PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROLAND PARAISO, DEFENDANT-APPELLANT.

G.R. No. 127840. November 29, 1999

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PER CURIAM:

For automatic review is the Decision dated November 26, 1996 of the Regional Trial Court[1] of Cebu City, Branch 14 in Criminal Case No. CBU-41141 finding accused Roland Paraiso guilty of special complex crime of Robbery with Homicide and sentencing him to suffer the penalty of death.

An Information[2] was filed charging accused Roland Paraiso and John Doe of the crime of Robbery with Homicide as follows:

> "That on or about the 11th day of June, 1995, at 1:30 o'clock in the afternoon, more or less, in Barangay Lipata, Municipality of Minglanilla, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, confederating and mutually helping one another, with intent to gain, and by means of violence and intimidation, did then and there wilfully, unlawfully and feloniously enter the house of Lolita Alipio Tigley, and once inside, take, steal and carry away one (1) Rolex watch, assorted jewelries, P200.00 cash and a telescope, all valued at P180,000.00 and on the occasion thereof, with intent to kill, dragged said Lolita Alipio Tigley inside a room, and thereafter assaulted, attacked and stabbed the latter on the different parts of the body which caused her death shortly thereafter."

No bail was recommended. Upon arraignment, accused Paraiso, assisted by counsel, pleaded not guilty to the crime charged.[3] Hence, trial ensued.

The prosecution presented the following witnesses: Sheila Marie Alipio, 18 years old; Ferdinand Tigley, 17 years old; Epifanio Tigley, Jr., 15 years old; Kim Tigley, 13 years old; cartographer Ligaya Agbay; Dr. Juan Zaldarriaga, Jr.; and Adelaida Alipio.

Prosecution eyewitness Sheila Marie Alipio, then 18 years old, is the niece of the victim. Her father Medelino is the brother of the victim Lolita. Their house is located some 50 meters away from the house of the victim. Sheila testified that at around 1:30 in the afternoon of June 11, 1995, she went to the house of the victim to deliver a one-gallon water container. At the main door of her aunt's house, she saw two (2) men, including accused herein, standing about a meter away from her. She rang the doorbell and after a while, her aunt opened the door. All of a sudden, one o the two men pushed her inside the victim's house. She stumbled and when she looked back, she saw one of them pointing a gun, about 8 to 10 inches long, at her aunt's right temple. He allegedly wore navy blue maong pants, a round-neck t-shirt colored sky blue, red rubber shoes and a black cap over his head; he was fair-complexioned with somewhat sunken cheeks. Sheila later identified this man in court as the accused-appellant Paraiso.[4]

Sheila further testified that the other man was armed with a Batangas fan knife which he poked at her right side. They were herded upstairs into one of the rooms, together with the victim's children, Epifanio, Jr., Ferdinand and Kim. Paraiso was allegedly holding the victim Lolita and asked for the key; he likewise ordered the victim to open

the cabinet and ransacked and searched the same. He asked where the money was placed but Lolita took from her pocket the amount of P200.00 which she handed to Paraiso saying that it was all that she had. Paraiso likewise took jewelries, wristwatch and video camera. Paraiso and his male companion brought the victim to the bathroom and ransacked the cabinet. Paraiso later ordered his companion to cover Sheila and her cousins with pillows. Sheila peeped through the pillows and saw Ferdinand being tied up. Her aunt pleaded with the perpetrators not to harm the children. Later, Sheila saw her aunt being taken to the children's room but her aunt came back bloodied and clutching her breast. Lolita collapsed after looking at each one of them. The accused and his companion were no longer there.[5]

Sheila described the man holding the Batangas knife as dark-skinned, with protruding Adam's apple and his face and forearms bore so many scars and sporting a flat top haircut, somewhat regular nose.[6]

Another witness for the prosecution was Epifanio Tigle, Jr., then 15 years old, who is the son of the victim. In the courtroom, he pointed to accused-appellant Paraiso as one of the two (2) men who robbed and killed his mother.[7] He testified that on June 27, 1995, he, together with his siblings, went to the office of the NBI wherein a cartographic sketch was drawn of one of the suspects (since he was present when his mother was robbed and killed); that he, together with his brothers, Ferdinand and Kim and his cousin Sheila went to the Chief of Police at the Municipal Building of Minglanilla on April 19, 1996 to inform him that the suspects in the robbery case in Argao were not the ones who robbed and killed his mother.[8] He further testified that he, his mother and brothers were inside their house at their mother's room when Sheila, who was at the main door, was ordered to enter their house; and that the robbers ordered them to stay inside their mother's room.[9] Upon demand, his mother gave accused Paraiso only P200.00, which was in her pocket, because she has not yet received her allotment from her husband. Thereafter, accused Paraiso asked for the key to the box and took out some jewelries, such as wrist watch and necklace.[10]

Ferdinand Tigley, 17 years old, testified to corroborate the testimonies of eyewitnesses Sheila and Epifanio, Jr., as he was likewise at the house of the victim during the incident. He was hogtied by the companion of appellant Paraiso with a t-shirt which was taken from the victim's cabinet.[11] He was also presented to prove actual and moral damages. He stated that the robbers took a wristwatch, necklace, telescope and video camera aside from the P200.00 which the victim handed to Paraiso; that the total value of the items taken was P179,800.00, as shown in the list marked as Exhibit "F"; this list was made by his father who came home for the burial. The burial expenses likewise amounted to P47,600.00 as evidenced by a list marked as Exhibit "G". Ferdinand further testified that when his mother was killed, he felt anguish and pain. When asked if his worries and feelings could be translated into cash, he stated that "(G)rief and anguish is not a business proposition to be given monetary value, not even a million will suffice."[12]

Kim Tigley, then 13 years old, is the youngest son of the victim. Upon identifying in court appellant Paraiso as one of the persons who entered their house, he exploded in anger and banged his fist on the armchair of the witness box.[13] He recalled that after appellant took out the jewelries, wristwatch, telescope and camera, and while his older brother Ferdinand was hogtied by appellant's companion, his mother pleaded with robbers to just take all the things they wanted but not to harm Ferdinand; and that with the gun pointed at his mother's head and the knife poked at her, the two robbers held his mother and brought her into the other room where she was killed.[14]

Adelaida Alipio, the sister-in-law of the victim, testified that appellant came to the house of the victim on June 6, 1995 to apply as a driver but the victim allegedly declined because her jeepney had many defects.[15]

Dr. Juan Zaldarriaga was presented by the prosecution to identify the Necropsy Report of the victim. He testified

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that the cause of death was "Hemorrhage, severe, secondary to stab wounds of the chest" with the following post mortem findings:

> "Cyanosis, lips and nailbeds.
>
> Contusion, greenish-purple, 2.0 x 4.0 cms., lateral aspect, middle third, arm, right.
>
> Contuse abrasion, 0.5 x 0.5 cm., sternal region, right side.
>
> Wounds, incised: 2.0 cms., dorsal aspect, hand, left; 4.0 cms., dorso-palmar aspect, between ring and middle fingers, hand, left.
>
> Wounds, stabbed:
>
> (1) Elliptical shaped, edges clean cut, running horizontally, 1.6 cms., with lateral extremity sharp and medial extremity blunt; located at the anterior aspect, chest, right side, 4.0 cms. from the anterior median line and level of the 3rd rib; directed backward, downward and medially; involving the skin and soft tissues, non-perforating, with the depth of 3.0 cms.;
>
> (2) Elliptical shaped, edges clean cut, running downward and medially, 1.8 cms., with the upper extremity blunt and lower extremity sharp; located at the anterior aspect, chest, left side, 2.5 cms. from the anterior median line and level of the 3rd intercostal space; directed backward, downward and laterally; involving the skin and tissues, perforating the heart, with the depth of 8.5 cms.;
>
> (3) Elliptical shaped, edges clean cut, running horizontally, 1.8 cms., with the medial extremity sharp and lateral extremity blunt; located at the anterior aspect, chest, left side, 9.0 cms. from the anterior aspect, chest, left side, 9.0 cms. From the anterior median line and level of the 3[rd] intercostal space; directed backward, downward and medially; involving the skin and soft tissues, perforating the lung, left side, with the depth of 13.0 cms.;
>
> (4) Elliptical shaped, edges clean cut, running almost vertically 2.0 cms., with the upper extremity sharp and lower extremity blunt; located at the postero-lateral aspect, chest, left side, 15.0 cms. From the posterior median line and level of the 8[th] intercostal space; directed forward, downward and medially; involving the skin and soft tissues, perforating the lung, diaphragm, left side and stomach, with the depth of 14.0 cms.
>
> Hemopercardium, 300 cc.
>
> Hemothorax: left side, 700 cc.; right side, 500 cc.
>
> Lungs, congested and edematous; cut sections show reddish congested cut surfaces.
>
> Brain and other visceral organs, moderately congested.
>
> Stomach, full of clear fluid and partially digested rice and other food particles.
>
> CAUSE OF DEATH: Hemorrhage, severe, secondary to stab wounds of the chest."

For the defense, the following witnesses were presented: Estacio Sayson, Lilia Abellana, Thelma Moneva, Rodliza Alforque, Raul Pable, Eric Pasilan, Rosita Paraiso and accused himself. The theory of the defense is alibi and denial.

After trial, the court a quo rendered judgment on November 26, 1996, the dispositive portion[16] of which reads:

> "WHEREFORE, premises considered, the Court hereby finds the accused Roland Paraiso guilty beyond reasonable doubt as a co-principal by direct participation of that certain John Doe of the special complex crime of robbery with homicide as now defined and penalized by Section 9 of Republic Act No. 7659. The felony at bar was attended by three aggravating circumstances, to wit: that the act was committed in disregard of the

> respect due the offended party on account of her sex, that the act was committed in the dwelling of the offended party (morada) without the offended party having given any provocation therefore, and that advantage was taken by the accused and of his companion of their superior strength -- without any mitigating or extenuating circumstance to neutralize or offset any of these aggravating circumstance. He is accordingly sentenced to the supreme penalty of death by lethal injection as mandated by law.
>
> The accused Roland Paraiso is also sentenced to restore unto the heirs or family of the late Lolita Tigley the sum of P200.00 in cash and the assorted jewelries, wristwatch and Video camera valued at P179,800.00, which he and his companion stole from Lolita Tigley that afternoon of June 11, 1995 at her dwelling at Lipata, Minglanilla, Cebu. The accused is also ordered to pay moral damages in the sum of P200,000.00 and exemplary damages in the sum of P100,000.00 to the heirs of the late Lolita Tigley.
>
> Costs shall also be taxed against the accused.
>
> May God have mercy on your poor soul, Roland Paraiso."

Hence, this automatic review.

Accused-appellant Paraiso raised the following assignment of errors in his brief:

> "THE LOWER COURT ERRED IN OVERLOOKING AND FAILING TO CONSIDER CERTAIN FACTS AND CIRCUMSTANCES OF WEIGHT AND VALUE, WHICH IF CONSIDERED WOULD HAVE MATERIALLY ALTERED THE RESULT OF THE CASE.
>
> "THE LOWER COURT ERRED IN MAKING CONCLUSIONS OF FACT WHICH ARE NOT SUPPORTED BY THE EVIDENCE ON RECORD.
>
> "THE LOWER COURT ERRED IN CONVICTING THE ACCUSED-APPELLANT DESPITE THE FLIMSY AND UNRELIABLE EVIDENCE PRESENTED BY THE PROSECUTION.
>
> "THE LOWER (COURT) ERRED IN FINDING THE GUILT OF THE ACCUSED-APPELLANT OF THE CRIME OF ROBBERY WITH HOMICIDE BEYOND REASONABLE DOUBT."

The assigned errors are interrelated and the present case hinges on the credibility of witnesses.

Appellant contends that his guilt was not proven beyond reasonable doubt because there were facts and circumstances that the court a quo did not consider in his favor and that the evidence presented by the prosecution is flimsy and unreliable.

In this connection, it bears emphasis that where the issue is one of credibility of witnesses, the appellate court will generally not disturb the findings of the trial court unless some facts and circumstances may have been overlooked that may otherwise affect the result of the case. For, it is the peculiar province of the trial court to determine the credibility of the witness because of its superior advantage in observing the conduct and demeanor of the witness while testifying.[17] As this Court has invariably held, the opinion of the trial court as to who of the witnesses should be believed is entitled to great respect. The oft-repeated rationale born of judicial experience is that the trial judge who heard the witnesses testify and had the occasion to observe their demeanor on the stand was in a vantage position to determine who of the witnesses deserve credence.[18] Only the trial judge can observe the "furtive glance, blush of conscious shame, hesitation, flippant or sneering tone, calmness, sigh, or the scant or full realization of an oath -- all of which are useful aids for an accurate determination of a witness' honesty and sincerity."[19] We have thoroughly examined the records and found nothing that would justify our overturning the findings of the trial court.

Appellant interposed the defense of alibi which is the weakest of all defenses. For alibi to prosper as a defense,

one must not only prove that he was somewhere else when the crime was committed but must also show that it was physically impossible for him to have been at the scene of the crime.[20] The second element was not proved; appellant lived with his in-laws at Pakigne, Minglanilla, Cebu, whose house is just 3 electric posts or 5 houses away from the victim's house. His father-in-law Eustacio Sayson testified that appellant was at home during the fatal incident.[21] However, alibi becomes unworthy of merit where it is established mainly by the accused himself and his relatives.[22]

Furthermore, it is well-settled that a positive identification of the accused made by the prosecution eyewitness prevails over such a defense of alibi.[23] In the present case, not one, but four (4) eyewitnesses identified him as one of the robbers. Appellant was positively identified by four (4) eyewitnesses, namely: Sheila Marie Alipio, Epifanio Tigley, Jr., Ferdinand Tigley and Kim Tigley who were all present at the scene of the crime.

Appellant contends that in the natural course of human conduct and events, when a person has been a victim of a crime, it is to be expected that he would immediately inform the police of the name or identity of the perpetrator. It is appellant's contention that if the prosecution eyewitnesses had actually seen and recognized the malefactors, they would have reported the appellant, who is one of their neighbors, to the police immediately or within a reasonable time after the incident took place. However, it took the eyewitnesses ten (10) months to identify the appellant as one of the malefactors and the prosecution never gave any plausible reason for such delay. Appellant avers that he has been a neighbor of the victim and her family for about seven (7) years and has been buying items from the store of the victim, and even attended the wake of the late Lolita Tigley for two or three times.

The contention is untenable.

The witnesses' delayed reporting of what they know about the crime does not render their testimonies false or incredible, for the delay may be explained by the natural reticence of most people and their abhorrence to get involved in a criminal case.[24] Failure to immediately reveal the identities of the perpetrators of a crime does not affect, much less impair, the credibility of witnesses, more so if such delay has been adequately explained.[25] Delay in reporting the crime is not sufficient to doubt the truthfulness of the accusation.[26] Moreover, there is no standard behavior for a person confronted with a shocking incident. One may immediately report the incident to the proper authorities while another, in fear and/or avoiding involvement in a criminal investigation, may keep to himself what he had witnessed.[27] Others may come forward to reveal the identity of the perpetrators of the crime only after a lapse of considerable length of time.[28]

In this case, it should be noted that immediately after the incident, or on June 13, 1995, the victim's minor children, Epifanio, Jr., Ferdinand and Kim, and niece, Sheila, were invited to the NBI office in Cebu City where they gave the description of the man with the knife since the victim died of stab wounds. On June 27, 1995, they returned to the NBI and another cartographic sketch was made describing the man with the gun.[29] The cartographer made a sketch closely resembling appellant's features.

Moreover, on April 19, 1996, the children went to the Chief of Police at the Minglanilla Municipal Hall to inform him that the persons arrested in Argao were not the ones who robbed the victim.[30] When they saw accused-appellant Paraiso at the police station, the children were frightened; Kim clasped his fists and trembled as he was so angry with the person who killed his mother.[31]

Appellant likewise argues that eyewitnesses may have been mistaken in identifying him as one of the perpetrators. The defense insisted that appellant has a look-alike in the person of Roger Camus, now deceased, who was a suspect in another criminal case for robbery. However, during the hearing, Sheila gave a vivid description of the perpetrators. The man holding the Batangas knife was dark-skinned, with protruding Adam's apple and his face and forearms bore so many scars and sporting a flat top haircut, somewhat regular nose. The defense showed a

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picture of one Jeffrey Ramil who had a standing warrant of arrest for robbery in another criminal case but Sheila vehemently insisted that this was not the person holding the Batangas knife. Likewise, the defense showed the picture of Roger Camus (Exhibit "3") who was confined at the Cebu Provincial Jail but escaped on May 28, 1995. Sheila insisted that he was not the man who was holding the gun.[32] Sheila's declaration was further bolstered by the testimony of Epifanio, Jr., who, after being informed of the importance of his declaration on the life of appellant Paraiso, stated that while the cartographic sketch which resembles Paraiso (Exhibit "B") and the picture of Camus (Exhibit "3") both have the character of a sunken face, it is the man in the cartographic sketch marked as Exhibit "B", whom he later identified as appellant Paraiso, to be one of the robbers.[33]

The Court takes note of the fact that the perpetrators were in the house of the victim for several minutes so that there was sufficient time for the children to develop some kind of familiarity with the faces of the assailants. As we have ruled:

> "Even the stressful condition of the witness when the crime was committed did not dilute the accuracy of her testimony. In fact, a violent incident such as the one sued upon may even serve as a catalyst to one's memory. As was said in People v. Campa, their faces would in the very nature of things, also have been forcefully impinged upon and etched into the witnesses' memories by the acts of ferocity perpetrated before their eyes."[34]

Most often, the face and body movements of the malefactors create a lasting impression on the witness' mind which cannot be easily erased from his memory.[35] Besides, children of sound mind are likely to be more observant of incidents which take place within their view than older persons;[36] they make the best witnesses because of their power of observation and recall as well as their innocence.[37]

Appellant argues that as an indication of his innocence, he was never in hiding nor did he leave the residence of his father-in-law which is only five (5) houses away from the victim's house. However, there is no law or principle which guarantees that non-flight per se is proof, let alone conclusive proof, of one's innocence.[38]

Article 294 of the Revised Penal Code, as amended by R.A. 7659, provides that:

> "ART. 294. Robbery with violence against or intimidation of persons. - Penalties. - Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:
>
> 1. The penalty of reclusion perpetua to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed, or when the robbery shall have been accompanied by rape or intentional mutilation or arson. x x x."

The essential elements of the special complex crime of Robbery with Homicide are: (1) the taking of personal property with the use of violence or intimidation against a person; (2) the property thus taken belongs to another; (3) the taking is characterized by intent to gain or animus lucrandi; and, (4) on the occasion of the robbery or by reason thereof, the crime of homicide which is therein used in a generic sense, was committed.[39] The evidence for the prosecution showed that appellant and his companion, with a gun and a knife, took possession of personal properties belonging to the victim, with intent to gain, and on the occasion thereof, the victim was killed. Accordingly, the trial court was correct in finding appellant Paraiso guilty beyond reasonable doubt of the special complex crime of robbery with homicide.

The trial court, in sentencing appellant to suffer the penalty of death appreciated three (3) aggravating circumstances namely: a) disregard of the respect due the offended party on account of her sex; b) dwelling; and c) abuse of superior strength.

Dwelling aggravates a felony where the crime was committed in the dwelling of the offended party,[40] if the

latter has not given provocation[41] or if the victim was killed inside his house.[42] Here, robbery was committed in the house of the victim without provocation on her part. In robbery with violence and intimidation against persons, dwelling is aggravating because in this class of robbery, the crime may be committed without the necessity of trespassing the sanctity of the offended party's house.[43] Dwelling is considered aggravating primarily because of the sanctity of privacy the law accords to human abode. He who goes to another's house to hurt him or do him wrong is more guilty than he who offends him elsewhere.[44]

While abuse of superior strength may be considered when there is an inequality of comparative force between the victim and the aggressor, there must, nonetheless, be a situation of strength notoriously selected and made use of by the latter in the commission of the crime.[45] What should be considered is not that there were three, four or more assailants as against one victim, but whether the aggressors took advantage of their combined strength in order to consummate the offense.[46] Abuse of strength is present not only when the offenders enjoy numerical superiority, or there is a notorious inequality of forces between the victim and the aggressor but also when the offender uses a powerful weapon which is out of proportion to the defense available to the offended party.[47] Here, the victim was totally helpless in the face of two (2) perpetrators who were armed with a gun and a knife.

However, the aggravating circumstance of disregard of the respect due to the victim by reason of her sex cannot be appreciated. This aggravating circumstance can be considered only in crimes against persons and honor.[48] The special complex crime of Robbery with Homicide is a crime against property not against persons.[49] Nonetheless, even if such aggravating circumstance could be considered in this case, it cannot be appreciated because nothing appears in the record from which it may be presumed that in the commission of the crime, appellant deliberately intended to offend or insult the age or sex of the offended party. Moreover, such an aggravating circumstance would be absorbed by the aggravating circumstance of abuse of superior strength.[50]

The penalty of reclusion perpetua to death is composed of two (2) indivisible penalties. Applying Article 63 of the Revised Penal Code, the penalty that should be imposed is death which his the maximum provided for by law in the absence of any mitigating circumstance to offset the aggravating circumstances of dwelling and abuse of superior strength. These aggravating circumstances need not be alleged in the information since they are mere generic aggravating circumstances which have the effect of increasing the penalty to the maximum period which is death.[51]

As regards the civil liability of appellant, following current jurisprudence,[52] the amount of P50,000.00 should be awarded as civil indemnity for the death of the victim Lolita Tigley. No other proof is necessary other than the fact of the death of the victim and the accused's responsibility therefor.[53]

The award of moral damages is likewise in order. The children of the victim witnessed the crime that transpired before their very eyes, which resulted to the death of their mother. As candidly stated by her eldest son Ferdinand, when his mother was killed, he felt anguish and pain. When asked if his worries and feelings could be translated into cash, he stated that "(G)rief and anguish is not a business proposition to be given monetary value, not even a million will suffice."[54] However, we reduce the amount of moral damages from P200,000.00 to P100,000.00 as the purpose of this award is not to enrich the heirs of the victim but to compensate them for the injuries to their feelings.[55]

In addition, the presence of one or more aggravating circumstances justifies the award of exemplary damages pursuant to Article 2230 of the Civil Code[56] after proof that the offended party is entitled to moral, temperate or compensatory damages.[57] The amount of P50,000.00 as exemplary damages is reasonable in view of the presence of 2 aggravating circumstances of dwelling and abuse of superior strength,[58] and hence, the award by the trial court is reduced from P100,000.00 to P50,000.00.

Finally, we likewise modify the award of actual damages. The prosecution eyewitnesses testified that the victim took out from her pocket the amount of P200.00 which she gave to appellant Paraiso; this is the only amount she had since she had not yet received the allotment from her husband who was working as refrigeration mechanic in Cyprus.[59] Jewelries, Rolex, and Rado watches, camera and telescope in the total amount of P179,800.00 were likewise taken by the robbers[60]and that expenses for the burial amounted to P47,600.00.[61] However, the list of properties taken by the robbers was prepared by Epifanio Tigley, Sr., husband of the victim, who was not presented as a prosecution witness. It was the victim's son Ferdinand who testified thereon. And as we have ruled in the case of People vs. Antonio Marcos,[62] an ordinary witness cannot establish the value of jewelry and the trial court can only take judicial notice of the value of goods which are matters of public knowledge or are capable of unquestionable demonstration. The value of jewelry is not a matter of public knowledge nor is it capable of unquestionable demonstration and in the absence of receipts or any other competent evidence besides the self-serving valuation made by the prosecution, we cannot award the reparation for the stolen jewelry. There is likewise no evidence to establish the value of the telescope and the video camera since no description as to its kind or model was given by the prosecution witness. Likewise, the list of burial expenses was prepared by Linda Alipio (wife of Medelino Alipio who is the brother of the victim)[63] but she was not also presented as a prosecution witness. In both these lists, it was Ferdinand, the victim's eldest son, who testified thereon, hence, the evidence cannot be considered for being hearsay.[64] Since actual damages is premised upon competent proof and on the best evidence obtainable,[65] the award of actual damages should be reduced to P200.00, as this is only the amount which was sufficiently proved by the prosecution witnesses.

Four (4) justices of the Court have continued to maintain their adherence to the separate opinions expressed in People vs. Echegaray[66] that Republic Act No. 7659, insofar as it prescribes the death penalty, is unconstitutional; nevertheless, they submit to the ruling of the majority to the effect that the law is constitutional and that the death penalty can be lawfully imposed in the case at bar.

WHEREFORE, the Decision dated November 26, 1996 of the Regional Trial Court of Cebu City, Branch 14 in Criminal Case No. CBU-41141 finding accused-appellant Roland Paraiso guilty beyond reasonable doubt of the special complex crime of Robbery with Homicide and sentencing him to suffer the penalty of death is hereby AFFIRMED with the MODIFICATION that he is ordered to indemnify the heirs of the victim the amount of P50,000.00 as indemnity for death; P200.00 as actual damages; P100,000.00 as moral damages; and P50,000.00 as exemplary damages.

In accordance with Section 25 of Republic Act No. 7659, amending Article 83 of the Revised Penal Code, upon finality of this decision, let certified true copies thereof, as well as the records of this case, be forthwith forwarded to the Office of the President for possible exercise of the pardoning power.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and De Leon, Jr., JJ., concur.

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[1] Written by Judge Renato C. Dacudao, now Associate Justice of the Court of Appeals.

[2] Page 1, Record of Criminal Case No. CBU-41141.

[3] Order of June 28, 1996, p. 25, ibid.

[4] pp. 3-7, TSN, September 4, 1996.

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[5] pp. 8-15, ibid.

[6] p. 3, TSN, September 12, 1996.

[7] pp. 14-15, TSN, September 16, 1996.

[8] pp. 15-18, ibid.

[9] p. 24, ibid.

[10] pp. 36-37, ibid.

[11] p. 16, TSN, October 16, 1996.

[12] pp. 8-10, 13-15, ibid.

[13] pp. 35-36, TSN, October 16, 1996.

[14] pp. 37-40, ibid.

[15] pp. 28-31, ibid.

[16] p. 40, Rollo.

[17] People vs. Ligan, 152 SCRA 419.

[18] People vs. Parades, 264 SCRA 758.

[19] People vs. Dominador Mangat y Palomata, G.R. No. 131618, July 6, 1999 [En Banc].

[20] People vs. Villanueva, G.R. No. 122746, January 29, 1999.

[21] p. 4, TSN, October 17, 1996.

[22] People vs. Ledesma, 250 SCRA 166; People vs. Panganiban, 241 SCRA 91, People vs. Corpus, 240 SCRA 203.

[23] People vs. Midtomod, 283 SCRA 395; People vs. Cabel, 282 SCRA 410; People vs. Mamalayan, 280 SCRA 748.

[24] People vs. Navarro, 297 SCRA 331.

[25] People vs. Ronnie Reyes and Nestor Pagal, G.R. No. 120642, July 2, 1999.

[26] People vs. Jimenez, 250 SCRA 349.

[27] People vs. Navales, 266 SCRA 569.

[28] People vs. Dadles, 278 SCRA 393.

[29] pp. 18-20, TSN, September 4, 1996.

[30] p. 23, TSN, ibid.

[31] p. 24, TSN, ibid.

[32] pp. 3-4, TSN, September 12, 1996.

[33] pp. 28-30, TSN, September 16, 1996.

[34] People vs. George de la Cruz y Cervada, G.R. No. 111704, March 17, 1999.

[35] People vs. Martinez, 274 SCRA 259; People vs. Taclan, et al., G.R. No. 123109, June 17, 1999.

[36] People vs. Tanduyan, 236 SCRA 433.

[37] People vs. Abitona, 240 SCRA 335.

[38] People vs. Andres, 296 SCRA 318; Argoncillo vs. CA, 292 SCRA 313; People vs. Amania, 248 SCRA 486; People vs. Parica, 243 SCRA 557.

[39] People vs. Rafael Olivares, Jr., and Danilo Arellano, G.R. No. 77865, December 4, 1998; People vs. Ruben Tidula, et al., G.R. No. 123273, July 16, 1998.

[40] People vs. Dalanon, 237 SCRA 607.

[41] People vs. Prades, 293 SCRA 411.

[42] People vs. Abitona, 240 SCRA 335.

[43] People vs. Antonio Marcos y Obo, G.R. 128892, June 21, 1999 [En Banc]; People vs. Cabato, 160 SCRA 98.

[44] People vs. Ernesto Belo, G.R. No. 109148, December 4, 1998.

[45] People vs. Solis, 291 SCRA 529.

[46] People vs. Renato Platilla, G.R. No. 26123, March 9, 1999.

[47] People vs. Padilla, 233 SCRA 46.

[48] People vs. Cabiles, 248 SCRA 207; People vs. Padilla, G.R. No. 126124, January 20, 1999.

[49] People vs. Cabiles, supra.

[50] People vs. De Roxas, 241 SCRA 369.

[51] People vs. Mahinay, G.R. No. 122485, February 1, 1999.

[52] People vs. Espanola, 271 SCRA 689; People vs. Piamonte, G.R. No. 91999, February 25, 1999; People vs. Cayago, G.R. No. 128827, August 18, 1999.

[53] People vs. Ortega, Jr., 276 SCRA 166.

[54] pp. 8-10, 13-15, October 16, 1996.

[55] People vs. Jose Silvestre, G.R. No. 127573, May 12, 1999.

[56] People vs. Bahenting, G.R. No. 127659, February 24, 1999; People vs. Gutierrez, Jr., G.R. No. 116281, February 8, 1999.

[57] People vs. Ramos, G.R. September 25 1998; People vs. Tabugoca, 285 SCRA 312; People vs. Mahinay, G.R. No. 122485, February 1, 1999.

[58] People vs. Antonio Marcos, G.R. 128892, June 21, 1999.

[59] pp. 14-15, 36, TSN, September 16, 1996; p. 10, TSN, October 16, 1996.

[60] Exhibit "F", p. 63, Record.

[61] Exhibit "G", ibid.

[62] G.R. No. 128892, June 21, 1999.

[63] p. 14, TSN, October 16, 1999.

[64] Section 36 of Rule 130 provides that: "(A) witness can testify only to those facts which he knows of his personal knowledge; that is, which are derived from his own perception, xxx."

[65] People vs. Rosario, 246 SCRA 658.

[66] 267 SCRA 682 (1997).

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