

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CADIZ LAPAY, ANECITO LAPAY, MARIO LAPAY, PANCHITO VILLANUEVA, SEGUNDO OLBES, ROGELIO RETEZA, EMILIANO CRISOSTOMO, BASILIO GENE...

G.R. No. 123072. October 14, 1998

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

In rejecting this appeal, the Court relies on two basic rules: (1) the trial court's assessment of the credibility of witnesses and their testimonies is generally entitled to the highest degree of respect and will not be disturbed on appeal, and (2) positive identification prevails over denial and alibi.

The Case

Appellant Cadiz Lapay appeals from the October 24, 1990 Decision[1] of the Regional Trial Court of Tagum, Davao,[2] convicting him of murder and sentencing him to three counts of reclusion perpetua.

On November 28, 1984, Second Assistant Provincial Prosecutor Pedro T. Casia filed three separate Informations[3] for murder against herein appellant and the other accused, namely, Anecito Lapay, Mario Lapay, Panchito Villanueva, Segundo Olbes, Rogelio Reteza, Emiliano Crisostomo, Basilio Generosa, Rudy Constantino and Paylito Torrecampo. Except for the names of the victims,[4] the three Informations were similarly worded as follows:

"That on or about August 13, 1984, in the Municipality of San Vicente, Province of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with treachery and evident pr[e]m[e]ditation, with intent to kill, armed with .30 Carbine rifles and short firearms, did then and there wilfully, unlawfully and feloniously attack, assault and shoot one [Nelson Dumasis], thereby inflicting upon him wounds which caused his death, and further causing actual, moral and compensatory damages to the heirs of the victim." [5]

When arraigned on December 28, 1984, the appellant and his co-accused, with the assistance of their counsel, entered a plea of not guilty.[6] However, Accused Mario Lapay, Panchito Villanueva, Rogelio Reteza, Emiliano Crisostomo and Rudy Constantino escaped from prison after being arraigned.[7]

During trial and upon motion[8] of Second Assistant Provincial Prosecutor Diosdado A. Yamas, the lower court, in an Order[9] dated July 3, 1990, dismissed the charges against Basilio Generosa. On the motion of the defense counsel and without objection from Fiscal Yamas, the court a quo likewise ordered on January 24, 1985 the provisional dismissal of the case against Paylito Torrecampo on the ground of insufficiency of evidence.[10]

After trial on the merits, the court a quo rendered the assailed Decision, the dispositive portion of which reads:

"IN VIEW OF ALL THE FOREGOING, this Court finds the accused Cadiz Lapay guilty beyond reasonable doubt of the crime of murder under Article 248, Revised Penal Code, and sentences him [thus]:

a) In Criminal Case No. 6255, to reclusion perpetua, to pay the heirs of Nelson Dumas the sum of P30,000.00, to suffer the accessory penalties provided for by law and to pay the costs;

b) In Criminal Case No. 6256, to reclusion perpetua, to pay the heirs of Rosario Sellado the sum of P30,000.00, to suffer all accessory penalties provided for by law and to pay the costs;

c) In Criminal Case No. 6257, to reclusion perpetua, to pay the heirs of Juan Sellado the sum of P30,000.00, to suffer all accessory penalties provided for by law and to pay the costs;

and accused Mario Lapay, guilty beyond reasonable doubt of the crime of murder under Article 248, Revised Penal Code, and sentences him [thus]:

a) In Criminal Case No. 6255, to reclusion perpetua, to pay the heirs of Nelson Dumas the sum of P30,000.00, to suffer all accessory penalties provided for by law and to pay the costs;

b) In Criminal Case No. 6256, to reclusion perpetua, to pay the heirs of Rosario Sellado the sum of P30,000.00, to suffer all accessory penalties provided for by law and to pay the costs;

c) In Criminal Case No. 6257 to reclusion perpetua; to pay the heirs of Juan Sellado the sum of P30,000.00, to suffer all accessory penalties provided for by law and to pay the costs.

For insufficiency of evidence, the cases against the following accused, namely:

a) Anecito Lapay

b) Panchito Villanueva

c) Segundo Olbes

d) Rogelio Reteza

e) Rudy Constantino, and

f) Emiliano Crisostomo

are hereby dismissed. Without costs.

As stated earlier in this Decision, the cases against accused Paylito Torrecampo and Basilio Generosa had been dismissed for lack of evidence."^[11]

Both Cadiz and Mario Lapay appealed. However, Mario Lapay escaped from detention on July 10, 1986 and has not been arrested.^[12] Accordingly, this Court, in its Resolution dated July 21, 1997, dismissed the appeal of Mario Lapay.^[13] Thus, only the appeal of Cadiz Lapay will be resolved. ^[14]

The Facts

Version of the Prosecution

The prosecution's account hinges on the testimonies of Eyewitnesses Cornelio Valencia and Catalina Barrun.^[15]

The trial court summarized the testimony of Valencia in this manner:

"On August 12, 1984, witness was in Tagum, Davao, together with Juan and Rosario Sellado. They went home to Logdeck in the afternoon. Logdeck is a barrio in the [M]unicipality of San Vicente, Davao. At eight o'clock in the evening of August 12, 1984, witness was at Logdeck preparing for supper. Then he went to the house of Juan Sellado to call for Nelson Dumas because supper was ready but upon reaching the house of Juan Sellado, Nelson Dumas did not go home because he was not yet hungry and instead went to the store of Poldo. Witness also went to the store of Poldo because Nelson went there. He sat at the end of a bench while Sito (Anecito Lapay) was seated at the other end. While witness was still at the store of Poldo, Anecito Lapay left to the direction of the house of Francisco Dubos. Witness followed Sito, maintaining a distance of ten (10) meters away from him. When Anecito Lapay was in front of the house of Francisco Dubos, he turned towards the house of Jaime Argaoanon. When Anecito Lapay was nearing the house of Jaime Argaoanon, he was raising both hands 'as if he was signalling'. Witness hid among the bushes. Several men appeared. These men proceeded to the house of Juan Sellado. 'Incidentally, Rosario Sellado was right at the door. Upon arriving at

the house of Juan Sellado, they struck Rosario Sellado who was at the time seated by the door.’ The witness used the word ‘tira’ and when asked to explain the meaning of the word, the witness said ‘they immediately sho[t] Rosario Sellado who was seated by the door.’ When the Court asked: ‘Who shot Rosario Sellado?’, witness answered: ‘Cadiz Lapay and Mario Lapay.’ They used a carbine. Anecito Lapay was around. After Rosario Sellado was already dead, they also shot at Juan Sellado. Nelson Dumasís arrived to help [his] auntie but they also shot him - Cadiz Lapay and Mario Lapay. Both Cadiz Lapay and Mario Lapay were armed that evening with a carbine. Cadiz Lapay shot Nelson Dumasís in succession, receiving sixteen (16) wounds. When Rosario Sellado was shot, Juan Sellado was only one (1) meter away from her. Both Mario Lapay and Cadiz Lapay fired at Juan Sellado, the latter receiving five (5) wounds. Juan Sellado was shouting for help because he was still alive. The witness further testified, thus: ‘At first, I assisted Nelson and I called his name and I only discovered that he was dead. Then, I came upon and assisted Juan Sellado who, at that time, was asking for help[.] I asked him who killed him and he told me it was Mario and Cadiz.’ Witness left for Kapatagan and asked assistance from the barangay captain. When asked: ‘By the way, that was nighttime. How were you able to identify those persons?’ The witness answered: ‘There was [a] moon during that night and I already knew those persons.’ At the time of the incident, there was light at the Sellado[s]’ house. To the question: ‘By the way, when Anecito Lapay made a signal, as you said, there appeared several persons[;] can you identify those persons?’ and witness answered: ‘Cito, Mario, Cadiz, Crisostomo, Emiliano, Panchito, Generosa, Rudy, Juan - I do not remember his family name.’ Testifying further, witness said that Anecito Lapay caused many troubles to the Sellados. They frequently ha[d] altercations. The Sellados filed a case against Cadiz Lapay for Arson.”[16]

Barrun’s detailed narration of the incident was summarized by the trial court as follows:

"That at about eleven o’clock in the morning of August 13, 1984, Anecito Lapay and Loling Lapay came to their house to refer to her the summons they ha[d] received in connection with a case between the Lapays and the spouses Juan and Rosario Sellado. Witness told them to find out about the summons.

"At about three o’clock in the afternoon of the same day, Juan Sellado, Rosario Sellado and Nelson Dumasís were in her house. Loling Lapay, wife of Anecito Lapay was also in the house. Between 7:30 to 8:00 o’clock in the evening, witness went to the house of Rudy Joyo-a which [was] very close to their house because Anecito Lapay was there. She heard Anecito Lapay asking assistance from Rudy Joyo-a, but Rudy said, ‘You answer it all by yourselves because I have no money.'” After taking supper with Rudy, Anecito Lapay disappeared. Then witness saw Nelson Dumasís sitting in the balcony. Nelson told her that there [was] a person [named] Juan Sellado. Witness told Nelson Dumasís to stay put because she [would] go there herself. She approached the two (2) persons and she saw that they were Mario and Cadiz Lapay. Witness pointed to Mario and Cadiz Lapay in the courtroom. Witness heard Cadiz Lapay saying, ‘I received a summons coming from the court.’ Then she also heard Rosario saying, ‘Wait a minute’. Cadiz and Mario Lapay were already in the house of Juan Sellado. Witness was not seen because she hid behind a pile of sand of the Suaybagueño Construction. Then there were gun burst[s] coming from the house of Juan Sellado. Cadiz and Mario Lapay caused the firing. Cadiz and Mario Lapay were armed but witness does not know what kind of firearms they had. Then after the gun burst, witness heard from the house of Juan Sellado, Cadiz Lapay saying: ‘Poldo is still around’. Hearing these words, Poldo jumped out of the window of their house and ran away. Cadiz and Mario Lapay chased Poldo, firing two shots at him. Witness did not know whether or not Cadiz and Mario Lapay had companions because all she saw were the two. When Poldo saw two (2) men going to the house of Juan Sellado, he also followed her. Nelson Dumasís was also shot by Cadiz and Mario Lapay. Juan Sellado and Rosario Sellado were also shot by Cadiz and Mario Lapay.”[17]

Version of the Defense

Appellant Cadiz Lapay denied killing the victims, contending that he could not have carried a carbine rifle and pulled its trigger, because his right hand was swollen. The Appellant’s Brief contained a perfunctory statement of the facts. In fairness to the accused, we hereby reproduce the trial court’s more detailed summary of Lapay’s

testimony:

"On August 5, 1984, witness, accused himself, was at his home lying down because he was sick; his right hand was swollen. On August 13, 1984, he was still lying down because his hand was still swollen. He could not carry an object with his right hand. Witness denied the testimony of prosecution witness Cornelio Valencia that between 7:30 to 8:30 in the evening, accused was in the vicinity of the house of Juan Sellado, and with a carbine, fired at the house of Sellado, because he said that [was] not true; the truth being, he (the accused) was in his house lying down at that time. Accused has a witness to show that on said time and date, he was at his house lying down, in the person of Crestito Pitaw, the one who brought him to the clinic.

"On August 14, 1984, I went to see a quack doctor at the municipality of Asuncion and on the way I met Segundo Olbes. Upon my request I lay down, waiting for a jeep. At the house of Segundo Olbes, I learned from him about the death of Juan Sellado, Rosario Sellado and Nelson Dumasis.' Witness denied the testimony of prosecution witness Catalina Barrun, that he, together with his father and brother were going towards the house of the victims on August 13, 1984, because he was in his house. From the house of Segundo Olbes, witness proceeded to the house of the quack doctor.

x x x x x x x x

"On cross examination, witness affirmed that he was sick and bedridden but qualified by saying that he could go out and manage to walk."[18]

Corroborating the foregoing, Defense Witness Juanito Naquila took the witness stand. His testimony was narrated by the trial court thus:

"x x x On August 11, 1984, accused Cadiz Lapay went to his house which [was] about forty meters from the house of Cadiz Lapay[,] for treatment of a swollen right hand. After treatment, Cadiz Lapay remained in his house. On August 13, 1984, in the morning, witness met Cadiz Lapay again and on [the] same date, at six o'clock in the evening, witness served cooked fish to Cadiz Lapay in the house of Cadiz Lapay. Cadiz Lapay was lying in bed, his right [hand] still swelling. On August 14 and 15, 1984, in the evening, witness did not anymore see Cadiz Lapay."[19]

To assail the eyewitness account of Prosecution Witness Valencia, the defense also presented Witness Guillermo Santillan, whose testimony was summarized by the trial court in this wise:

"x x x [A]t about ten o'clock of August 13, 1984, he was on duty as guard at Purok IV. Cornelio Valencia approached him and asked him to accompany Cornelio Valencia to barangay captain Eufrazio Almocera. Witness said that he was going to report the killing of Juan Sellado, Rosario Sellado and Nelson Dumasis. When asked by the witness who was the assailant, Cornelio Valencia said, he did not know. Witness accompanied Cornelio Valencia to the barangay captain[,] Cornelio Valencia also told the barangay captain that he did not know the assailant of the Sellados."[20]

The Trial Court's Ruling

The trial court disbelieved the defenses of denial and alibi, but accorded great weight and credence to the testimonies of Valencia and Barrun, who had actually seen the appellant and his brother Mario shoot the victims. It further ruled that treachery qualified the killing to murder, because the deceased were unarmed and defenseless, and the attack was carried out suddenly and without warning. The lower court also appreciated the generic aggravating circumstances of abuse of superior strength and aid of armed men.

Issues

In his Brief,[21] appellant raises the following issues:

"I. Whether or not there [was] physical impossibility for the accused-appellant Cadiz Lapay to have fired a

carbine rifle on August 13, 1984 given the fact that the said accused-appellant could not even hold a pen and/or sign the receipt of summons on the morning of the same day.

"II. Whether or not the testimonies of Cornelio Valencia, who is an int[e]rested party, and Catalina Barrun, were supported by physical evidence that indeed Cadiz Lapay shot the victims with a use of a carbine rifle.

"III. Whether o[r] not witnesses Cornelio Valencia and Catalina Barrun ha[d] accurately identified the gunmen of victims Juan Sellado, Rosario Sellado and Nelson Dumas in view of the fact that the said killing oc[c]urred at nighttime in a place which was notoriously known to be a rebel-infested area in 1984.

"IV. Whether or not an affidavit duly executed by a witness during his lifetime and which was properly identified by the administering officer, Special Prosecutor Teodoro Yamas, is inadmissible as evidence." [22]

All the above alleged errors point to one core issue: the credibility of the prosecution witnesses and their testimonies. In addition, we shall discuss the defenses of denial and alibi, and the characterization of the crime committed.

This Court's Ruling

The appeal is bereft of merit.

Core Issue:

Credibility of Witnesses and Their Testimonies

Appellant submits that the testimonies of Valencia and Barrun are not worthy of full faith and belief. He also points out that Valencia even admitted not knowing who the assailants were when he reported the incident to Witness Santillan and Barangay Captain Eufracio Almocera. Appellant further contends that he could not have killed the victims with a carbine rifle, because he was bedridden with a swollen right hand at the time of the incident.

These arguments do not persuade. It is axiomatic that findings of the trial court with respect to the credibility of witnesses and their testimonies are entitled to great respect [23] and will not be disturbed on appeal, [24] absent any proof that it overlooked, misunderstood or misapplied some facts or circumstances of weight or substance which could have affected the result of the case. [25] We find no reason to depart from this rule.

Both Valencia and Barrun were consistent in positively identifying Cadiz and Mario Lapay as the malefactors. Valencia testified:

"Q

You mean to say, from the house of Juan Sellado, you went to the store of Poldo?

A

Yes, sir.

Q

Why?

A

I went there because Nelson went to that store.

Q

Now, aside from Nelson, who else was present in the store of Poldo?

A

Cito was there.

Q

Are you referring to Anecito Lapay?

A

Yes, sir.

Q

Then what happened after that?

A

While I was still in the store of Poldo, Cito left.

Q

To what direction?

A

He went to the direction of the road leading to the house of Francisco Dubos.

Q

Now, what did you do?

I followed Cito maintaining a distance of ten (10) meters away from him.

xxxxxxxxx

Q

Then what happened?

A

When Anecito Lapay was nearing the house of Jaime Argawanon [sic], I saw him raising [both of his] hands as if he was signaling.

Q

Then what happened?

A

While witnessing the acts of Anecito, I was hiding along the bushes.

Q

Then what happened?

A

After that several men appeared. After that they left and they proceeded to the house of Juan Sellado. Incidentally, Rosario Sellado was right at the door. Upon arriving at the house of Juan Sellado, they struck

Rosario Sellado who was at the time seated by the door.

FISCAL:

Your honor please, he used the word 'tira'.

Q

What do you mean by the word 'tira'?

WITNESS:

A

They immediately shot Rosario Sellado who was seated by the door.

COURT:

Q

Who shot Rosario Sellado?

A

Cadiz Lapay and Mario Lapay.

Q

What weapon did they use?

A

They used a carbine.

x x x x x x x x

Q

Then what happened to Rosario Sellado when they fired at her?

A

When Rosario Sellado was already dead, they fired at Juan Sellado also.

x x x x x x x x

Q

By the way, did you see Nelson Dumasis?

A

Yes, sir.

Q

What happened to him?

A

When Nelson Dumasis arrived to assist his auntie, they also shot him.

Q

Who shot Nelson Dumasis?

A

The same men.

Q

Who are they?

A

Mario and Cadiz Lapay.”[26]

Witness Barrun gave this more detailed account of the incident:

"Q

Then what did you observe after that?

A

Nelson told me that there [was] a person going to the direction of the house of Mama Adyong.

Q

So what did you do?

A

I told Nelson to stay put and I'[d] go there myself.

x x x x x x x x

Q

Then what happened after that?

A

I approached the two persons, then I saw that it was Cadiz and Mario.

Q

Do you refer to the person named Cadiz Lapay?

A

Yes, sir.

x x x x x x x x

Q

Did Mario and Cadiz Lapay see you in that evening?

A

They [did not see] me because I hid among the stockpiles.

Q

What are those stockpiles you are referring to?

A

Stockpiles of sand of Suaybaguio Construction.

Q

While there what happened after that?

A

I heard Cadiz saying, "I received a summons coming from the Corral.

Q

Then after that what happened?

A

I heard Rosario Sellado saying, 'Wait a minute'.

Q

Do you mean to say Mario and Cadiz Lapay were already in the house of Juan Sellado at that time?

A

Yes, sir.

Q

After Rosario Sellado answered, 'Wait a minute', what happened?

A

There were already gun bursts.

Q

Do you know where did those gun bursts come from?

A

Yes, sir, I know.

Q

Where?

A

From the house of Juan Sellado.

Q

Who caused the firing?

A

Cadiz and Mario caused the firing.

xxxxxxx

Q

Did you hear anything from inside the house?

A

After the gun bursts coming from the house of Juan Sellado, I heard something.

Q

What [was] that which you heard?

A

I heard Cadiz saying, 'Poldo is still around'.

Q

By the way, were Mario and Cadiz Lapay bringing something?

A

They were bringing weapons but I could not recognize what kind of weapons were those.

Q

Then what did you do after that?

A

After hearing the words from Cadiz saying, 'Poldo is still around', Poldo immediately jumped out.

Q

From where did Poldo jump out?

A

From our window and he ran away.

Q

How about Mario and Cadiz Lapay, what did they do?

A

They chased Poldo and fired two shots.

Q

Did Mario and Cadiz Lapay have companions at that time?

A

I did not know if they had companions but all I [saw] were the two -- Mario and Cadiz.

Q

By the way, who were inside the house of Juan Sellado at the time when there was firing?

A

Only the two of them, the husband and wife.

Q

How about Nelson Dumasis, where was he?

A

He was in our house.

Q

What happened to Nelson Dumasis in that incident?

A

When Nelson Dumasis saw the two men, he followed me.

Q

Then what happened after he followed you?

A

He was also shot.

Q

Who shot him?

A

Cadiz and Mario shot him."[27]

These testimonies were straightforward, consistent and replete with details.[28] Moreover, nothing in the record shows that the witnesses were moved by any improper motive; hence, the presumption is that the witnesses were not so actuated and their testimonies are entitled to full faith and credit.[29] Indeed, the trial court accorded these testimonies credence and weight. In light of these considerations, we find no reason to reverse or modify the ruling of the trial court.

Delay in Revealing the Identities of the Malefactors

Appellant argues that Valencia did not really know who the assailants were, because the said witness failed to disclose the names of the culprits when he reported the incident to Santillan and Almocera.

We disagree. The failure of Valencia to immediately report the identities of the malefactors cannot be taken against him. In *People v. Malimit*,^[30] this Court ruled that "[t]he non-disclosure by the witness to the police officers of appellant's identity immediately after the occurrence of the crime is not entirely against human experience. In fact, the natural reticence of most people to get involved in criminal prosecutions against immediate neighbors, as in this case, is of judicial notice."^[31] Delay in revealing the names of the malefactors does not, by itself, impair the credibility of the prosecution witnesses and their testimonies.^[32] We explained in *People v. Beduya*:^[33]

"Fear for one's life explains the failure on the part of witness to a crime to immediately notify the authorities of what exactly transpired. Once such fear is overcome by a more compelling need to narrate the truth, then the witness must be welcomed by the courts to help dispense justice."

In fact, when confronted with his omission, Valencia admitted that he was afraid that the assailants would kill him also.[34] In any event, he was able to identify Appellant and Mario Lapay in open court.

Counter-Affidavit

Inadmissible in Evidence

Appellant posits that the trial court erred in not admitting the counter-affidavit executed by Eufracio Almocera, who died before the trial. He argues that the counter-affidavit should have been admitted under the doctrine of independently relevant statement; that is, "not to prove the truth of the facts therein but only to prove that such writings were executed." [35] He further argues that the counter-affidavit "will corroborate xxx a very material fact that indeed Cornelio Valencia [did] not know who the assailants really were as he did not see them."

We do not agree. Courts should consider a piece of evidence only for the purpose for which it was offered.[36] In this case, appellant argues that the said document should have been admitted for the sole purpose of proving that such counter-affidavit was executed. The counter-affidavit, therefore, should not have been used for the purpose specified by the defense counsel during the trial: to "disprove the testimony of Cornelio Valencia"[37] or, as he subsequently declared in the Appellant's Brief, to corroborate the testimony of Defense Witness Santillan.[38] For the court to consider the substance of the counter-affidavit is to give probative value to the statements of an affiant who could no longer be subjected to cross-examination, in violation of the hearsay rule.[39]

In any event, even if the counter-affidavit were admitted to disprove the eyewitness account of Valencia, the prosecution's case would still prosper. The guilt of appellant rests not only on the testimony of Valencia, but also on the more detailed account of Barrun.

Alleged Injury of

Appellant

While it may be true that the right hand of Cadiz was still swollen when the crime was committed, appellant failed to show that Cadiz could not have possibly perpetrated the killing. Appellant himself admitted in court that he could walk,[40] and this was corroborated by Defense Witness Naquila.[41] More important, no conclusive proof was presented to show that Cadiz could not, at the time, use his right hand to hold a gun and pull its trigger. Added to these facts was appellant's failure to present even a medical certificate to substantiate his claim.

Besides, the prosecution eyewitnesses were categorical and consistent in saying that Cadiz and his brother Mario were the ones who had shot the victims. The eyewitnesses cannot be mistaken as to the identity of the felons, because the place was sufficiently illuminated by the moon and the light coming from the house of the Sabellas.[42] Their positive declarations prevail over the negative assertions of the appellant and his witnesses.[43]

Denial and Alibi

The defenses of denial and alibi deserve scant consideration when the prosecution has strong, clear and convincing evidence identifying appellant as the perpetrator. Appellant failed to show that it was physically impossible for him to be present at the time and the place of commission of the crime.[44] Thus, this Court has ruled that "alibi is one of the weakest defenses an accused can invoke and courts have always looked upon it with caution, if not suspicion, not only because it is inherently unreliable but likewise because it is rather easy to fabricate." [45]

The Crime

The court a quo correctly ruled that treachery qualified the killing. Present in this case indeed, is the essence of treachery, which is defined as a sudden and unexpected attack without the slightest provocation on the part of the person attacked.[46] The appellant, with his brother Mario, shot the victims who were unarmed and defenseless.

However we do not agree with the trial court that two generic aggravating circumstances, abuse of superior strength and aid of armed men, also attended the killing. In *People v. Torrefiel*,^[47] the Court held that treachery absorbs these two circumstances.

Civil Indemnity

The trial court ordered the appellant to pay the heirs of each victim the amount of P30,000, or a total of P90,000, without stating the reason for the award. We shall treat the award as civil indemnity to the heirs of the three victims,^[48] but increase it to P50,000, or a total of P150,000, consistent with prevailing jurisprudence.^[49]

WHEREFORE, the appeal is DENIED and the assailed Decision is AFFIRMED, but the amount of P30,000 as civil indemnity for the heirs of each victim is INCREASED to P50,000, or a total of P150,000.

SO ORDERED.

Davide, Jr., (Chairman), Bellosillo, Vitug, and Quisumbing, JJ., concur.

[1] Rollo, pp. 34-47.

[2] Penned by Judge Jesus V. Matias.

[3] Docketed as Criminal Case Nos. 6255, 6256 and 6257.

[4] The other victims were Rosario Sellado and Juan Sellado.

[5] Rollo, pp. 1-3.

[6] Order of the RTC dated December 28, 1984; records, p. 27.

[7] See Decision, p. 1; rollo, p. 34.

[8] Records, pp. 283-284.

[9] Records, p. 285.

[10] TSN, January 24, 1985, pp. 4-5 and 20-21.

[11] Decision, pp. 13-14; rollo, pp. 46-47.

[12] Rollo, pp. 132-133.

[13] Rollo, p. 159.

[14] The case was deemed submitted for decision on October 7, 1997, upon receipt by this Court of the Appellee's Brief. The filing of a reply brief was deemed waived upon failure of appellant to do so within the reglementary period.

[15] Sometimes spelled "Baron."

[16] Appealed Decision, pp. 3-4; rollo, pp. 36-37.

- [17] Appealed Decision, p. 6; rollo, p. 39.
- [18] Ibid., pp. 7-8; rollo, pp. 40-41.
- [19] Ibid., p. 8; rollo, p. 41.
- [20] Ibid., pp. 10-11; rollo, pp. 43-44.
- [21] Signed by Atty. Rolando C. Casaway.
- [22] Appellant's Brief, pp. 7-8.
- [23] *People v. Paragua*, 257 SCRA 118, 123-124, February 22, 1996; *People v. Arcilla*, 256 SCRA 757, 768, May 15, 1996; *People v. Talaboc*, 256 SCRA 441, 449, April 23, 1996; *People v. Faigano*, 254 SCRA 10, 15, February 22, 1996.
- [24] *People v. Villaviray*, 262 SCRA 13, 18, September 18, 1996; *People v. Narciso*, 262 SCRA 1, 9, September 18, 1996; *People v. Salazar*, 258 SCRA 55, 61, July 5, 1996; and *People v. Sandoval*, 254 SCRA 436, 454, March 7, 1996.
- [25] *People v. Buemio*, 265 SCRA 582, 595, December 16, 1996; *People v. Layno*, 264 SCRA 558, 572, November 21, 1996; *People v. Bawar*, 262 SCRA 325, 330, September 23, 1996; and *People v. Excija*, 258 SCRA 424, 439, July 5, 1996.
- [26] TSN, January 9, 1985, pp. 19-21.
- [27] TSN, August 28, 1986, pp. 8-10.
- [28] *People v. Rosare*, 264 SCRA 398, 410-411, November 19, 1996; *People v. Nazareno*, 260 SCRA 256, 276-277, August 1, 1996; *People v. Guarin*, 259 SCRA 34, 47, July 47, 1996; *People v. Gecom*, 254 SCRA 82, 96, February 23, 1996.
- [29] *People v. Garcia*, 258 SCRA 411, 418, July 5, 1996; *People v. Alimon*, 257 SCRA 658, 670, June 28, 1996 ; *People v. Laurente*, 255 SCRA 543, 563-564, March 29, 1996; and *People v. Prado*, 254 SCRA 531, 538, March 8, 1996.
- [30] 264 SCRA 167, 174-175, November 14, 1996, per Francisco, J.
- [31] See also *People v. Castillo*, 261 SCRA 493, 500, September 6, 1996.
- [32] *People v. Rosario*, 246 SCRA 658, 667, July 18, 1995; *People v. Ompad, Jr.*, 233 SCRA 62, 66, June 10, 1994; and *People v. Rosario*, 134 SCRA 497, 509, February 25, 1985.
- [33] 182 SCRA 57, 64, February 7, 1990, per Gancayco, J.
- [34] TSN, January 24, 1985, pp. 17-18 and 20.
- [35] Appellant's Brief, p. 20.
- [36] Regalado, Remedial Law Compendium, 7th revised ed., pp. 677 and 679.
- [37] TSN, November 16, 1988, p. 5.
- [38] Appellant's Brief, p. 20.
- [39] *Molina v. People*, 259 SCRA 138, 159, July 24, 1996.

[40] TSN, January 20, 1987, p. 5.

[41] TSN, March 11, 1987, p. 11.

[42] *People v. Villaruel*, 261 SCRA 386, September 4, 1996.

[43] *People v. Gondora*, 265 SCRA 408, 421, December 6, 1996; *People v. Sotes*, 260 SCRA 353, 366, August 7, 1996; and *People v. Vargas*, 257 SCRA 603, 612, June 26, 1996.

[44] *People v. Fabula*, 265 SCRA 607, 612, December 16, 1996; *People v. Alberca*, 257 SCRA 613, 631, June 26, 1996; *People v. Melivo*, 253 SCRA 347, 360, February 8, 1996.

[45] *People v. Layno*, 264 SCRA 558, 574, November 21, 1996, per Panganiban, J.

[46] *People v. Cogonon*, 262 SCRA 693, 704-705, October 4, 1996 and *People v. Vallador*, 257 SCRA 515, 527, June 20, 1996.

[47] 256 SCRA 369, 379, April 18, 1996.

[48] *People v. Sol*, 272 SCRA 392, 407, May 7, 1997.

[49] *People v. Marollano*, 276 SCRA 84, 113, July 24, 1997 and *People v. Cayabyab*, 272 SCRA 387, 404, June 19, 1997.

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