

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CARLITO MAENE, JR., LEONARDO RENDORA @ “NARO” AND MARJON RENDORA @ “BOTSOY”, ACCUSED, JOSEPH MAENE, ACCUSED-APPELLANT.

Ponente: LAGURA-YAP, J.

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LAGURA-YAP, J.:

Joseph Maene, one of the accused in Criminal Case No. 4916, appeals the January 24, 2010 Decision[1] that convicted him of Murder under Article 248 of the Revised Penal Code. The dispositive portion of the Decision reads:

“WHEREFORE, premises considered, the Court found accused JOSEPH MAENE @ “Toroy Maene”, GUILTY, beyond reasonable doubt of the crime of MURDER under Art. 248 of the Revised Penal Code, as amended, as charged against him in the information, and is hereby sentenced to suffer the penalty of imprisonment of RECLUSION PERPETUA, and pay civil indemnity in the amount of Fifty Thousand (Php 50,000.00), moral damages in the amount of Fifty Thousand (Php 50,000.00), exemplary damages in the amount of Twenty Five Thousand (Php25,000.00) to the heirs of the victim, Marvin Gacosta; and

Pay the Costs of suit.

SO ORDERED.

FACTUAL ANTECEDENTS

On August 4, 2008, the charge of Murder was filed against Carlito Maene, Jr., Leonardo Rendora alias “Naro” , Marjon Rendora alias “Batsoy”[2] and Joseph Maene alias Toroy Maene before the RTC, Branch 13, Carigara, Leyte.

The accusatory portion of the Information[3] against them alleges:

“That on or about the 26th day of June 2008 in the Municipality of Leyte, Province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused conspiring and helping one another, with deliberate intent to kill and with treachery, did then and there willfully, unlawfully and feloniously attack and stab MARVIN Q. GACOSTA with the use of a bladed weapon, which the accused provided themselves for the purpose, thereby inflicting upon him a penetrating stabbed wound located at the back at the level of the right thoracic para vertebral area below the infra scapular bone, which was the direct and immediate cause of death of said Marvin Q. Gacosta.

CONTRARY TO LAW.”

Accused Joseph Maene alias “Toroy Maene” entered a plea of “NOT GUILTY” when he was arraigned on February 10, 2009[4].

The Pre-Trial Order for accused Joseph Maene alias “Toroy Maene” dated April 29, 2009 contained the stipulations of the parties that included among others: his identity, the identity of the victim - Marvin O. Gacosta,

the occurrence of the incident within the jurisdiction of the court a quo, the wound of the victim located at the back, the presence of treachery as the accused rendered the victim helpless and immobile, and the age of the victim who was 20 years of age and a fresh college graduate. Trial ensued thereafter.

Evidence for the Prosecution

Based on the records, the prosecution presented Joel Caballes, SPO1 Raul Canas, Renato Gacosta, Pablo Canete, Manuel Montierde, Dr. Lorna L. Pedida. Their respective testimonies can be summarized as follows:

On June 26, 2008, at around 2:00 o'clock in the afternoon, the victim, Marvin Gacosta and witness Joel Caballes were plowing the rice paddies owned by Pablo Canete in Brgy. Calaguisi, Leyte, Leyte.

After their work, Marvin Gacosta and Joel Caballes proceeded to the corn field of Aileen Bacalso to pick corn. Later on, Marvin Gacosta left ahead and he was followed shortly by Joel Caballes.

Witness Joel Caballes testified that he saw Leonardo Rendora, Marjon Rendora, Carlito Maene and Joseph Maene suddenly came out from behind the bushes at the side of the road. The accused-appellant and his companions approached the victim, Marvin Gacosta. The accused-appellant seized Marvin Gacosta's left arm while Leonardo Rendora held the other arm. Marjon Rendora then held Marvin Gacosta's shirt. Leonardo Rendora and Joseph Maene held each side of Marvin Gacosta. In front of the victim was Marjon Rendora. Leonardo Rendora shouted to Carlito, "Ling, bun-a" which means, "Ling stab him". Carlito took a weapon from his waist and delivered stabbing blows to Marvin Gacosta at the back.

After Marvin Gacosta was hit, he shouted "Uncle Nato, help me because I was stabbed." After Marvin shouted, the accused released him. Marvin ran to the direction of the house of his Uncle Nato (Renato Gacosta). The house was located on the upper portion of the hill and can be seen from the place of the incident. For his part, the witness Joel Caballes ran for fear that the accused will see him.

Renato Gacosta testified that he was at his house at the time of the incident when he heard Marvin Gacosta scream. He went out of his house and saw Marvin Gacosta who looked pale and weak while running towards him. Renato asked Marvin Gacosta to tell him what happened. The latter told him that he was seized by Leonardo, Marjon and alias Toroy while Carlito stabbed him at the back. Renato brought Marvin Gacosta to the Carigara District Hospital, where the latter died.

Pablo Canete testified that he is the father of the victim, Marvin Gacosta. He testified that the motive of the killing was their work in farming the rice land of the Medallas. While they were working, the accused (Leonardo Rendora, Toroy Maene, Junior Maene and the others) grabbed their work. Pablo Canete reported the incident to the barangay chairman. The accused were summoned to the barangay, three (3) times but they did not appear. Witness Pablo Canete was forced to stop working in the ricefield because every time he went there, the accused threatened him.

Witness Manuel Montierde testified that he knew the accused Leonardo Rendora since they lived in the same barangay for about nine (9) months before the incident. According to him, the house of Leonardo Rendora is situated on the other side of the road fronting his house. Witness met Leonardo Rendora, who went to their house on June 20, 2008, to seek shelter due to typhoon Frank. At that time, Leonardo's house was not yet finished.

According to the witness Manuel Montierde, he and Leonardo Rendora drank a three bottles of Sio Hok Tong. On their second bottle, Leonardo uttered, "Wil, one of the members of the family will be hurt". Leonardo was referring to the family of Pablo Canete. Due to what happened to Marvin Gacosta, Manuel Montierde volunteered to be a witness.

Dr. Lorna L. Pedida (Dr. Pedida) testified that on June 27, 2008, she conducted a post mortem examination on the body of the Marvin Gacosta. According to Dr. Pedida's Post Mortem Examination Report, Marvin Gacosta sustained a three centimeter stab wound which penetrated his lungs.

Evidence for the Defense

Marissa Maene testified that the accused Joseph Maene is her brother. On June 26, 2008, she was in their house in Palaypay, Poblacion, Leyte. It was the birthday of her sister, Marife.

Marissa said that at that time, Joseph Maene was living with them in their house. That evening, they, including her brother Joseph Maene, just stayed at home. They did not leave their house at any time of that date. She also testified that she does not know Carlito Maene, Jr., Leonardo Rendora, Marjon Rendora, Joel Caballes, Renato Gacosta, Manuel Montierde and the victim, Marvin Gacosta. Marissa said that she did not know that her brother, Joseph Maene was being charged with Murder for allegedly killing Marvin Gacosta. She only learned about it in court.

Accused Joseph Maene took the witness stand and testified that from his sister's house, the police authorities brought him to the police station. The police had a warrant for his arrest for a robbery case but not for murder. Joseph Maene learned that he was accused of murder when he was already at the police station. The police authorities told him that he was one of the suspects in the killing of Marvin Gacosta, purportedly because the suspects carried the surname Maene.

On June 26, 2008, the date when the alleged murder happened, Joseph Maene was in the house of his elder sister, Marissa. They talked about the celebration of the birthday of Marife, his other sister. They went to Marife's house. When they arrived, they ate, drank, and had a conversation. At around 2:00 o'clock in the afternoon, he was still in the house of Marife. He and Marissa went home the following day.

At any time on June 26, 2008, he did not go out of the house of Marife. He did not know the victim Marvin Gacosta. He also did not know the prosecution witnesses namely: Renato Gacosta, Pablo Canete and Manuel Montierde. According to Joseph Maene, he only saw them for the first time at the police station when they identified him as the one who killed the victim. The second time was when they testified in court. Joseph Maene did not know Joel Caballes, and co-accused Leonardo Rendora, Marjon Rendora and Carlito Maene, Jr.

On January 24, 2011[5], the trial court promulgated the decision convicting accused Joseph Maene @ Toroy Maene of the crime of murder. The three other accused namely: Carlito Maene, Jr., Leonardo Rendora and Marjon Rendora are still at large.

On January 28, 2011[6], accused Joseph Maene filed a Notice of Appeal, through the assistance of a Public Attorney's Office (PAO-lawyer).

On February 16, 2011, the accused-appellant was committed to the New Bilibid Prisons, Muntinlupa City, Metro Manila.[7]

ASSIGNMENT OF ERROR

The lone error assigned by accused-appellant in his Appellant's Brief[8] is that:

I.

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE FACT THAT THE PROSECUTION FAILED TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

The Solicitor General argues in his Brief that:

I.

THE PROSECUTION PROVED THE GUILT FOR THE CRIME OF MURDER OF ACCUSED-APPELLANT BEYOND REASONABLE DOUBT.

II.

THE TRIAL COURT DID NOT ERR IN RULING THAT THE ACCUSED CONSPIRED TO KILL THE VICTIM.

III.

THE TRIAL COURT DID NOT ERR IN ADMITTING THE DYING DECLARATION OF THE VICTIM IN EVIDENCE.

Accused-appellant alleged that there is no conspiracy. It was Leonardo Rendora who ordered Carlito Maene who stab the victim. According to accused-appellant, assuming that he was the one who held the victim, his act of holding the victim did not necessarily prove that he consciously designed for the victim to be killed. Furthermore, accused-appellant stated that it was Leonardo who allegedly told Manuel Montierde that one of the members of the family will be hurt. The grudge of Leonardo towards the father of the victim arose from the complaint filed against Leonardo before the barangay.

Accused-appellant claimed that the positive identification by eyewitness Joel Caballes was insufficient to include him as an accused since it was the first time that the eyewitness saw him.

Lastly, accused-appellant asseverated that there was no dying declaration since the victim was not aware of the seriousness of his condition, as he was able to converse with other persons.

The Solicitor General argued that the prosecution was able to prove that the accused-appellant is guilty beyond reasonable doubt. He elucidated that the court a quo is correct in appreciating the credibility of witness Joel Caballes. The witness testified in a categorical, straightforward, spontaneous, and frank manner. He remained consistent in his testimony and thus shall be considered as a credible witness.

The Solicitor General further invoked the well-entrenched rule that factual findings of the trial court will not be disturbed by an appellate court absent any clear showing that the lower court overlooked certain substantial and valuable facts which, if considered, might affect the outcome of the case.

The defense of alibi raised by accused-appellant Joseph Maene lacks merit, according to the Solicitor General. Accused-appellant's claims that he was in his sister's house in Palaypay, Poblacion, Leyte at the time of the crime committed is hard to believe as it is self-serving.

The Solicitor General contended that treachery exists. He elaborated that treachery exists when a crime against person is committed with the employment of means, methods or forms that tend directly and especially to insure its execution, such that the offender faces no risk that may arise from the defense which the offended party might make. According to the OSG, accused-appellant and his companions deliberately adopted the means and method in stabbing Marvin Gacosta, who was unarmed and had no opportunity to defend himself from the assault.

The Solicitor General also alleged that the court a quo did not err in ruling that the accused conspired to kill the victim. A conspiracy exists when two or more persons come to an agreement concerning the commission of a crime and decide to commit it. It was elaborated by the OSG that the accused waited in ambush at the side of the road and suddenly attacked Marvin Gacosta. Thus, there was singleness of purpose existing among the accused, which undeniably indicates the existence of conspiracy.

Lastly, the Solicitor General alleged that the court a quo did not err in admitting the dying declaration of the victim in evidence. The statement of Marvin Gacosta was made immediately after the incident, before he could even have the opportunity to contrive a story.

OUR RULING

The Information for Murder with the use of bladed weapon alleges that the accused Carlito Maene, Jr., Leonardo Rendora alias “Naro”, Marjon Rendora alias “Botsoy” and Joseph Maene alias Toroy Maene, conspiring and helping one another, with deliberate intent to kill and with treachery, did then and there willfully, unlawfully and feloniously attack and stab Marvin Q. Gacosta with the use of bladed weapon, which the accused provided themselves for the purpose, thereby inflicting upon him a penetrating stabbed(sic) wound located at the back at the level of the right thoracic para vertebral area below the infra scapular bone, which was the direct and immediate cause of death of victim Marvin Q. Gacosta.

Article 248 of the Revised Penal Code defines murder as the unlawful killing of a person, which is not parricide or infanticide. The presence of any of the circumstances in Article 248 of the Code such as treachery and evident premeditation, among others, qualifies the killing into murder.

Treachery evident in the killing

The Post Mortem Findings[9] issued by Dr. Lorna L. Pedida stated that the cause of death of Marvin Gacosta was due to severe blood loss secondary to the penetrating stab wound at the back, three (3) centimeters in length at the level of the right thoracic para vertebral area below the infra scapular bone.

After careful review of the records, We hold that the trial court did not err when it held that treachery, which is alleged in the Information, qualified the killing of the victim Marvin Gacosta. Based on the testimony of the eyewitness, Joel Caballes, he was working with Marvin Gacosta on June 26, 2008 at about 2:00 o'clock in the afternoon in the rice paddies owned by Pablo Canete. After their work they proceeded to the corn land of Aireen Bacalso. Marvin Gacosta left ahead of him. About 20 meters away from Marvin Gacosta, witness Joel Caballes could still see the latter.

All at once, Joel Caballes saw the four accused (Leonardo Rendora, Marjon Rendora alias Botsoy, Carlito Maene and Joseph Maene one alias Toroy) emerged from the other side of the pathway and held Marvin Gacosta. He saw Joseph Maene alias Toroy and Leonardo Maene alias Naro held Marvin Gacosta. Marjon Rendora was also positioned in front of Marvin Gacosta. Suddenly, Leonardo shouted to Carlito, “Ling bun-a” (“Ling stab him”). Carlito then took his weapon and stabbed Marvin Gacosta.

It is evident that the means adopted by the accused-appellants, as described by the eyewitness, gave the victim no chance to defend himself from the assault. It is well-settled that there is treachery when the offender commits any of the crimes against persons, employing means, methods, or forms in the execution thereof which tend directly and specially to ensure its execution, without risk to himself arising from the defense which the offended party might make[10].

The victim Marvin Gacosta who was unarmed, was stabbed spontaneously. The act of the accused-appellant and his co-accused Leonardo Maene of holding the victim by the side; the act of another accused Marjon Rendora of positioning himself in front of the victim; the shout of accused Leonardo to the fourth accused Carlito, to stab the victim and the act of stabbing the victim at the back by the latter clearly show that the accused made sure that the former (victim) was unable to defend himself.

While it can be said that the accused including herein appellant took advantage of their combined strength in the manner as described in the above, this cannot be appreciated separately from the qualifying circumstance of

treachery. We uphold the rule that the aggravating circumstance of abuse of superior strength is absorbed by treachery[11].

Conspiracy proven

As a rule, conspiracy renders all the conspirators as co-principals regardless of the extent and character of their participation because in contemplation of law, the act of one conspirator is the act of all.[12]

A conspiracy exists when two or more persons come to an agreement concerning the commission of a crime and decide to commit it. Proof of the agreement need not rest on direct evidence as the same may be inferred from the conduct of the parties indicating a common understanding among them with respect to the commission of the offense. It is not necessary to show that two or more persons met together and entered into an explicit agreement setting out the details of an unlawful scheme or the details by which an illegal objective is to be carried out. It may be deduced from the mode and manner in which the offense was perpetrated or inferred from the acts of the accused evincing a joint or common purpose and design, concerted action and community of interest.[13] Where conspiracy exists and can rightly be appreciated, the individual acts done to perpetrate the felony becomes of secondary importance, the act of one being imputable to all the others.[14]

In this case in point, the acts of the four accused constitute evidence of conspiracy. They performed specific acts that indicate coordination. As held in *US vs. Cueva*[15], the evidence amply demonstrates that said Platon cooperated in the execution of the deed on trial by holding the victim by the right arm while his brother and co-defendant inflicted the wounds that produced death. The responsibility he has incurred by virtue of such cooperation, without which the deed could not have been committed in the way it was, is beyond doubt that of principal. Further, in *People v. Geronimo*[16], the Supreme Court said that when the defendants by their acts aimed at the same object, one performing one part and the other performing another part so as to complete it, with a view to the attainment of the same object, and their acts, though apparently independent, were in fact concerted and cooperative, indicating closeness of personal association, concerted action and concurrence of sentiments, the court will be justified in concluding that said defendants were engaged in a conspiracy.[17]

Positive identification versus alibi

In *People v. Gabrino*[18], the Supreme Court reiterated the well-settled principle. The evaluation of the testimony of the witnesses by the trial court is received on appeal with the highest respect, because it had the direct opportunity to observe the witnesses on the stand and detect if they were telling the truth. This assessment is binding upon the appellate court in the absence of a clear showing that it was reached arbitrarily or that the trial court had plainly overlooked certain facts of substance or value that if considered might affect the result of the case[19]. We hold this principle to be applicable. The trial court did not err in according credence and weight to the testimony of the eyewitness, Joel Caballes who identified positively the accused-appellant in open court.[20]

Anent the accused-appellant's alibi, this cannot be sustained. Accused-appellant alleged that on June 26, 2008 he was at the house of his elder sister Marissa. After their conversation, they went to the house of their other sister named Marife who was celebrating her birthday.

In this case, alibi cannot be sustained since there is positive identification of the accused-appellant as one of the perpetrators of the crime. It has not also been shown that it was impossible for the accused to be at the scene of the killing in Brgy. Calaguisi if he was in his sister's house in Poblacion, these two places being located in the Municipality of Leyte, Leyte.

According to the Supreme in *Anilao v. People*[21], mere denial by an accused, particularly when not properly corroborated or substantiated by clear and convincing evidence, cannot prevail over the testimony of credible

witnesses who testify on affirmative matters. Denial partakes of the nature of negative and self-serving evidence and is seldom given weight in law. Positive and forthright declarations of witnesses are often held to be worthier of credence than the self-serving denial of an accused. The Supreme Court further held in *People v. Abdulah*[22], appellants defenses of denial and alibi in this case are not worthy of belief, given that he failed to show that it was physically impossible for him to be present at the time and place of the crime. Established is the rule that denial and alibi, if not substantiated by clear and convincing proof, are negative and self-serving evidence undeserving of weight in law.

Dying Declaration

A dying declaration is entitled to the highest credence because no person who knows of his impending death would make a careless and false accusation.[23] The Rules of Court states that a dying declaration is admissible as evidence if the following circumstances are present: (a) it concerns the cause and the surrounding circumstances of the declarant's death; (b) it is made when death appears to be imminent and the declarant is under a consciousness of impending death; (c) the declarant would have been competent to testify had he or she survived; and (d) the dying declaration is offered in a case in which the subject of inquiry involves the declarants.[24]

Marvin Gacosta's ante mortem statement was relayed to his Uncle Nato, in this wise[25]:

Q: So that, what did you do because you said you went out to meet him?

A: I hug him.

Q: And what happened (transpired) next while you were hugging him?

A: I asked him who stabbed him.

Q: Was he able to give any reply?

A: He said that he was held by Leonardo Rendora and Marjon Rendora alias Butchoy, and alias Turoy Maene and he continued saying Carlito Maene stabbed him.

Q: And what did you notice if any with his body when you hug him?

A: He was already pale and he dying.

Here, all requisites for a dying declaration are present. First, the utterances made by Marvin Gacosta to his Uncle Nato (Renato Gacosta) pertained to the group of accused who stabbed him. Second, Marvin Gacosta must have been fully aware that he was on the threshold of death considering his "pale and dying" condition. Third, the competence of Marvin Gacosta to testify, if he had survived, is unquestionable. Fourth, Marvin Gacosta's statement was being offered in the criminal prosecution for his murder.

It is no surprise to Us that despite the wounds he sustained, Marvin Gacosta was still able to answer the question of his Uncle Nato. The interval between the stabbing incident and the utterances made by the victim and up to his expiry in the hospital, did not render improbable the making of a declaration.

In sum, the victim's condemnatory antemortem statement naming the accused-appellant as one of those who held him when he was stabbed by Carlito Maene deserves full faith and credit. It is admissible in evidence as a dying declaration confirming the existence of conspiracy. Where there is conspiracy, the act of one is the act of all. There is collective criminal responsibility.[26]

All things considered, We find that the prosecution has proven that accused appellant Joseph Maene is guilty beyond reasonable doubt for the crime of murder.

Penalty, damages and interest

Article 248 of the Revised Penal Code, as amended by Republic Act No. 7659, states that the penalty for murder is reclusion perpetua to death. Withal Republic Act No. 9346[27], which took effect on June 24, 2006, prohibits the imposition of the death penalty. The Act provides the rule that the death penalty must be reduced to reclusion perpetua without eligibility for parole. This was penalty that the Supreme Court imposed in *People v. Dante Jadap*[28].

The amount of damages awarded by the RTC should be modified.

As to damages, when death occurs due to a crime, the following may be awarded: (1) civil indemnity ex delicto for the death of the victim; (2) actual or compensatory damages; (3) moral damages; (4) exemplary damages; and (5) temperate damages[29].

Civil indemnity is mandatory and granted to the heirs of the victim without need of proof other than the commission of the crime. In cases of murder and homicide, moral damages may be awarded without need of allegation and proof of the emotional suffering of the heirs, other than the death of the victim, since the emotional wounds from the vicious killing of the victim cannot be denied[30].

In line with recent jurisprudence[31], Civil indemnity and moral damages should be set in the amounts of Seventy-Five Thousand Pesos (P75,000.00) respectively.

The award of actual damages cannot be given by this Court. The heirs of the victim presented an unsigned service contract[32] for the burial expenses and handwritten cash advances. The award of actual damages may not be granted on the basis only of a handwritten enumeration of the cash advances incurred in the burial expenses. However, this Court will award the temperate damages of Twenty-Five Thousand Pesos (P25,000.00) in lieu of actual damages pursuant to the ruling of the Supreme Court in *People v. Abrazaldo*[33].

We agree with the RTC that, the heirs of the victim are also entitled to an award of exemplary damages in the amount of Thirty Thousand Pesos (P30,000.00) in accordance with Article 2230 of the Civil Code[34] as the killing was attended by the qualifying circumstance of treachery.[35]

In closing, We apply the rule in *People v. Torres, Sr.*, [36] by imposing interest at six percent (6%) on the damages awarded reckoned from the date of the killing up to the finality of the judgment. In addition, interest at twelve percent (12%) per annum should be imposed on said damages from finality of the judgment until paid.

WHEREFORE, the January 24, 2010 Decision of the Regional Trial Court, Branch 13, Carigara, Leyte in Criminal Case No. 4916 is AFFIRMED with MODIFICATIONS. Accused-appellant Joseph Maene alias Toroy is found GUILTY beyond reasonable doubt of MURDER. Pursuant to Republic Act No. 9346, the accused-appellant is sentenced to suffer the penalty of Reclusion Perpetua, without eligibility for parole, together

with its accessory penalties.

The accused-appellant is ORDERED to pay jointly and solidarily, to the heirs of Marvin Gacosta, the amounts of P75,000.00 as civil indemnity; P75,000.00 as moral damages; P30,000.00 as exemplary damages; P25,000.00 as temperate damages. Interest at 6% on the damages herein awarded shall be imposed, to be reckoned from the date of the killing up to the finality of the decision and interest of 12% per annum imposed on said damages from finality thereof until payment.

The trial court is DIRECTED to issue alias warrants of arrest against the accused Carlito Maene, Jr., Leonardo Rendora @ “Naro”, and Marjon Rendora @ “Botsoy”.

SO ORDERED.

Ingles, (Chairperson) and [*]Quijano-Padilla, JJ., concur.

[*] Acting Junior Member per Office Order No. 472-13-ABR dated December 12, 2013.

[1] Rollo, pp. 26-45.

[2] See records, p. 71. The three accused namely: Carlito Maene, Jr., Leonardo Rendora alias Naro and Marjon Rendora alias Botsoy are still at large.

[3] Rollo, pp. 26-27.

[4] Records, p. 39.

[5] Records, p. 355.

[6] Records, p. 88.

[7] Records, p. 87.

[8] Rollo, p. 23.

[9] Records page 10.

[10] People v. Castor Batin, G.R. No. 177223, November 28, 2007 citing Article 14 (16), Revised Penal Code.

[11] People v. SPO1 Armando Lozano @ Amid, et. al., supra, also citing People v. Delmo, et. al., G.R. Nos.

[13] 0078-82, October 4, 2002.

[12] People v. Buntag, G.R. No. 123070, April 14, 2004 cited by Luis B. Reyes in Book One, Revised Penal Code, Sixteenth Edition, page 128.

[13] People vs. Francisco, G.R. No. 118573-74, May 31, 2000.

[14] Francisco vs. People, G.R. No. 178935, Citing People vs. Estrada, G.R. No. 148965. February 26, 2002.

[15] US vs. Cueva, 23 Phil 553.

[16] 53 SCRA 246, also cited by Luis B. Reyes, Book One, Revised Penal Code, Sixteenth Edition, p. 125.

[17] People v. Geronimo, 53 SCRA 246, also cited by Luis B. Reyes, Book One, Revised Penal Code, Sixteenth Edition, page 125.

[18] G.R. No. 189981, March 9, 2011 citing *People v. Dinglasan*, 267 SCRA 26.

[19] *People v. Gabrino*, G.R. No. 189981, March 9, 2011 citing *People v. Dinglasan*, 267 SCRA 26.

[20] “Q: How about Joseph Maene, is he around this courtroom today?”

A: Yes sir, he is here.

Q: Will you please point him out?

A: Witness pointing to a person inside of the courtroom who when asked of his name identified himself as Joseph Maene. (TSN, May 21, 2009, pp. 7-8/

[21] G.R. No. 149681, October 15, 2007, citing *People v. Mahinay*, G.R. No. 125311, March 17, 1999.

[22] G.R. No. 182518, January 20, 2009, citing, *People v. Delmo*, G.R. No. 130078-82, October 4, 2002; *People v. Berdin*, 462 Phil. G.R. No. 137598, November 28, 2003.

[23] *People v. Esquilona*, 248 SCRA 139, 142, September 8, 1995.

[24] *Geraldo v. People*, G.R. No. 173608, November 20, 2008, 571 SCRA, 420, 430.

[25] Records, TSN dated September 10, 2009, p. 5.

[26] Luis B. Reyes, Revised Penal Code, Book One, Sixteenth Edition, 2006, p. 514.

[27] An Act Prohibiting the Imposition of the Death Penalty in the Philippines.

[28] G.R. No. 177983, March 30, 2010.

[29] *People v. Anod*, G.R. No. 186420, August 25, 2009.

[30] *Herrera v. Sandiganbayan*, G.R. Nos. 119660-61, February 13, 2009.

[31] *People v. Satonero*, G.R. No. 186233, October 2, 2009.

[32] See Records, Exhibit C, p.4.

[33] G.R. No. 124392, February 4, 2003.

[34] Art. 2230. In criminal offenses, exemplary damages as a part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances. Such damages are separate and distinct from fines and shall be paid to the offended party.

[35] *People vs. Satonero*, supra.

[36] G.R. No. 190317, August 22, 2011.

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