (Dra. Arellano) for Seven Thousand Pesos (P7,000.00);[50] (3) twin receipts from Medrano Drug and General Merchandise dated February 2, 2004 and January 9, 2004 for One Hundred Seventy Seven Pesos and Fifty Centavos (P177.50) and Eight Hundred Sixteen Pesos and Fifty Centavos (P816.50),[51] respectively; and (4) a receipt from Agoo Family Hospital in the amount of Three Hundred Ten Pesos (P310.00.)[52]

Yet, the alleged receipt issued by Dra. Arellano was a mere handwritten document which indicated an inscription

and figures: “PF: 7,000” and “settled w/ Dr. Arellano.”[53] Besides, it contradicted Dr. Komiya’s testimony, which was not denied by Rodolfo, that it was Dr. Komiya who was the attending physician of the victim.[54] Save for the questionable document issued by one Dra. Arellano, the other receipts submitted by appellant amounted to only Twenty Thousand Three Hundred Eighty Six Pesos and Nine Centavos (P20,386.09).[55]

Pursuant to case law, when actual damages established by receipts amount to less than P25,000.00, the award of temperate damages for P25,000.00 is justified, in lieu of actual damages for a lesser amount.[56] Thus, We affirm the trial court's award of temperate damages in the amount of P25,000.

Article 2219 of the Civil Code provides for recovery of moral damages in certain cases:[57]

Art. 2219. Moral damages may be recovered in the following and analogous cases:

- (1) A criminal offense resulting in physical injuries;
- (2) Quasi-delicts causing physical injuries;
- (3) Seduction, abduction, rape, or other lascivious acts;
- (4) Adultery or concubinage;
- (5) Illegal or arbitrary detention or arrest;
- (6) Illegal search;
- (7) Libel, slander or any other form of defamation;
- (8) Malicious prosecution;
- (9) Acts mentioned in Article 309;
- (10) Acts and actions referred to in Articles 21, 26, 27, 28, 29, 30, 32, 34, and 35.

The parents of the female seduced, abducted, raped, or abused, referred to in No. 3 of this article, may also recover moral damages.

The spouse, descendants, ascendants, and brothers and sisters may bring the action mentioned in No. 9 of this article, in the order named.

Although appellant was a victim in a criminal offense involving physical injuries, such circumstance does not, by itself, entitle him to the award of moral damages. In order that moral damages may be awarded, there must be pleading and proof of moral suffering, mental anguish, fright and the like.[58] In *De Guzman v. Tumolva*, the Supreme Court reiterated the necessity of elemental basis therefor:[59]

Certainly, the award of moral damages must be anchored on a clear showing that she actually experienced mental anguish, besmirched reputation, sleepless nights, wounded feelings, or similar injury. There could not have been a better witness to this experience than De Guzman herself. Her testimony, however, did not provide specific details of the suffering she allegedly went through after the fence collapsed while she was miles away in the United States. As the CA aptly observed, “the testimony of the OWNER as to her worry for the safety of the children in the orphanage is insufficient to establish entitlement thereto.” Since an award of moral damages is predicated on a categorical showing by the claimant that she actually experienced emotional and mental sufferings, it must be disallowed absent any evidence thereon.

Moreover, to recover moral damages, the claimant must likewise satisfactorily prove the existence of the foundation for damages and its nexus with defendant’s acts, in accord with *Keirulf vs. Court of Appeals*:[60]

While no proof of pecuniary loss is necessary in order that moral damages may be awarded, the amount of indemnity being left to the discretion of the court, it is nevertheless essential that the claimant should satisfactorily show the existence of the factual basis of damages and its causal connection to defendant’s acts. This is so because moral damages, though incapable of pecuniary estimation, are in the category of an award designed to compensate the claimant for actual injury suffered and not to impose a penalty on the wrongdoer.

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When applied to the current backdrop, there was no factual premise to merit the award of moral damages. During his direct examination, appellant testified that he suffered emotional stress because he had to avoid going to the cockpit for fear of his life as two of the accused were still at-large.[61] However, it appeared that accused Aldrin Mangaoang and Abbet Mangaoang, both of whom were still at-large at the time of Rodolfo's direct examination,[62] were subsequently apprehended, brought before the court and eventually absolved for insufficiency of evidence and it was only Jessie Dulatre who was condemned for the crime.[63]

As to appellant's demand for consequential damages for the alleged loss of earnings/loss of profits, there was also no sufficient justification to award such claim.

The indemnification for loss of earning capacity partakes of the nature of actual damages, which must be duly proven.[64] In retrospect, appellant, who was a seaman,[65] failed to substantiate his claim for loss of earning capacity. Per the record, appellant's latest Embarkation Order and Allotment Authorization revealed that his employment contract was terminated on July 7, 2003.[66] However, there was no showing that such contract was extended or that he was rehired at the time of the incident. In fact, on the basis of his service record, appellant was able to board the ship again on December 11, 2004 and disembarked on August 12, 2005 after completion of an 8-month contract.[67]

Indeed, the rule is that documentary evidence should be presented to substantiate a claim for loss of earning capacity. By way of exception, damages thereon may be awarded despite the absence of documentary evidence if there is testimony that the victim was either (1) self-employed, earning less than the minimum wage under current labor laws, and judicial notice is taken of the fact that in the victim's line of work, no documentary evidence is available; or (2) employed as a daily-wage worker earning less than the minimum wage under current labor laws.[68] None of these exceptions can be appreciated for the herein appellant.

WHEREFORE, premises considered, the APPEAL of the private complainant is hereby DENIED and We AFFIRM the civil aspect of the assailed Decision of the Regional Trial Court (RTC), Branch 32, Agoo, La Union in Criminal Case No. A-5047.

SO ORDERED.

De Leon, M.M., (Chairperson), and Cruz, S. C., JJ., concur.

[1] Decision dated September 30, 2008, RTC, Branch 32, Agoo, La Union, penned by Judge Jennifer A. Pilar; Rollo, pp. 94-99.

[2] Resolution dated March 24, 2010, Justice Mario Guarina, III, with Justice Sesinando Villon and Justice Amy Lazaro-Javier, concurring, Rollo, pp. 45-47.

[3] Record, page 101.

[4] "That on or about the 31st day of December 2003, in the Municipality of Aringay, Province of La Union, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually aiding each other, armed with deadly weapons, with intent to kill, treachery, evidence premeditation, and taking advantage of their superior strength, did then and there, willfully, unlawfully and feloniously attack, assault and maul one RODOLFO MANGAOANG, SR. by hitting the latter with a blunt instrument and stabbing him with (sic) sharp pointed bladed instrument, inflicting upon the latter fatal injuries, thus performing all the acts of execution which would produce the crime of Murder as a consequence, but

nevertheless did not produce it by reason of causes independent of the will of the said accused; that is, by timely medical attendance rendered to said RODOLFO MANGAOANG, SR. which prevented his death. CONTRARY TO LAW”

[5] Per Certificate of Arraignment dated December 13, 2004 for Jessie Dulatre and Anton Dulatre only, Record, page 141; Per Certificate of Arraignment dated February 12, 2007, for Aldrin Mangaoang and Abbet Mangaoang, Record, page 344.

[6] Pre-trial Order dated January 18, 2005, Record, page 149.

[7] TSN, September 14, 2005, page 63.

[8] Id., page 64.

[9] Id., page 67.

[10] Id.

[11] Ibid., page 68.

[12] Id., pp. 68-69.

[13] Id., page 69.

[14] Id.

[15] Id.

[16] Id., page 70

[17] Id., page 71.

[18] Id., page 72.

[19] Id., pp 72-73.

[20] Id., page 73.

[21] Id., pp. 73-74.

[22] Id., page 74.

[23] TSN February 22, 2005, page 13.

[24] Ibid., page 15.

[25] TSN, February 28, 2005, pp. 26-27; See also Medical Certificate dated January 5, 2004; Record, page 9.

[26] TSN, February 28, 2005, page 27.

[27] Id., page 30.

[28] Id., page 28.

[29] Id.

[30] Id., page 31.

[31] TSN, February 18, 2008, pp. 111-112.

[32] Id., pp. 112, 114.

[33] Id., page 113.

[34] Id.

[35] Id., pp 114-115.

[36] Id., page 115.

[37] Id., pp. 115-116.

[38] Id., page 117.

[39] Id., page 116.

[40] Id.

[41] Id.

[42] Id., page 117.

[43] Id., page 118.

[44] Rollo, page 24.

[45] Record, page 545.

[46] Per Resolution dated September 12, 2011 of the Former Special Fourteenth Division of the Court of Appeals, "WHEREFORE, appellant's Motion for Reconsideration is hereby GRANTED. The Appellant's Brief filed is ADMITTED. Accused-appellees are directed to file and appellee's brief within 45 days from notice. Appellant may file reply brief within 15 days from receipt of appellee's brief.

[47] Rollo, page 204.

[48] Leticia Tan et al. v. OMC Carriers, Inc et al. G.R. No. 190521, January 12, 2011 citing Viron Transportation Co., Inc. v. Delos Santos, G.R. No. 138296, November 22, 2000, 345 SCRA 509, 519, citing Marina Properties Corporation v. Court of Appeals, G.R. No. 125447, August 14, 1998, 294 SCRA 273.

[49] Record, pp. 419-421; See also Rollo, pp. 103-105, 107.

[50] Record, page 422. See also Rollo, page 106.

[51] Record, pp. 423-425.

[52] Record, pp. 426-427.

[53] Record, page 422; See also Rollo, page 106.

[54] TSN, February 28, 2005, page 26.

[55] See La Union Medical Center Statement of Account amounting to P 19,082.90, Record, pp 419-421; See also Rollo, page; Receipt allegedly issued by Dr. Delia Arellano amounting to P 7,000, Record, page 422; Two Receipts from Medriano Drug and Gen. Merchandise amounting to P816.50 and P 177.50, Record, pp. 423-425; List of Hospital Bill, Agoo Family Hospital amounting to P 310.00, Record, page 426.

[56] People v. Buyagan, G.R. No. 187733, February 8, 2012, "Considering that the proven amount is less than P25,000.00, we award temperate damages in the amount of P25,000.00 in lieu of actual damages, pursuant to

our ruling in *People v. Villanueva*, 456 Phil. 14 (2003).

[57] *Skippers United, Inc. et al. v. Nathaniel Doza et al.*, G.R. No. 175558, February 8, 2012.

[58] *Mahinay v. Velasquez, Jr.* G.R. No. 152753, January 13, 2004.

[59] G.R. No. 188072, October 19, 2011

[60] 269 SCRA 433 [1997]. as cited in the case of *Mahinay v. Velasquez Jr.* G.R. No. 152753, January 13, 2004

[61] TSN December 7, 2005, page 80

[62] Per Certificate of Arraignment dated December 13, 2004 for Jessie Dulatre and Anton Dulatre only, Record, page 141; Per Certificate of Arraignment dated February 12, 2007, for Aldrin Mangaoang and Abbet Mangaoang, Record, page 344; See also TSN December 7, 2005, Direct Examination of Rodolfo Mangaoang, pp. 58-81

[63] See Decision dated September 30, 2008, “WHEREFORE, premises considered, finding accused Jessie Dulatre GUILTY beyond reasonable doubt of the crime of frustrated homicide xxx xxx And for insufficiency of evidence, accused Anton Dulatre, Aldrin Mangaoang and Abbet Mangaoang are hereby ACQUITTED of the crime charged. SO ORDERED.” (Emphasis Supplied)

[64] *People v. Villanueva*, G.R No. 139177, August 11, 2003.

[65] TSN, September 14, 2005, page 59; See also Rollo, page 110.

[66] Rollo, page 110.

[67] Record, page 428.

[68] *España v. People*, G.R. No. 163351, June 21, 2005.

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