

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EDMAR AGUILOS,
ODILON LAGLIBA Y ABREGON AND RENE GAYOT PILOLA, ACCUSED,
RENE GAYOT PILOLA, APPELLANT.**

G.R. No. 121828. June 27, 2003

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Before us is the appeal of appellant Rene Gayot Pilola for the reversal of the Decision[1] of the Regional Trial Court (RTC) of Pasig City, Branch 164, convicting him of murder, sentencing him to suffer reclusion perpetua and ordering him to indemnify the heirs of the victim Joselito Capa y Rulloda in the amount of P50,000 for the latter's death.

The Indictment

On June 7, 1998, Edmar Aguilos, Odilon Lagliba y Abregon and appellant Rene Gayot Pilola were charged with murder in an Information which reads:

That on or about the 5th day of February, 1988 in the Municipality of Mandaluyong, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together with one Ronnie Diamante who is still at-large and no fixed address and mutually helping and aiding with one another, armed with double-bladed knives and a bolo and with intent to kill, treachery and taking advantage of superior strength, did then and there willfully, unlawfully and feloniously attack, assault hack and stab one Joselito Capa y Rulloda, as a result of which the latter sustained hack and stab wounds on the different parts of his body, which directly caused his death.

CONTRARY TO LAW.[2]

Of the three accused, Odilon Lagliba was the first to be arrested[3] and tried, and subsequently convicted of murder.[4] The decision of the trial court became final and executory. Accused Edmar Aguilos remains at large while accused Ronnie Diamante reportedly died a month after the incident. Meanwhile, herein appellant Rene Gayot Pilola was arrested. He was arraigned on March 9, 1994, assisted by counsel, and pleaded not guilty to the charge.[5] Thereafter, trial of the case ensued.

The Evidence of the Prosecution[6]

On February 5, 1988, at around 11:30 p.m., Elisa Rolan was inside their store at 613 Nueve de Pebrero Street, Mandaluyong City, waiting for her husband to arrive. Joselito Capa and Julian Azul, Jr. were drinking beer. Edmar Aguilos and Odilon Lagliba arrived at the store. Joselito and Julian invited them to join their drinking spree, and although already inebriated, the two newcomers obliged. In the course of their drinking, the conversation turned into a heated argument. Edmar nettled Julian, and the latter was peeved. An altercation between the two ensued. Elisa pacified the protagonists and advised them to go home as she was already going to close up. Edmar and Odilon left the store. Joselito and Julian were also about to leave, when Edmar and Odilon returned, blocking their way. Edmar took off his eyeglasses and punched Julian in the face. Elisa shouted: "Tama

na. Tama na." Edmar and Julian ignored her and traded fist blows until they reached Aling Sotera's store at the end of the street, about twelve to fifteen meters away from Elisa's store. For his part, Odilon positioned himself on top of a pile of hollow blocks and watched as Edmar and Julian swapped punches. Joselito tried to placate the protagonists to no avail. Joselito's intervention apparently did not sit well with Odilon. He pulled out his knife with his right hand and stepped down from his perch. He placed his left arm around Joselito's neck, and stabbed the latter. Ronnie and the appellant, who were across the street, saw their gangmate Odilon stabbing the victim and decided to join the fray. They pulled out their knives, rushed to the scene and stabbed Joselito. Elisa could not tell how many times the victim was stabbed or what parts of his body were hit by whom. The victim fell in the canal. Odilon and the appellant fled, while Ronnie went after Julian and tried to stab him. Julian ran for dear life. When he noticed that Ronnie was no longer running after him, Julian stopped at E. Rodriguez Road and looked back. He saw Ronnie pick up a piece of hollow block and with it bashed Joselito's head. Not content, Ronnie got a piece of broken bottle and struck Joselito once more. Ronnie then fled from the scene. Joselito died on the spot. Elisa rushed to Joselito's house and informed his wife and brother of the incident.[7]

The next day, Dr. Bienvenido Muñoz, Supervising Medico-Legal Officer of the National Bureau of Investigation, conducted an autopsy on the cadaver of Joselito and prepared Autopsy Report No. N-88-375,[8] with the following findings:

POSTMORTEM FINDINGS

Pallor, conjunctivae and integument, marked and generalized.

Contused abrasions: temple, right, 3.0 x 3.0 cm.; mandibular region, right, 2.0 x 8.0 cm.; back, suprascapular region, left, 3.0 x 4.0 cm.; deltoid region, right, 1.0 x 3.0 cm.

Lacerated wound, scalp, occipital region, 4.0 cm.

Incised wounds: forehead, right side, 5.5 cm.; arm, left, upper third, posterior aspect, 1.5 cm.

Stab wounds:

- Elliptical, 1.8 cm., oriented almost horizontally, edges are clean-cut, medial extremity is sharp, lateral extremity is blunt; located at the anterior chest wall, level of 3rd intercostal space, right, 5.0 cm. from anterior median line; directed backward, upward and medially, non-penetrating, with an approximate depth of 3.0 cm.;
- Elliptical, 1.5 cm., oriented almost horizontally, edges are clean-cut, one extremity is sharp and the other is blunt; located at the antero-lateral aspect of chest, level of 3rd intercostal space, left, 3.0 cm. from anterior median line; directed backward, downward and medially, into the left thoracic cavity, penetrating the left ventricle of the heart with an approximate depth of 10.0 cm.;
- Elliptical, 3.0 cm., oriented almost horizontally, edges are clean-cut, one extremity is sharp and the other is blunt; located at the antero-lateral aspect of chest, level of 4th intercostal space, 12.0 cm. from anterior median line; directed backward, downward and medially, penetrating upper lobe of left lung with an approximate depth of 9.0 cm.;
- Elliptical, 2.0 cm., oriented almost horizontally, edges are clean-cut, one extremity is sharp and the other is blunt; located at the antero-lateral aspect of chest, level of 5th intercostal space, left, 15.0 cm. from anterior median line; directed backward, downward and medially, penetrating the left thoracic cavity and then lower lobe of left lung and then penetrating the left ventricle of the heart with an approximate depth of 11.0 cm.;
- Elliptical, 1.3 cm., oriented almost horizontally, edges are clean-cut, one extremity is sharp and the other is blunt; located at the lateral chest wall, level of 7th intercostal space, left, 16.0 cm. from anterior median line; directed backward, upward and medially, into the left thoracic cavity and then penetrating the lower lobe of

left lung with an approximately depth of 10.0 cm.;

- Elliptical, 4.0 cm., oriented almost horizontally, edges are clean-cut, one extremity is sharp and the other is blunt; located at the lumbar region, left, 14.0 cm. from anterior median line; directed backward, upward and medially, into the abdominal cavity and then penetrating ileum;

- Elliptical, 1.5 cm., oriented almost vertically, edges are clean-cut, upper extremity is sharp, lower extremity is blunt; located at the chest, lateral, level of 9th intercostal space, left; 14.0 cm. from posterior median line; directed forward, upward and medially, non-penetrating with an approximate depth of 4.0 cm.;

- Elliptical, 2.0 cm., oriented almost vertically, edges are clean-cut, upper extremity is blunt, lower extremity is sharp; located at the abdomen, postero-lateral aspect, 15.0 cm. from posterior median line; directed forward, upward and laterally, into the abdominal cavity and then perforating the spleen and pancreas with an approximate depth of 13.0 cm.;

- Elliptical, 5.0 cm., oriented almost vertically, edges are clean-cut, upper extremity is blunt, lower extremity is sharp; located at the left arm, upper third, anterior; directed backward, downward and medially, ;

- Elliptical, 2.3 cm., oriented almost vertically, edges are clean-cut, upper extremity is sharp, lower extremity is blunt; located at the left forearm, upper third, anterior; directed backward, upward and medially and com

- Elliptical, 2.0 cm., oriented almost vertically, edges are clean-cut, upper extremity blunt, lower extremity, sharp; located at the left arm, lower third, posterior aspect, directed forward, downward and medially, communicating with another wound, arm, left, lower third, posterior aspect, 1.5 cm.

Hemothorax, left - 900 c.c.

Hemopericardium - 300 c.c.

Hemoperitoneum - 750 c.c.

Brain and other visceral organs, pale.

Stomach-filled with rice and other food particles.

CAUSE OF DEATH: Multiple stab wound

The Evidence of the Appellant

The appellant denied stabbing the victim and interposed the defense of alibi. He testified that at around 11:00 p.m. of February 5, 1988, he was in the house of his cousin, Julian Cadion, at 606 Nueve de Pebrero Street, Mandaluyong City. He suddenly heard a commotion coming from outside. Julian rushed out of the house to find out what was going on. The appellant remained inside the house because he was suffering from ulcer and was experiencing excessive pain in his stomach. The following morning, the appellant learned from their neighbor, Elisa Rolan, that Joselito had been stabbed to death. The appellant did not bother to ask who was responsible for the stabbing.[9]

Julian alias "Buboy" Cadion corroborated the appellant's testimony. He testified that the appellant was in their house on the night of February 5, 1988, and was suffering from ulcer. The appellant stayed home on the night of the incident.[10]

Agripina Gloria, a female security guard residing at Block 30, Nueve de Pebrero, 612, Int. 4, Allison St., Mandaluyong City, testified that on February 5, 1988 at around 11:00 p.m., she heard a commotion outside. Momentarily, she saw Ronnie rush into the kitchen of the house of her niece Teresita; he took a knife and run towards Nueve de Pebrero Street where Edmar and Julian were fighting. She then followed Ronnie and saw Joselito trying to pacify the protagonists. Ronnie grabbed Joselito and instantly stabbed the latter, who for a while retreated and fell down the canal. Not content, Ronnie repeatedly stabbed Joselito. Thereafter, Ronnie ran towards

the direction of the mental hospital. Agripina did not see Odilon or the appellant anywhere within the vicinity of the incident.[11]

On May 3, 1995, the trial court rendered its assailed decision, the dispositive portion of which reads, to wit:

WHEREFORE, this Court finds RENE GAYOT PILOLA of 606 Nueve de Febrero Street, Mandaluyong City, GUILTY beyond reasonable doubt of Murder punished under Article 248 of the Revised Penal Code, and there being no mitigating nor aggravating circumstances, he is hereby sentenced to reclusion perpetua. Pilola is hereby ordered to indemnify the heirs of deceased Joselito Capa alias Jessie in the amount of FIFTY THOUSAND PESOS (P50,000.00) as indemnity for his death jointly and solidarily with Odilon Lagliba who was earlier convicted herein. With cost against the accused.[12]

In the case at bar, the appellant assails the decision of the trial court contending that:

I

THE TRIAL COURT ERRED IN CONCLUDING THAT THERE WAS CONSPIRACY ANENT THE ASSAILED INCIDENT.

II

THE TRIAL COURT ERRED IN GIVING CREDENCE TO THE UNRELIABLE AND INCONSISTENT TESTIMONY OF PROSECUTION WITNESS ELISA ROLAN AND IN SETTING ASIDE THE EVIDENCE PROFFERED BY ACCUSED-APPELLANT.

IIITHE TRIAL COURT MANIFESTLY ERRED IN CONVICTING ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE THE FACT THAT HIS GUILT WAS NOT PROVED BEYOND REASONABLE DOUBT.[13]

The appellant avers that Elisa is not a credible witness and her testimony is barren of probative weight. This is so because she contradicted herself when she testified on direct examination that Ronnie struck the head of the victim with a hollow block. However, on cross-examination, she stated that it was Edmar who struck the victim. The inconsistency in Elisa's testimony impaired her credibility.

The contention of the appellant does not hold water.

First. The identity of the person who hit the victim with a hollow block is of de minimis importance. The victim died because of multiple wounds. The appellant is charged with murder for the killing of the victim with a knife, in conspiracy with the other accused.

Second. The perceived inconsistency in Elisa's account of events is a minor and collateral detail that does not affect the substance of her testimony, as it even serves to strengthen rather than destroy her credibility.[14]

Third. Elisa has been consistent in her testimony that the appellant was one of the men who stabbed the victim, the others being Ronnie and Odilon. Elisa's testimony is corroborated by the autopsy report of Dr. Bienvenido Muñoz and his testimony that the victim sustained eleven stab wounds. The doctor testified that there were two or more assailants:

Q Could you tell the court what instrument could have been used by the perpetrator in inflicting those two incise wounds?

A Those incise wounds were caused by a sharp instrument like a knife or any similar instrument.

...

Q Now you also found out from the body of the victim eleven stab wounds?

A Yes, sir.

Q Now, tell the court in which part of the body of the victim where these eleven stab wounds [are] located?

A Shall I go one by one, all the eleven stab wounds?

Q

All the eleven stab wounds?

A One stab wound was located at the front portion of the chest, right side. Another stab wound was located also on the chest left side, another stab wound was located at the antero lateral aspect, it's the front of the chest almost to the side. And also another one, also at the chest, another stab wound was at the left side of the chest and another one was at the lumbar region of the abdomen left side or where the left kidney is located, lumbar area. Another one at the side of the chest, left side of the chest. Another stab wound in the abdomen, another stab wound at the left arm. Another one at the left forearm and the last one in the autopsy report is located at the left arm. These are all the eleven stab wounds sustained by the victim.

...

A The instrument used was a sharp pointed edge or a single bladed instrument like a knife, kitchen knife, balisong or any similar instrument.

Q

Considering the number of stab wounds, doctor, will you tell us whether there were several assailants?

A In my opinion, there were more than one assailants (sic) here because of the presence of different types of stab wounds and lacerated wounds. This lacerated wound could not have been inflicted by the one holding the one which inflicted the instrument . . (discontinued) which inflicted the stab wounds.

Q So there could have been two or three assailants?

A More than one.[15]

The physical evidence is a mute but eloquent manifestation of the veracity of Elisa's testimony.[16]

Fourth. Even the appellant himself declared on the witness stand that he could not think of any reason why Elisa pointed to him as one of the assailants. In a litany of cases, we have ruled that when there is no showing of any improper motive on the part of a witness to testify falsely against the accused or to falsely implicate the latter in the commission of the crime, as in the case at bar, the logical conclusion is that no such improper motive exists, and that the testimony is worthy of full faith and credence.[17]

Fifth. The trial court gave credence and full probative weight to Elisa's testimony. Case law has it that the trial

court's calibration of the testimonial evidence of the parties, its assessment of the credibility of witnesses and the probative weight thereof is given high respect, if not conclusive effect, by the appellate court.

The appellant argues that the prosecution failed to prove that he conspired with Ronnie and Odilon in stabbing the victim to death. He contends that for one to be a conspirator, his participation in the criminal resolution of another must either precede or be concurrent with the criminal acts. He asserts that even if it were true that he was present at the situs criminis and that he stabbed the victim, it was Odilon who had already decided, and in fact fatally stabbed the victim. He could not have conspired with Odilon as the incident was only a chance encounter between the victim, the appellant and his co-accused. In the absence of a conspiracy, the appellant cannot be held liable as a principal by direct participation. Elisa could not categorically and positively assert as to what part of the victim's body was hit by whom, and how many times the victim was stabbed by the appellant. He asserts that he is merely an accomplice and not a principal by direct participation.

We are not persuaded by the ruminations of the appellant.

There is conspiracy when two or more persons agree to commit a felony and decide to commit it.[18] Conspiracy as a mode of incurring criminal liability must be proved separately from and with the same quantum of proof as the crime itself. Conspiracy need not be proven by direct evidence. After all, secrecy and concealment are essential features of a successful conspiracy. It may be inferred from the conduct of the accused before, during and after the commission of the crime, showing that they had acted with a common purpose and design.[19] Conspiracy may be implied if it is proved that two or more persons aimed by their acts towards the accomplishment of the same unlawful object, each doing a part so that their combined acts, though apparently independent of each other, were, in fact, connected and cooperative, indicating a closeness of personal association and a concurrence of sentiment.[20] There may be conspiracy even if an offender does not know the identities of the other offenders,[21] and even though he is not aware of all the details of the plan of operation or was not in on the scheme from the beginning.[22] One need only to knowingly contribute his efforts in furtherance of it.[23] One who joins a criminal conspiracy in effect adopts as his own the criminal designs of his co-conspirators. If conspiracy is established, all the conspirators are liable as co-principals regardless of the manner and extent of their participation since in contemplation of law, the act of one would be the act of all.[24] Each of the conspirators is the agent of all the others.[25]

To hold an accused guilty as a co-principal by reason of conspiracy, he must be shown to have performed an overt act in pursuance or furtherance of the conspiracy.[26] The mere presence of an accused at the situs of the crime will not suffice; mere knowledge, acquiescence or approval of the act without cooperation or agreement to cooperate on the part of the accused is not enough to make him a party to a conspiracy. There must be intentional participation in the transaction with a view to the furtherance of the common design and purpose.[27] Conspiracy to exist does not require an agreement for an appreciable period prior to the occurrence. From the legal standpoint, conspiracy exists if, at the time of the commission of the offense, the accused had the same purpose and were united in its execution.[28] As a rule, the concurrence of wills, which is the essence of conspiracy, may be deduced from the evidence of facts and circumstances, which taken together, indicate that the parties cooperated and labored to the same end.[29]

Even if two or more offenders do not conspire to commit homicide or murder, they may be held criminally liable as principals by direct participation if they perform overt acts which mediate or immediately cause or accelerate the death of the victim, applying Article 4, paragraph 1 of the Revised Penal Code:

Art. 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.

In such a case, it is not necessary that each of the separate injuries is fatal in itself. It is sufficient if the injuries cooperated in bringing about the victim's death. Both the offenders are criminally liable for the same crime by reason of their individual and separate overt criminal acts.[30] Absent conspiracy between two or more offenders, they may be guilty of homicide or murder for the death of the victim, one as a principal by direct participation, and the other as an accomplice, under Article 18 of the Revised Penal Code:

Art. 18. Accomplices. — Accomplices are the persons who, not being included in Article 17, cooperate in the execution of the offense by previous or simultaneous acts.

To hold a person liable as an accomplice, two elements must concur: (a) the community of criminal design; that is, knowing the criminal design of the principal by direct participation, he concurs with the latter in his purpose; (b) the performance of previous or simultaneous acts that are not indispensable to the commission of the crime.[31] Accomplices come to know about the criminal resolution of the principal by direct participation after the principal has reached the decision to commit the felony and only then does the accomplice agree to cooperate in its execution. Accomplices do not decide whether the crime should be committed; they merely assent to the plan of the principal by direct participation and cooperate in its accomplishment.[32] However, where one cooperates in the commission of the crime by performing overt acts which by themselves are acts of execution, he is a principal by direct participation, and not merely an accomplice.[33]

In this case, Odilon all by himself initially decided to stab the victim. The appellant and Ronnie were on the side of the street. However, while Odilon was stabbing the victim, the appellant and Ronnie agreed to join in; they rushed to the scene and also stabbed the victim with their respective knives. The three men simultaneously stabbed the hapless victim. Odilon and the appellant fled from the scene together, while Ronnie went after Julian. When he failed to overtake and collar Julian, Ronnie returned to where Joselito fell and hit him with a hollow block and a broken bottle. Ronnie then hurriedly left. All the overt acts of Odilon, Ronnie and the appellant before, during, and after the stabbing incident indubitably show that they conspired to kill the victim.

The victim died because of multiple stab wounds inflicted by two or more persons. There is no evidence that before the arrival of Ronnie and the appellant at the situs criminis, the victim was already dead. It cannot thus be argued that by the time the appellant and Ronnie joined Odilon in stabbing the victim, the crime was already consummated.

All things considered, we rule that Ronnie and the appellant conspired with Odilon to kill the victim; hence, all of them are criminally liable for the latter's death. The appellant is not merely an accomplice but is a principal by direct participation.

Even assuming that the appellant did not conspire with Ronnie and Odilon to kill the victim, the appellant is nevertheless criminally liable as a principal by direct participation. The stab wounds inflicted by him cooperated in bringing about and accelerated the death of the victim or contributed materially thereto.[34]

The trial court correctly overruled the appellant's defense of alibi. Alibi is a weak, if not the weakest of defenses in a criminal prosecution, because it is easy to concoct but hard to disprove. To serve as basis for acquittal, it must be established by clear and convincing evidence. For it to prosper, the accused must prove not only that he was absent from the scene of the crime at the time of its commission, but also that it was physically impossible for him to have been present then.[35] In this case, the appellant avers that at the time of the stabbing incident, he was resting in the house of his cousin at 606 Nueve de Pebrero Street as he was suffering from stomach pain due to his ulcer.[36] But the appellant failed to adduce any medical certificate that he was suffering from the ailment. Moreover, Elisa positively identified the appellant as one of the men who repeatedly stabbed the victim. The

appellant's defense of alibi cannot prevail over the positive and straightforward identification of the appellant as one of the victim's assailants. The appellant himself admitted that his cousin's house, the place where he was allegedly resting when the victim was stabbed, was merely ten to fifteen meters away from the scene of the stabbing. Indeed, the appellant's defense of denial and alibi, unsubstantiated by clear and convincing evidence, are negative and self-serving and cannot be given greater evidentiary weight than the positive testimony of prosecution eyewitness Elisa Rolan.[37]

The appellant's defenses must crumble in the face of evidence that he fled from the situs criminis and later left his house. The records show that despite being informed that he was sought after by the authorities as a suspect for the killing of the victim, the appellant suddenly and inscrutably disappeared from his residence at Nueve de Pebrero. As early as May 5, 1988, a subpoena for the appellant was returned unserved because he was "out of town." [38] The appellant's own witness, Julian Cadion, testified that the appellant had left and was no longer seen at Nueve de Pebrero after the incident, thus:

Q So, how long did you stay at 606 Nueve de Pebrero after February 5, 1988?

A One week only, sir, and then three weeks after, I returned to Nueve de Pebrero.

Q The whole week after February 5, 1988, was Rene Pilola still living at 606 Nueve de Pebrero?

A I did not see him anymore, sir.

Q And then three weeks thereafter, you went back to Nueve de Pebrero. Is that what you were then saying?

A

Yes, sir.

Q

Now, at the time that you went back to 606 Nueve de Pebrero, was Rene Pilola there?

A

I did not see him anymore, sir.[39]

The records show that the appellant knew that he was charged for the stabbing of the victim. However, instead of surrendering to the police authorities, he adroitly evaded arrest. The appellant's flight is evidence of guilt and, from the factual circumstances obtaining in the case at bar, no reason can be deduced from it other than that he was driven by a strong sense of guilt and admission that he had no tenable defense.[40]

The Crime Committed by the Appellant and the Proper Penalty Therefor

The trial court correctly convicted the appellant of murder qualified by treachery. Abuse of superior strength likewise attended the commission of the crime. 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 essence of treachery is the swift and unexpected attack on the unarmed victim without the slightest provocation on

his part.[41] In this case, the attack on the unarmed victim was sudden. Odilon, without provocation, suddenly placed his arm around the victim's neck and forthwith stabbed the latter. The victim had no inkling that he would be attacked as he was attempting to pacify Edmar and Julian. Ronnie and the appellant, both also armed with deadly weapons, rushed to the scene and stabbed the victim, giving no real opportunity for the latter to defend himself. And even as the victim was already sprawled on the canal, Ronnie bashed his head with a hollow block. The peacemaker became the victim of violence.

Unquestionably, the nature and location of the wounds showed that the killing was executed in a treacherous manner, preventing any means of defense on the part of the victim. As testified to by Dr. Bienvenido Muñoz, the victim was stabbed, not just once, but eleven times mostly on the chest and the abdominal area. Six of the stab wounds were fatal, causing damage to the victim's vital internal organs.[42]

The aggravating circumstance of abuse of superior strength is absorbed by treachery.[43] There is no mitigating circumstance that attended the commission of the felony. The penalty for murder under Article 248 of the Revised Penal Code is reclusion perpetua to death. Since no aggravating and mitigating circumstances attended the commission of the crime, the proper penalty is reclusion perpetua, conformably to Article 63 of the Revised Penal Code.

Civil Liabilities of the Appellant

The trial court correctly directed the appellant to pay to the heirs of the victim Joselita Capa the amount of P50,000 as civil indemnity ex delicto, in accord with current jurisprudence.[44] The said heirs are likewise entitled to moral damages in the amount of P50,000, also conformably to current jurisprudence.[45] In addition, the heirs are entitled to exemplary damages in the amount of P25,000.[46]

WHEREFORE, the Decision, dated May 3, 1995, of Branch 164 of the Regional Trial Court of Pasig City in Criminal Case No. 73615, finding appellant Rene Gayot Pilola GUILTY beyond reasonable doubt of the crime of murder is AFFIRMED WITH MODIFICATION. The appellant is hereby directed to pay to the heirs of the victim Joselito Capa the amount of P50,000 as civil indemnity; the amount of P50,000 as moral damages; and the amount of P25,000 as exemplary damages.

SO ORDERED.

Bellosillo, (Chairman), and Quisumbing, JJ., concur.

Austria-Martinez, J., on official leave.

[1] Penned by Judge Librado S. Correa.

[2] Records, p. 1.

[3] Id. at 7.

[4] Decision dated March 19, 1990 of the RTC of Pasig City, Branch 164, in Criminal Case No. 73615, convicting accused Odilon Lagliba y Abrigondo, to wit:

"ACCORDINGLY, the Court finds the accused Odilon Lagliba y Abrigondo GUILTY beyond reasonable doubt of the criminal offense of Murder in the slaying of Jessie Capa as charged in the information filed in Criminal Case No. 73615; and therefore, hereby imposes upon him the penalty of life imprisonment; and to indemnify the heirs of Jessie Capa in the amount of P30,000.00; as well as to pay the costs." (Records, pp. 83-100.)

[5] Records, pp. 105-106.

[6] The prosecution presented the following witnesses: Elisa Rolan, Dr. Bienvenido MuñozEoz, Julian Azul, Jr., Lydia Clamuha.

[7] TSN, 9 August 1994.

[8] Exhibits "B" & "B-1"; Records, pp. 42-43.

[9] TSN, 22 February 1995.

[10] TSN, 16 March 1995.

[11] TSN, 2 March 1995, pp. 1-6.

[12] Records, p. 203.

[13] Rollo, pp. 104-105.

[14] People v. Harovilla, G.R. No. 145719, August 20, 2002.

[15] TSN, 2 February 1995, pp. 5-8.

[16] People v. Bonifacio, G.R. No. 133799, February 5, 2002.

[17] People v. Mendoza, G.R. No. 145339-42, November 26, 2002.

[18] Article 8, Revised Penal Code.

Most modern codes define conspiracy in terms of a single actor agreeing with another, rather than as an agreement between two or more persons.

[19] People v. Quilaton, 324 SCRA 670 (2000).

[20] People v. Del Rosario, 305 SCRA 740 (1999).

[21] United States v. Watson, 594 F.2d. 1330 (1979).

[22] United States v. Burchinal, 657 F.2d. 985 (1989).

[23] Phelps v. United States, 160 F.2d 858 (1947).

[24] People v. Altabano, 317 SCRA 708 (1999).

[25] Allen v. United States, 4 F.2d 688 (1925).

[26] People v. Elijorde, 306 SCRA 188 (1999).

[27] People v. Del Rosario, *supra*.

[28] People v. Listerio, 335 SCRA 40 (2000).

[29] People v. Catian, G.R. No. 139693, January 24, 2002.

[30] People v. Cutura, 4 SCRA 663 (1962).

[31] People v. De Vera, 312 SCRA 640 (1999).

[32] See note 25.

[33] *People v. Magalong*, 244 SCRA 117 (1995); *People v. Ortega, Jr.*, 276 SCRA 166 (1997).

[34] See note 28.

[35] *People v. Matore*, G.R. No. 131874, August 22, 2002.

[36] TSN, 22 February 1995, pp. 2-3 (Rene Pilola).

[37] *People v. Gonzales*, G.R. No. 142932, May 29, 2002.

[38] Exhibit "G."

[39] TSN, 16 March 1995, pp. 10-11.

[40] *People v. Mendoza*, G.R. No. 145339-42, November 26, 2002.

[41] *People v. Abadies*, G.R. No. 135975, August 14, 2002.

[42] TSN, 2 February 1995, pp. 6-7 (Dr. Bienvenido MuñozEoz).

[43] *People v. Cruz*, G.R. No. 127789, April 2, 2002.

[44] *People v. Garcia*, G.R. No. 145505, March 14, 2003.

[45] See note 35.

[46] *People v. Catubig*, 363 SCRA 621 (2001).

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