

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MANCELITO RAMOS Y RAMOS, ACCUSED-APPELLANT.

Ponente: CASTILLO, M., J.

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CASTILLO, M., J.:

On appeal before Us is the Decision dated December 10, 2012[1] rendered by the Regional Trial Court, Branch 19, Manila finding the accused Mancelito Ramos y Ramos guilty of the crime of murder.

On June 30, 2009, the Office of the City Prosecutor of Manila charged accused Mancelito Ramos y Ramos a.k.a “Ambo” for the crime of Murder in an Information[2], the accusatory portion of which reads:

“That on or about December 24, 2008, in the City of Manila, Philippines, the said accused, armed with a gun, conspiring and confederating with others, whose true names, real identities and present whereabouts are still unknown and helping one another, with intent to kill, with treachery, did then and there willfully, unlawfully and feloniously attack, assault and use personal violence upon PAUL HERBERT MERTO y SALENGA, by shooting and hitting him at the neck, thereby inflicting upon the latter gunshot wound which was the direct and immediate cause of his death thereafter.

Contrary to law.”

An Order of Arrest[3] was issued against the accused on October 8, 2009. It was returned unserved for the reason that the accused could not be located at the given address. A Certification from the Office of the Barangay Chairman of District I, Barangay 35, Zone 3, City of Manila indicated that the accused no longer resided in the said barangay.[4] On February 25, 2011, the RTC issued an Alias Order of Arrest against the accused.[5] A Return of the Alias Order of Arrest[6] showed that the accused could not be served with the warrant because he was no longer residing at the given address as per certification issued by Barangay Chairman Ricardo Depositario, Barangay 33, Zone 3, District I, Tondo, Manila.[7] The accused was apprehended on October 13, 2011.[8]

On October 26, 2011, the accused, assisted by his counsel de officio, pleaded “not guilty” to the crime charged during the arraignment.[9] During pre-trial, the fact of death of Paul Herbert Merto on December 24, 2008 and the fact of investigation of said death were admitted. The accused raised the defense of denial and alibi. On November 8, 2011, the pre-trial conference was terminated and trial on the merits ensued.[10]

The prosecution, in support of the allegations in the information, presented the following witnesses: the mother of the victim, Leonida Merto, Jefferson Castro, Francis Pacheco, SPO1 Jonathan Bautista, SPO3 Mardonio Abuda, and Dr. Romeo T. Salen. The defense presented three (3) witnesses, namely: the accused, Mancelito Ramos and his brothers, Wilsiman Ramos and Michaelito Ramos.

The version of the prosecution is summarized as follows:

Main witnesses for the prosecution, Jefferson Castro[11] and Francis Pacheco,[12] testified that at approximately 11:00 in the morning of 24 December 2008, the deceased Paul Herbert Merto also known as “Paul Paul” was playing video games inside Abe's Barbershop when accused Mancelito Ramos, whom they knew as “Ambo”,

arrived. Both recalled that the accused was wearing a red undergarment or “sando” and a towel was draped on his shoulder. Castro heard Ramos ask the deceased whether he was indeed Paul Paul to which the latter said “yes.” Thereupon, Ramos signaled to Merto that they were to talk outside where three other male persons were waiting. Castro saw Ramos place his arm around Merto's shoulders. However, the deceased apparently felt that something was amiss when he noticed a bulge, in the shape of a gun, protruding from Ramos' left waist. Instinctively, the deceased shouted “kaaway!”, pushed Ramos away from him and ran away. Both witnesses saw Ramos draw with his right hand a gun, 9mm. caliber, from his left side and fire several shots during the entire incident. Castro testified that he saw the accused fire three (3) shots. Pacheco recalled hearing a total of five shots. Nonetheless, both were in agreement that Merto was knocked down at the first shot. Now fallen, Merto turned around and faced Ramos but the latter continued firing two shots at him. Merto managed to evade the two shots but one of Ramos' companions, whom Castro could not identify, fired another shot at their hapless friend. Castro did not anymore see whether the last shot hit Merto. Both witnesses were in agreement that after firing at the deceased, Ramos tucked the gun to his waist and, together with his unidentified companions, calmly left the scene. Castro and Pacheco boarded the wounded Metro inside a pedicab to take him to the hospital. Castro went to the house of Merto's parents to tell them what happened. Several hours later, he learned that Merto died at the hospital.[13]

On cross-examination,[14] Castro stated that he saw the entire incident from beginning to end. When the first shot was fired, he immediately went outside the barbershop to see what was going on. Although they were not actually friends, he was familiar with accused because he always saw him at their place. Everyone knew him as “Ambo.” He also heard people call him “Ambo.” For his part, Francis Pacheco testified that he was familiar with the accused because the latter was the brother of Pacheco's former friend. Pacheco saw accused when he used to go to the Ramos residence twice a week.[15]

Dr. Romeo T. Salen was the medico-legal officer of the Manila Police District who conducted the examination of the cadaver of Paul Herbert Merto. He testified that the victim sustained two gunshot wounds, one at the back and the other at the right palm. He confirmed that the cause of death was the gunshot wound at the back of the body. The bullet hit the vertebrae and several organs of the body, causing immediate death. Upon cross-examination, he testified that the distance between the barrel of the gun used and the gunshot wound at the back of the victim was two (2) feet or more.[16]

The prosecution called the mother of the victim, Leonida Merto, to the witness stand. She testified that she incurred expenses as a result of the death of her son. Said expenses included payment to the funeral home in the amount of Eighteen Thousand Pesos (P18,000.00) and payment for the burial place in the amount of Three Thousand Pesos (P3,000.00).[17]

Accused remained at large for three years. A warrant for his arrest was issued and remained unserved until October 13, 2011. According to SPO3 Mardonio Abuda,[18] who was the police officer who apprehended the accused, Leonida Merto went to their station to seek assistance in the implementation of the warrant issued against Ramos. Leonida pointed to SPO3 Abuda herein accused as the person who killed her son. Immediately, SPO3 Abuda arrested Mancelito Ramos and took him to the police station for investigation. At the police station, Leonida had the opportunity to talk to the accused. Since the room was very small, SPO3 Abuda was within hearing distance of the conversation between Leonida and the accused. He confirmed that he heard Ramos admit to Leonida that he was the one who killed her son. He testified that he heard Ramos admit to the desk officer that he committed the offense.[19]

In the Appellant's Brief[20] filed by the Public Attorney's Office on behalf of the accused, the version of the defense is summarized as follows:

On December 24, 2008, Mancelito Ramos and his younger brother, Wilsiman Ramos, were doing household

chores in their home. They started cleaning the house at 10:30 o'clock in the morning and finished the chore at around 5:00 o'clock in the afternoon. Mancelito thus had no chance to leave their house the entire day. He came to know that a case was filed against him only when he was detained and brought to trial. He had no reason to believe that a criminal case was filed against him considering that he was able to secure clearances from the National Bureau of Investigation (NBI) for the year 2008, 2009, 2010 and 2011. He did not know the victim and he denied the allegation that he authored the death of Paul Merto.

On December 24, 2008, Michaelito Ramos saw his two (2) brothers Mancelito and Wilsiman cleaning the house. Both of them spent the whole day cleaning their two-storey house. He knew of the shooting incident that day because it was relayed to him through "tsismis".

On December 10, 2012, the trial court promulgated the assailed Decision[21], the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing, accused Mancelito Ramos is found GUILTY beyond reasonable doubt of the crime of Murder and is hereby sentenced to suffer the penalty of reclusion perpetua. He is also ordered to pay the heirs of Paul Herbert Merto the amounts of P21,000.00 as actual damages, P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P30,000.00 as exemplary damages.

SO ORDERED."[22]

On December 11, 2012, the accused, through counsel, filed a Notice of Appeal,[23] which was given due course by the trial court in its Order dated December 12, 2012.[24] In his appeal, accused-appellant raised the following issues:

- The trial court gravely erred in giving credence to the prosecution witnesses' testimonies;
- The trial court gravely erred in declaring that the guilt of the accused-appellant was proven beyond reasonable doubt; and
- The trial court gravely erred in giving weight to the alleged extra-judicial confession of the accused-appellant.

Accused-appellant argues that the trial court overlooked the conflicting and incompatible testimonies of the prosecution witnesses. He pointed out that in Castro's testimony, the latter did not mention that Pacheco was with them playing at Abe's Barber Shop while Pacheco testified that he was playing with Paul Merto and Jefferson Castro.[25] Castro further testified that accused-appellant had three companions when the incident happened and one of them fired a shot.[26] Pacheco, on the other hand, testified that accused-appellant had only two (2) companions.[27] Moreover, Castro testified that accused-appellant fired his gun twice and the third shot came from accused-appellant's companion.[28] In Pacheco's testimony, he claimed that accused-appellant fired five (5) shots and none of them came from accused-appellant's companions.[29]

Accused-appellant maintains that the testimonies of the prosecution witnesses, when pieced together, do not jibe with each other to make a consistent and coherent whole.[30]

Accused-appellant asserts that his alleged extra-judicial confession, which the trial court invariably considered in establishing his guilt, is inadmissible and baseless.[31] There is no mention in the testimony of Leonida Merto that accused-appellant admitted the commission of the crime.[32] Granting that Leonida Merto mentioned said admission, the truthfulness of the fact admitted by the accused-appellant insofar as testified upon by SPO3 Abuda is hearsay and is inadmissible as evidence.[33]

On the other hand, plaintiff-appellee, through the OSG, argues that the guilt of accused-appellant was proven beyond reasonable doubt. The trial court considered the testimonies of Castro and Pacheco sufficient to identify the accused-appellant as the same person who approached Merto at the barbershop and shot him several times. The inconsistencies pointed out by accused-appellant refer to the number of persons playing videogames at the barbershop, the number of men accompanying accused-appellant and the number of shots fired. The inconsistencies harped on by accused-appellant are of such minor nature and thus would not change the finding of the trial court that Castro and Pacheco personally saw accused-appellant shooting Merto several times at Abe's Barbershop on December 24, 2008. The testimonies of both Castro and Pacheco were clear as to the facts relevant to the conviction of accused-appellant for murder.[34]

We affirm accused-appellant's conviction.

Accused-appellant argues that his alleged extrajudicial confession is hearsay evidence and is, therefore, inadmissible.

On said issue, the trial court ruled:

SPO3 Abuda's account of Mancelito Ramos' alleged confession to Leonida Merto and to a desk officer at a police station that he was the one who had killed the victim can be taken into consideration. While the confession was not actually made to him, Abuda recounted having personally "heard" the confession. Allegedly, he was in the same room with Leonida and Ramos when the confession was made. As the room was so small, anything said by one to the other was within his hearing distance. Having testified to personally "hearing" the confession, Abuda's account thereon could not be considered hearsay. This express acknowledgment of guilt by the accused is evidence against him and any person, otherwise competent to testify as a witness, who heard the confession, is competent to testify as to the substance of what he heard if he heard and understood it. The said witness need not repeat verbatim the oral confession; it suffices if he gives its substance. (People v. Erlinda de la Cruz, et al., G.R. Nos. 141162-63, July 11, 2002 citing Aballe v. People, 183 SCRA 196 [1990].)

The testimony of SPO3 Mardonio Abuda narrates the alleged confession as follows:

FISCAL FLORDELIZA:

Q:

And then you said he was shown a warrant of arrest. Who showed the warrant of arrest to Mancelito Ramos?

WITNESS:

A:

I showed it to him after I got it from the victim's mother.

Q:

What was the reply of the accused?

A:

He admitted, sir.

COURT:

Q:

He admitted? What did he admit?

WITNESS:

A:

He admitted that he is Mancelito Ramos.

Q:

He merely admitted that he is Mancelito Ramos?

He did not admit that he committed the offense?

A:

Initially he denied that he committed the offense but during the confrontation with the mother of the victim and the witness inside the room he admitted that he committed the offense.

ATTY. ORTIZ:

Objection, Your Honor.

COURT:

Q:

When he admitted that he committed the offense, were you there?

WITNESS:

A:

Yes, Maam.

Q:

And when he admitted he committed the offense, was he assisted by counsel?

A:

At that time, he was not assisted by counsel.

Q:

And do you know the rights of the accused when he admits the commission of the offense?

A:

Yes, Maam.

Q:

What?

A:

Kailangan po may kaharap syang counsel.

Q:

At that time, was he assisted by counsel?

A:

No, Maam.

FISCAL FLORDELIZA:

Q:

Mr. Witness, you said he denied initially but later on when there was confrontation between the accused and the mother he admitted?

WITNESS:

A:

Yes, Sir.

Q:

Now, who was asking that question whether he committed that crime? Was it you?

A:

The complainant and the witness, sir.

COURT:

Q:

But you were there?

WITNESS:

A:

Yes, Your Honor.[35]

On cross-examination, SPO3 Abuda testified as follows:

Q:

By the way, Mr. Witness, I am just telling you that the ID of the suspect has a different spelling from the one stated in the warrant of arrest. I am just reminding you that in serving the warrant you compare the spellings. And Mr. Witness, you mentioned earlier you together with the arresting officers took the suspect in a room.

A:

At the office, sir.

Q:

The mother of the victim was also there?

A:

Yes, sir.

Q:

And you let her bombard the suspect with questions?

A:

I did not allow that. They were just talking.

COURT:

Q:

They were not fighting?

WITNESS:

A:

No, Your Honor. We did not allow her to bombard the suspect with questions. They did not argue, we let them talk to each other.

ATTY. ORTIZ:

Q:

Were you listening to their conversation?

WITNESS:

A:

I was listening, sir. The room was very small.

Q:

But when you told this Court that he admitted committing the crime?

A:

He said, “Sir ako nga yan”.

Q:

“Ako nga yan” as stated in the warrant of arrest or the one who committed?

A:

I just heard him admit at the Desk Officer that he committed the offense.

COURT:

Q:

At that time that he admitted the offense, he was talking with the mother of the victim and the witness>

WITNESS:

A:

Yes, Your Honor.

Q: But you did not participate in that conversation?

A: No, Your Honor.

Q:

You were just there? You were just listening?

A: Yes, Maam.

ATTY. ORTIZ:

Q: And at that time, no counsels were present?

WITNESS:

A: There is no counsel.

Q: Prior to the serving of the warrant of arrest, is it safe to assume that you do not have personal knowledge of the surrounding circumstances of this case?

A: None, sir.

ATTY. ORTIZ:

That would be all, Your Honor.[36]

The Supreme Court has consistently held that an extrajudicial confession, to be admissible, must conform to the following requisites: 1) the confession must be voluntary; 2) the confession must be made with the assistance of a competent and independent counsel, preferably of the confessant's choice; 3) the confession must be express; and 4) the confession must be in writing.[37]

Hence, such acknowledgment of guilt by the accused as heard by SPO3 Abuda is evidence against him but not to the same degree as an extrajudicial confession, for failure to comply with the latter's requirements. The court may consider such admission together with other evidence obtaining in the case.

We agree with the trial court in its findings. The express acknowledgment of guilt by the accused is evidence against him if actually heard by the person testifying in court, in this case, SPO3 Abuda.

However, We agree with the trial court that even without such "extrajudicial confession," the guilt of accused-appellant was established beyond reasonable doubt by the testimonies of two eyewitnesses.

Accused-appellant contends that there were glaring inconsistencies in the testimonies of the prosecution witnesses. These inconsistencies refer to who were present at Abe's Barbershop during the incident, the number of men accompanying accused-appellant and the number of gunshots fired.

We are not persuaded.

For a discrepancy to serve as basis for acquittal, such must refer to significant facts vital to the guilt or innocence of the accused. An inconsistency, which has nothing to do with the elements of the crime, cannot be a ground to reverse a conviction.[38]

The fact that Castro did not mention Pacheco in his testimony does not mean that Pacheco was not at Abe's Barbershop during the incident. Castro merely failed to mention Pacheco while relating the events leading to the shooting incident. The question of who accompanied the victim – whether it was only Castro, or both Castro and Pacheco – is purely incidental and has nothing to do with the guilt of accused-appellant. The number of men who accompanied accused-appellant is also incidental as it does not affect the guilt of accused-appellant. Both Castro and Pacheco categorically stated that Merto was hit on the back by the first shot fired by accused-appellant. The RTC's conviction was based on the finding that the accused-appellant was the person who shot Merto.

The number of shots heard by the witnesses is also incidental. In *People vs. Sabalones*,[39] it was alleged that the prosecution account had inconsistencies relating to the number of shots heard, the interval between the gunshots and the victims' positions when they were killed. The Supreme Court dismissed the allegation as "minor and inconsequential flaws" which strengthened, rather than impaired, the credibility of said eyewitnesses and held that "such harmless errors are indicative of truth, not falsehood," and do not cast serious doubt on the veracity and reliability of the testimony of the witnesses.[40] Inconsistencies regarding the number of shots fired by

accused-appellant and heard by the prosecution witnesses cannot alter the fact that accused-appellant shot Merto while the latter was running away. Not every inconsistency can be the basis of an acquittal.

The alleged inconsistencies in the testimonies of the prosecution witnesses pertain only to inconsequential matters that do not bear upon the elements of the crime. Inconsistencies and discrepancies on minor details that are irrelevant to the constitutive elements of the crime cannot be considered grounds for acquittal.[41]

In his testimony, Jefferson Castro stated that he saw accused-appellant shoot Merto on the back, to wit:

ATTY. ORTIZ:

Q:

And so, you went outside after the first shot was fired, is that correct?

A:

Yes, sir.

Q:

And in your statement that you have, earlier you mentioned that “nakita ko po habang tumatakbo papalayo si Paul Paul kay Ambo ay kitang-kita ko po ng barilin ni Ambo si Paul Paul at tamaan sa likod”?

A:

That is correct.

Q: From your statement, can you tell us how he was hit?

ACP FLORDELIZA:

Objection, Your Honor, the testimony of the witness, he went out and saw Paul Paul already hit at.

ATTY. ORTIZ:

Q: But when you gave your statement [that Paul Paul] got hit, did you see the incident?

A: I saw because the Abe's barbershop is side place.

COURT:

Q: From where you were inside the place, where you were playing the video game, you could actually see Paul Paul, and the accused firing at him?

A: Yes ma'am.[42]

This was corroborated by the testimony of Francis Pacheco, to wit:

Q: And so what did Ambo do when he was pushed by Paul Herbert Merto?

A: He pulled a gun and shot Paul Herbert.[43]

During his cross-examination, Pacheco confirmed that he saw Merto got hit at the back and testified as follows:

Q: Mr. Witness, from your place, could you see both Ambo and Paul Herbert?

A: Yes, sir.

Q: And you actually saw Paul Herbert got hit at the back before he fell down?

A: Yes, sir.[44]

The prosecution witnesses therefore positively and categorically identified accused-appellant as the person who pulled out a gun and shot Merto while the latter was running away. Castro and Pacheco were familiar with accused-appellant because Castro heard people refer to accused as “Ambo” while Pacheco used to see accused-appellant when he visited the Ramos residence as a friend of accused-appellant's brother. Moreover, the incident occurred during broad daylight and the prosecution witnesses were able to clearly see the face of accused-appellant.

We reviewed the testimonies and the evidence passed upon by the trial court and see no reason to deviate from its factual findings. Questions concerning the credibility of a witness are best addressed to the sound discretion of the trial court, since it is the latter which is in the best position to observe the demeanor and bodily movements of a witness.[45]

In *David v. Court of Appeals and People of the Philippines*,[46] the Supreme Court held:

Findings of the trial court on the credibility of witnesses are entitled to great respect because it has the opportunity to observe the deportment of the witnesses and their manner of testifying.[47] The decision of the trial court in this case is notable for its painstaking analysis of the evidence of the parties. Its conclusion that the prosecution witnesses were more credible than the defense witnesses should be upheld in the absence of proof that it has overlooked certain important matters as to the credibility of the witnesses.

The matter of appreciating evidence and assessing credibility of witnesses rests primarily with the trial court. In the absence of a clear showing that the court has ignored, overlooked or failed to properly appreciate matters of significance or substance likely to affect the eventual outcome of the case, its findings thereon are entitled to great respect and accorded the highest consideration by the appellate courts.[48]

As to the element of treachery, the trial court ruled that the shooting was sudden and unexpected, constituting the element of *alevosia*, it appearing that the aggressor adopted such mode of attack to facilitate the perpetration of the killing without risk to himself. The sudden act of shooting made by Ramos was purposely carried out without

danger to himself of any retaliation from the victim. Hence, the trial court concluded that the element of treachery existed.[49]

We agree.

For treachery to be appreciated, two essential elements must concur: (1) the employment of means of execution that gives the person attacked no opportunity to defend himself or retaliate; and (2) the deliberate or conscious adoption of the means of execution. What is decisive is that the execution of the attack makes it impossible for the victim to defend himself or retaliate.[50] In *People v. Gutierrez*,[51] the Supreme Court ruled:

Murder is defined as the unlawful killing of any person when qualified by any of the circumstances listed under Article 248 of the Revised Penal Code. Among these qualifying circumstances is *alevosia*. 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 insure its execution, without risk to himself arising from the defense which the offended party might make. The qualifying circumstance of treachery attended the killing in this case as the two conditions for the same are present, i.e. that at the time of the attack, the victim was not in a position to defend himself; and that the offender consciously adopted the particular means, method or form of attack employed by him. The essence of treachery is the swift and unexpected attack on the unarmed victim without the slightest provocation on the part of the victim.

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The fact that the victim may have been forewarned of his peril when he was punched by accused-appellant España will not diminish the suddenness of the attack. Treachery may still be appreciated even though the victim was forewarned of the danger to his person. In other words, even when the victim is warned of the danger, if the execution of the attack made it impossible for him to defend himself or to retaliate, *alevosia* can still be appreciated. Indeed, we said in *People v. Riglos*, that treachery is to be appreciated even when the victim was warned of the danger or initially assaulted frontally, but was attacked again after being rendered helpless and had no means to defend himself or to retaliate. Furthermore, the number, location and the circumstances in which the injuries were sustained by the victim also point to the treacherous attack made by the accused-appellants upon the deceased. (Citations omitted.) (Emphasis ours.)

The trial court correctly appreciated the qualifying circumstance of treachery. While the victim apparently felt the bulge of the gun on accused-appellant's side and shouted "Kaaway!" immediately prior to the the attack, such cannot even be considered a warning that would negate treachery. The attack was so sudden that the victim had no opportunity to defend himself or retaliate. The victim was unarmed and the manner of attack made it impossible for him to defend himself. Moreover, the fact that accused-appellant carried a gun underneath a towel draped over his body, approached the victim and confirmed the identity of the victim before the attack, showed that he deliberately and consciously adopted the method of execution to ensure that he could shoot the victim, without risk to himself arising from the defense which the offended party might make. Thus, the prosecution sufficiently proved the element of treachery. The presence of treachery qualifies the offense to murder.

On the other hand, accused-appellant's defense centers on denial and alibi.

For alibi to prosper, it is not enough for the accused to prove that he was in another place when the crime was committed. He must likewise prove that it was physically impossible for him to be present at the crime scene or its immediate vicinity at the time of its commission.[52] Physical impossibility in relation to alibi takes into consideration not only the geographical distance between the scene of the crime and the place where accused maintains he was, but more importantly, the accessibility between these points.[53]

Accused-appellant must establish by clear and convincing evidence that (a) he was in another place at the time of

the commission of the offense; and (b) he was so far away that he could not have been physically present at the place of the crime, or its immediate vicinity, at the time of its commission.[54]

In the instant case, accused-appellant's brother, Michaelito, testified that the distance between their residence and Abe's Barbershop was about seven eskinitas. It would take a person 15 minutes on foot, and 7 minutes if one is running, to traverse the distance.[55]

Hence, accused-appellant failed to establish by clear and convincing evidence that it was physically impossible for him to be at the scene of the crime during the time the incident occurred. Thus, accused-appellant's defense of alibi cannot prosper.

The RTC correctly sentenced accused-appellant to suffer the penalty of reclusion perpetua in accordance with Art. 248 of the Revised Penal Code.

As to the award of actual damages, the mother of the victim, Leonida Merto, testified in court as to the funeral and burial expenses amounting to P21,000.00 incurred as a result of the death of her son. Thus, We affirm the award of actual damages in the amount of P21,000.00.

In cases of murder and homicide, civil indemnity of PhP75,000.00 and moral damages of PhP50,000.00 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.[56] In *People v. Laog*,[57] the Supreme Court ruled:

We also affirm the trial court and CA in ordering appellant to pay the heirs of Jennifer Patawaran-Rosal the amounts of P50,000 as moral damages. In cases of murder and homicide, the award of moral damages is mandatory, without need of allegation and proof other than the death of the victim.[58] Anent the award of civil indemnity, the same is increased to P75,000 to conform with recent jurisprudence.[59]

In line with prevailing jurisprudence, We affirm the award of P50,000.00 as moral damages and increase the award of civil indemnity to P75,000.00.

We affirm the award of P30,000.00 as exemplary damages. An award of exemplary damages is proper when the qualifying circumstance of treachery is firmly established.[60]

WHEREFORE, in view of the foregoing, the instant appeal is DENIED. The assailed Decision dated December 10, 2012 rendered by the Regional Trial Court, Branch 19, Manila finding the accused Mancelito Ramos y Ramos guilty of the crime of murder is AFFIRMED with MODIFICATIONS. The award of civil indemnity is increased to P75,000.00 in accordance with recent jurisprudence.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Lazaro-Javier, A.C., and [*]Barrios, MM., JJ., concur.

[*]Acting Junior Member, vice Justice Laguilles, per Office Order No. 243-14-ABR dated May 23, 2014.

- [1] Rollo, pp. 31-37, Records, pp. 301-307.
- [2] Records, pp. 1-2.
- [3] Records, p. 25.
- [4] Records, p. 31.
- [5] Records, p. 28.
- [6] Records, p. 31.
- [7] Records, p. 32.
- [8] Records, p. 64.
- [9] Records, p. 69, 70.
- [10] Records, pp. 78-80.
- [11] TSN dated November 10, 2011, pp. 4-43.
- [12] TSN dated January 10, 2012, pp. 4-40.
- [13] Records, pp. 301-302.
- [14] TSN dated December 6, 2011, pp. 3-19.
- [15] Records, p. 302.
- [16] TSN dated January 24, 2012, pp. 5-13.
- [17] TSN dated November 22, 2011, pp. 8-9, 14.
- [18] TSN dated January 31, 2012, pp. 3-55.
- [19] Records, p. 302, TSN dated January 31, 2012, p. 52.
- [20] Rollo, pp. 19-29.
- [21] Rollo, pp. 31-37, Records, pp. 301-307.
- [22] Records, p. 307.
- [23] Records, pp. 309-310.
- [24] Records, p. 311.
- [25] Rollo, pp. 24-25.
- [26] Rollo, p. 25.
- [27] Rollo, p. 26.
- [28] Rollo, p. 26.
- [29] Rollo, p. 27.
- [30] Rollo, p. 27.
- [31] Rollo, p. 27.

[32] Rollo, p. 28.

[33] Citing *People v. Guiraldo*, G.R. 92447, October 17, 1991.

[34] Rollo, pp. 51-52.

[35] TSN dated January 31, 2012, p. 17-20.

[36] TSN dated January 31, 2012, p. 50-53.

[37] *People of the Philippines v. Jerry Rapeza*, G.R. No. 169431, April 3, 2007. See also *People v. Porio*, 427 Phil. 82, 93 (2002), citing *People v. Gallardo*, 323 SCRA 219 (2000) and *People v. Bacor*, 306 SCRA 522 (1999); See *People of the Philippines v. Oranza*, 434 Phil. 417, 430 (2002); *People v. Valdez*, 395 Phil. 207, 224 (2000); *People v. Base*, 385 Phil. 803, 815 (2000); *People v. Lumandong*, 384 Phil. 390, 403 (2000); *People v. Calvo, Jr.*, 336 Phil. 655, 661 (1997).

[38] *People v. Perez*, G.R. No. 113265, March 5, 2001.

[39] 294 SCRA 751, 794 (1998).

[40] *Id.* cited in *People v. Dan Ave*, G.R. No. 137274-75, October 28, 2002.

[41] See *People v. Manalo*, G.R. No. 144989-90, January 31, 2003.

[42] TSN dated November 10, 2011, pp. 37-38.

[43] TSN dated January 10, 2012, p. 9.

[44] TSN dated January 10, 2012, p. 36.

[45] *People v. Elarcosa and Orias*, G.R. No. 186539, June 29, 2010, 622 SCRA 417.

[46] G.R. No. 111168, June 17, 1998.

[47] Citing *People v. Cabiles*, 248 SCRA 207 (1995).

[48] *People v. Latasa*, G.R. No. 144331, August 19, 2003 citing *People v. Sumalpong*, G.R. No. 124705, 20 January 1998, 284 SCRA 464; *People v. Villaruel*, G.R. Nos. 110803-04, 25 November 1994, 238 SCRA 408.

[49] Records, p. 304.

[50] *People v. Pepe Bautista*, G.R. No. 139530, February 27, 2004.

[51] G.R. No. 142905, March 18, 2002.

[52] *People v. Guerrero*, G.R. No. 170360, March 12, 2009, 580 SCRA 666, 683; *People v. Garte*, G.R. No. 176152, November 25, 2008, 571 SCRA 570, 583 cited in *People v. Elarcosa and Orias*, G.R. No. 186539, June 29, 2010.

[53] *People v. Gomez*, G.R. No. 132171, May 31, 2000.

[54] *People v. De Jesus and Morales*, G.R. No. 186528, January 26, 2011 citing *People v. Dela Cruz*, G.R. No. 175929, December 16, 2008.

[55] Records, p. 305.

[56] *People v. Rodriguez Lucero*, G.R. No. 179044, December 6, 2010.

[57] G.R. No. 178321, October 5, 2011.

[58] Citing *People v. Domingo*, G.R. No. 184343, March 2, 2009, 580 SCRA 436, 457.

[59] Citing *People v. Nazareno*, G.R. No. 180915, August 9, 2010, 627 SCRA 383, 393.

[60] *People v. Beltran, Jr.*, G.R. No. 168051, 27 September 2006, 503 SCRA 715, 740 cited in *People v. Jesus Domingo*, G.R. No. 184343, March 2, 2009.

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