

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. DOMINADOR SUMALINOG, JR. AND NOEL GALVEZ, ACCUSED

G.R. No. 128387. February 05, 2004

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

Before this Court is an appeal from the Decision[1] of the Regional Trial Court, Branch 9, Malolos, Bulacan (“trial court”), finding Dominador Sumalinog Jr. (“appellant”) and Noel Galvez (“Galvez”), guilty of the crime of Robbery with Homicide in Criminal Case No. 1955-M-94. The trial court imposed on appellant and Galvez the penalty of reclusion perpetua.

The Charge

The Information[2] charging appellant and Galvez with the crime of Robbery with Homicide reads:

That on or about the 29th day of March, 1994, in the municipality of Bustos, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping each other, did then and there willfully, unlawfully and feloniously, with intent to gain and by means of violence and intimidation against persons, take, rob, and carry away with them cash amounting to P3,000.00, belonging to Domingo Adelan; that by reason or on the occasion of the commission of the said robbery, the aforementioned accused, armed with a fan knife and an ice-pick, respectively, and pursuant to their conspiracy, with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and stab with the said fan knife and ice-pick the said Domingo Adelan, thereby inflicting upon him serious physical injuries which directly caused his death.

Arraignment and Plea

Upon arraignment on 13 June 1994, appellant and Galvez, assisted by counsel, pleaded not guilty to the charge.

The Trial

The prosecution submitted documentary evidence and presented four witnesses, namely: (1) Maria Victoria Perez-Adelan (“Mrs. Adelan”), the victim’s wife; (2) Federico G. Perez, Mrs. Adelan’s elder brother; (3) SPO1 Nestor L. Bautista, one of the policemen who investigated the incident on the night it happened; and (4) Dr. Rosauo Villarama, Municipal Physician of Angat, Bulacan.

The defense presented the following witnesses: (1) appellant himself; (2) Raul Barreta, appellant’s nephew; (3) Galvez; (4) Edilberta C. Galvez, Galvez’s mother; and (5) Francia Galvez, Galvez’s wife.

Version of the Prosecution

The Office of the Solicitor General (“OSG”) summarized the prosecution’s version of the incident in the appellee’s brief, as follows:

At around 9:45 p.m. of March 29, 1994, the spouses Domingo and Ma. Victoria Adelan and their two daughters (aged six and two years old respectively) were sleeping on a mat underneath a single mosquito net (TSN, July 20, 1994, pp. 5 and 10). The mat was spread on the floor of the living room of their two-bedroom house located at Bonga Menor, Bustos, Bulacan (Ibid., pp. 5 and 9).

The six-year old daughter of Ma. Victoria Adelan roused her from sleep and pointed to a stranger, who later turned out to be Noel Galvez, who was then going through the drawers of the headboard of the children’s bed, some two meters away from where they were sleeping (Ibid., p. 6; August 2, 1994, p. 7; TSN July 20, 1994, p. 7). Ma. Victoria Adelan then woke up her husband and told him there was a person inside the room (Ibid.). At that time, Noel Galvez was already going through the contents of Domingo Adelan’s wallet which contained more or less P3,000.00 (TSN, July 20, 1994, pp. 20-21; August 2, 1994, p. 7). After being awakened, Domingo Adelan cautiously got out of the mosquito net. However, he accidentally touched a rolled portion of the mat, creating noise that alerted the burglar (TSN, August 2, 1994, pp. 8-9). Noel Galvez then suddenly stabbed Domingo Adelan, who was in the process of rising from the floor (TSN, July 20, 1994, p. 7). Domingo Adelan was hit by the kitchen knife at the left side of the body (TSN, July 20, 1994, pp. 24-25; August 2, 1994, p. 11). Domingo Adelan struggled to fight off Noel Galvez, but he was stabbed for the second time at the right side of his body (TSN, August 2, 1994, p. 11). Despite his wounds, Domingo Adelan continued to fight off Noel Galvez until they got near the door of the kitchen (Ibid.). Suddenly, another man emerged from behind the kitchen door and stabbed Domingo Adelan with another bladed weapon (Ibid.). This other man was Dominador Sumalinog, Jr. (Ibid.). In spite of the wounds he sustained, Domingo Adelan mustered enough strength to reach for the bolo on top of their sewing machine (Ibid.). Domingo Adelan, however, hacked Noel Galvez and hit him on the left side of the neck (TSN, July 20, 1994, p. 31; August 2, 1994, p. 11). The two men then fled (TSN, July 20, 1994, p. 9). Domingo Adelan tried to chase them, but after taking one step from the kitchen door, he slumped to the ground (Ibid.).

While this was happening, Ma. Victoria Adelan was screaming, “Tama na iyan, saklolo, saklolo” (TSN, August 2, 1994, p. 11). Her father and brother, who were living only two houses away, responded to her shouts for help (TSN, July 20, 1994, p. 13). They brought Domingo Adelan to the Sto. Niño Hospital in the poblacion of Bustos (Ibid., pp. 14-15). Before her father left, he instructed Ma. Victoria Adelan to bring along money and follow them (Ibid., p. 13). Ma. Victoria Adelan found out, however, that the wallet of her husband was already empty (Ibid., pp. 13-14).

As the facilities at the Sto. Niño Hospital were inadequate, the bleeding Domingo Adelan was rushed to the Malolos Provincial Hospital (Ibid., p. 16). The hospital, however, refused to admit him because there was no blood available for transfusion to the victim (Ibid.). Instead, Domingo Adelan was put on the hospital ambulance with the intention of bringing him to any hospital in Manila (Ibid.). Domingo Adelan, however, succumbed to his wounds while the ambulance was plying the McArthur Highway somewhere in Bocaue, Bulacan (Ibid.).

At around 2:00 in the morning of the following day, Ma. Victoria Adelan was summoned to the police station of Bustos (Ibid., p. 19). There, she at once identified Noel Galvez in a police line-up as one of the burglars (Ibid., pp. 17-18). At around 10:00 in the morning, she was again called to the police station where she identified Dominador Sumalinog, Jr. as the other burglar who stabbed her husband (Ibid., p. 20).

The autopsy report showed that the victim sustained a 2-cm. wide, 11-cm. deep stab wound at the right thorax with upward direction, hitting the right lung; a 3½ cm. wide, 12-cm. deep stab wound at the left upper quadrant of the abdomen, with downward direction, hitting the intestine and omentum; and a 4-cm. wide, 11-cm. deep

stab wound at the lower quadrant of the abdomen, hitting the transverse colon (TSN, September 19, 1994, pp. 11-13). The cause of his death was massive hemorrhage due to multiple stab wounds (Ibid., p. 14).

The victim was 37 years old and was on vacation from his employment as a seaman with the NFD International Manning Agents, Inc., a Norwegian shipping firm (TSN, July 20, 1994, pp. 33-34) where he was earning a salary of US\$724.00 per month (Ibid., p. 36).[3]

Version of the Defense

Appellant denied the charge against him. The Public Attorney's Office summarized appellant's version of the incident, as follows:

The defense evidence tends to belie the participation of the accused in the alleged incident which was corroborated by several defense witnesses.

The appellant himself, Dominador Sumalinog Jr., testified that on the evening of March 29, 1994, at around 10:00 p.m. he was roused from slumber by his wife when Noel Galvez and the latter's wife knocked at their door to seek help. When allowed inside, Galvez disclosed that the fresh wounds at the left side of his neck and shoulder were inflicted by an unidentified person who attempted to steal one of the cows under his care. Accordingly, Galvez requested Sumalinog, to accompany him in order to report the incident to the parents of Galvez who were then residing in Barangay Lisiada, (TSN, March 27, 1995). This was confirmed by his nephew, Raul Barreta's testimony that his uncle was constrained to accompany Galvez to report the matter to his parents (TSN, August 2, 1995).

For his part, accused Noel Galvez testified that he was awakened by his wife informing him of the presence of two men trying to steal a cow under his care. When he peeped thru a window, he saw at the corral two men whom he cannot identify. He shouted at them prompting them to scoot away, he resolved to run after those persons but one of them hacked him, hitting him on the left side of his neck and left shoulder.

After the wounds he sustained were treated by his wife, they went to his neighbor Sumalinog and requested him to accompany him in reporting the incident to his parents. They dropped by the house of the barangay captain of Malamig but he did not find him there. Afterwards, they proceeded to the house of his parents in Barangay Lisiada. Thinking that he can still endure his wounds and would just seek medical treatment the following day, he together with his younger brother and mother return to Malamig. They directly proceeded to the house of the barangay captain.

The testimony of Noel Galvez was corroborated by his mother, Edilberta Galvez and Francia Galvez, his wife, (TSN, August 7, 1995; March 1, 1995).[4]

The Trial Court's Ruling

The trial court gave credence to the eyewitness account of the prosecution witnesses and dismissed the defense of appellant and Galvez in this wise:

[Lastly], the pattern of defense contrived by the accused ought to be consigned to the "Theater of the Absurd." The tale spun by Galvez regarding the circumstances under which he sustained his neck-wound allegedly at the hands of an unidentified cattle-rustler is too good to be true. Except for the existence of their separate huts, and a third which was uninhabited, the area where both accused reside appears to be isolated where tranquility invariably reigns at nighttime. Hence the court cannot bring itself to believe that, already alerted by the barking of his dogs to an impending danger in the darkness of the night, Galvez by his lonesome was that bold to attempt to step out of his house armed with but a bolo. xxx. If by this token alone, the word of Galvez merits scant consideration indeed.[5]

The trial court further ruled that even if appellant did not actually inflict any injury on the victim, appellant is still liable for the victim's death since he participated in the robbery. There is no proof that appellant tried to prevent Galvez from killing the victim.

The trial court rendered judgment on 28 August 1995 convicting appellant and Galvez of Robbery with Homicide and imposing on them the penalty of reclusion perpetua, thus:

WHEREFORE, on the basis of the evidence adduced and the laws applicable thereon, judgment is hereby rendered finding accused NOEL GALVEZ y CASTRO and DOMINADOR SUMALINOG, JR. y PEPITO guilty beyond reasonable doubt as co-principals of the crime of Robbery with Homicide as charged in the Information and sentencing them:

a) to each suffer the imprisonment of reclusion perpetua, plus the accessory penalties prescribed by law; and

b) to jointly indemnify the heirs of the late Domingo A. Adelan in the aggregate amount of P662,350.00 broken down as follows: P83,920.00 as funeral expenses; P50,000.00 for the fact of his death; P253,400.00 for lost earnings; P250,000.00 as moral damages; and P25,000.00 as attorney's fees.[6]

Only appellant Dominador Sumalinog, Jr. appealed.

The Issues

Appellant seeks the reversal of his conviction, contending that:

I

THE LOWER COURT ERRED IN DISREGARDING THE TESTIMONY OF APPELLANT AND IN RELYING HEAVILY ON THE TESTIMONY OF THE PROSECUTION WITNESSES.

II

THE LOWER COURT GRAVELY ERRED IN FINDING APPELLANT GUILTY OF THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

III

THE LOWER COURT ERRED IN AWARDING P250,000.00 AS MORAL DAMAGES AND IN ORDERING APPELLANT TO PAY THE HEIRS OF THE VICTIM THE AGGREGATE AMOUNT OF P662,350.00.[7]

The Court's Ruling

We agree with the trial court that the prosecution has proved beyond reasonable doubt appellant's guilt.

The Trial Court's Assessment of Witnesses

And the Existence of Proof beyond Reasonable Doubt

Appellant argues that the trial court erred in giving little probative value to the testimonies of the defense witnesses. Appellant contends that the fact that the defense witnesses are the close relatives (mother and wife) of his co-accused, Noel Galvez, does not automatically mean that their testimonies are tainted.

Appellant's main defense is alibi, which is concededly the weakest defense.[8] Courts reject alibi when there are credible eyewitnesses to the crime who can positively identify the accused.[9] Courts may give credence to alibi only if there are credible eyewitnesses who can corroborate the alibi of the accused. Courts do not give credence

to alibi if the corroboration comes from close relatives of the accused, and not from credible and disinterested persons.[10]

The kinship of the defense witnesses to accused Noel Galvez is not the deciding factor as to why the trial court gave little weight to their testimonies. Rather, it is the fact that the defense witnesses testified to support an alibi. Appellant correctly asserts that standing by itself mere relationship to a party does not automatically discredit a witness. However, if that witness testifies to support the specific defense of alibi, courts view his testimony with skepticism.[11] This is due to the very nature of alibi that the witness affirms. One can easily fabricate an alibi and ask friends and relatives to corroborate it.[12] When a defense witness is a relative of an accused whose defense is alibi, courts have more reason to view such testimony with skepticism.

The testimony of defense witness Raul Barreta is illustrative. Appellant admitted that Raul Barreta is his nephew.[13] However, Barreta carefully avoided mentioning this fact in his direct examination.[14] Barreta's attempt to conceal his relationship with appellant reveals Barreta's intent to pass off his testimony as that of a disinterested person. Apparently, Barreta himself believed that his relationship with appellant would taint his testimony. In any event, on cross-examination Barreta admitted that he lives with and receives financial support from appellant.[15]

Appellant asserts that the trial court erred in giving more weight to the testimonies of prosecution witnesses. In evaluating the evidence, the trial court does not weigh the defense witnesses' testimonies by themselves. The trial court compares the testimonies from both sides. It then decides which testimonies have more weight. Absent any cogent reason to disturb its evaluation, we must respect the trial court's evaluation. The trial court is in a better position to evaluate the credibility of witnesses, since it has the opportunity to hear them personally, observe their deportment and manner of testifying.[16] After reviewing the transcript of stenographic notes in their entirety, we hold that the trial court committed no error when it chose to rely on the prosecution witnesses rather than on the defense witnesses. Appellant even failed to ascribe any ill-motive to the victim's wife for implicating appellant. The trial court correctly gave more weight to the positive testimony of an eyewitness to the crime rather than to the alibi of the accused.[17] Moreover, for alibi to prosper, the accused must demonstrate that he was so far away from the scene of the crime that it was physically impossible for him to be present there at the time of its commission.[18] While appellant denied he was at the scene of the crime on the night of its commission, by his own admission he placed himself within a reasonably near area — Barangay Malamig. Barangay Bonga Menor, the place where the crime took place, is only four kilometers away from where appellant claimed he was. One can cover the distance in an hour's walk considering that both barangays are located within the town of Bustos, a relatively small town in the province of Bulacan.[19]

Appellant then argues that the first thing a guilty person normally does is to hide from the authorities. Since his co-accused, Noel Galvez, even reported to the authorities the alleged cattle-rustling incident, appellant claims this proves that they did not rob the victims.

This argument deserves no merit.

Non-flight is not proof of innocence.[20] The culprit of a crime may choose to remain within the area of the crime scene because he lives there and flight may only raise suspicion on him. No case law exists to support appellant's claim that their non-flight precludes the possibility that they are guilty of the crime. To accept the defense offered by appellant would allow people to commit a crime and avoid liability by simply choosing to stay in the crime scene afterwards.

Galvez's decision to report the alleged cattle-rustling incident to the police does not exculpate him from liability. A review of his testimony as well as the testimonies of other witnesses he presented shows that the incident is

nothing more than a poorly contrived cover story to support his alibi and account for his neck wound. Galvez claims that after being hacked in the neck, he chose to go to appellant's house, and then to his parents, instead of the hospital.[21] He also found time to drop by the barangay captain's house. He did all these riding a bicycle.[22] Galvez's story taxes one's credulity too much.

Next, appellant claims that his only link to the crime is the testimony of SPO1 Bautista, the policeman assigned to investigate the case.[23] This is incorrect. What implicates both appellant and his co-accused is the eyewitness account of the victim's wife, Mrs. Adelan, who saw the robbers in the act of ransacking their room. Mrs. Adelan testified as follows:

Q What did you do when you were awakened by your daughter?

A I woke my husband who was then sleeping beside me, ma'am.

Q Why did you wake your husband for?

A I told him that there was a person inside the room, ma'am.

Q Did you see that person inside the room?

A Yes, ma'am.

Q When you saw that person inside the room, what was he doing then?

A

He was ransacking the drawer of the headboard of our bed, ma'am.[24]

Mrs. Adelan also categorically stated that she saw appellant and his co-accused Galvez stab her husband:

Q So you said immediately after your husband stood up went out of the mosquito net, he was immediately stabbed by the person coming out of that room?

A Yes, sir.

Q You remained inside the mosquito net together with your 2 daughters?

A Yes, sir.

Q And where was your husband stabbed, what part of the body?

A He was hit on the left side of his body, sir.

Q Only once at the time when he went up in the mosquito net?

A After my husband went out of the mosquito net sir, he was stabbed by Noel Galvez and then they wrestled near the door and then he was stabbed for the second time by Noel Galvez and immediately thereafter

Dominador Sumalinog emerged and then stabbed my husband at the right side. [25]

After appellant and his co-accused fled, Mrs. Adelan checked her husband's belongings and found that the two malefactors took with them her husband's money. A review of the stenographic notes shows that she made these assertions in a clear and direct manner. She managed to depict quite vividly the circumstances surrounding these observations:

ATTY. SANTOS

Q Is your sala provided with a lamp shade?

A We do not have a lampshade in the sala sir, we have a reading lamp which was inside the room but we do not need that light sir, since there was already a light inside the room of the children.

Q So you put on that reading lamp before you went to sleep, you left the bulb at that room of the children opened?

A It was the reading lamp which was provided with a 40 watt incandescent bulb sir, and it provides sufficient illumination inside the house.

COURT

Q How were you able to recognize the person whom you saw inside the kitchen?

A I was able to recognize the other accused who was hiding behind a wall leading to a kitchen Your Honor, because he stepped forward and as he stepped forward he stabbed my husband. [emphasis added]

Q Was that area of your house lighted at the time?

A Yes, Your Honor, because at that time the door leading to the kitchen was already opened and the light from the outside was coming in, Your Honor.

Q How about the companion at the time, how were you able to recognize him?

A I was able to see the face of Noel Galvez immediately Your Honor, since he was the one inside the room, Your Honor.

Q You are referring to the other room not the master bedroom?

A Yes, Your Honor.

Q Was it lighted also at the time?

A Yes, Your Honor.

Q Was this the room that was lighted according to you by a reading lamp?

A Yes, Your Honor.

Q How high was that reading lamp from the floor, I am referring to the bulb of the reading lamp?

A This high Your Honor. (Witness indicating a height of 4 feet).

COURT

Proceed.

ATTY. SANTOS

Q Immediately after you were roused from your sleep by your 6-year old daughter, did you hear noise coming from that room?

A I did not hear any noise Your Honor, since when I saw the accused [Galvez] his side was facing towards me and he was rifling through the contents of the wallet of my husband.

Q Do you mean to tell the Court that you saw him [Galvez] holding that wallet?

A Yes, sir.

Q He was opening the wallet when you saw him?

A I saw him holding the wallet and he was rifling through the contents of the wallet.

Q And during that time you were inside the mosquito net?

A Yes, sir.

Q What you did when your 6-year old daughter roused you from your sleep was to wake up your husband who was beside you?

A When my daughter woke me up, the first thing I did was I looked to the room where there was a light and after I saw that there was a person inside the room, it was then that I woke up my husband because when my daughter was trying to wake me up, my eyes were still closed at the time and only after she told me that there was a person inside the room that I opened my eyes, sir.

Q You lifted the mosquito net and peeped inside the room?

A There was no need for me to lift the mosquito net since the room was illuminated at the time.

Q You were lying down at the time?

A Yes, sir.

Q You did not make any noise and you were composed after your daughter told you that there was somebody in the room?

A I was not calm sir, in fact, I was surprised but I did not make any noise then I woke up my husband.

Q So you were saying then that you quietly and without any noise roused your husband from his sleep?

A We were sleeping side by side sir, at the time, so I just whispered to him.

COURT

Q How far was this man that you saw holding the wallet of your husband from you at the time you first saw him?

A From the witness stand up to the tip of the name plate of the Judge. (Witness indicating a distance of a little over of 2 meters).[26]

Mrs. Adelan was later on able to identify both appellant and Galvez in separate police line-ups.

Appellant failed to cast doubt on Mrs. Adelan's positive statements. While Mrs. Adelan's testimony had some inconsistencies with her sworn statement, like the precise location of Galvez's neck wound, these inconsistencies refer only to minor matters. Minor discrepancies between sworn statements and testimonies made at the witness stand do not necessarily discredit a witness,[27] especially if they refer to matters that have no substantial effect on the nature of the offense. The inconsistencies being trivial and minor, they cannot blunt the impact of complainant's testimony. Considering that she was recounting details of an experience so harrowing, frightening and painful to recall, it is reasonable to expect her to fall into minor lapses. Terrified and agitated, Mrs. Adelan could not understandably observe and commit to memory the exact details of the assault on her husband. What matters is that appellant failed to refute her main assertion that she saw appellant and Galvez stab her husband when the latter tried to stop them from robbing the Adelans' house.

Under Article 294 of the Revised Penal Code,[28] the 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 taken belongs to another; (3) the taking is characterized by intent to gain or *animus lucrandi*; and (4) on occasion of or by reason of the robbery, the crime of homicide, used in the generic sense, is committed.[29] The testimonies of the prosecution witnesses, particularly that of Mrs. Adelan, prove the existence of all these elements beyond reasonable doubt.

Appellant and his co-accused entered the Adelans' house with the intent to loot it. In line with a well-thought plan, Galvez rummaged through the Adelans' belongings while appellant remained hidden in the dark as a lookout. Mrs. Adelan's testimony established that it was at this point that her daughter woke her up. Both fear and a keen presence of mind prevented her from reacting haphazardly to what she saw. Her decision was to wake up her husband who then tried to stop the only person then visible to them. Caught red-handed, appellant's co-accused Galvez stabbed the victim. Then appellant used his concealed position to his advantage, emerging treacherously to also stab the victim just as the latter wrestled with Galvez near the kitchen door. Appellant and

his co-accused left together after seeing the victim fall. Shortly afterwards, Mrs. Adelan discovered that the two managed to take with them the entire contents of her husband's wallet.[30]

These acts before, during, and after the crime clearly indicate a joint purpose, a unity of action, and the concurrence of intent. Where the acts of the accused collectively and individually demonstrate the existence of a common design towards the accomplishment of the same unlawful purpose, conspiracy is evident and all the perpetrators are liable as principals.[31] While it was not appellant who actually took property from the Adelsans, appellant is still liable for robbery since the existence of conspiracy makes the act of one the act of all. Appellant and his co-accused killed the victim in the course of committing robbery. Consequently, even if appellant were to prove that he did not stab the victim, he would still be liable for the victim's death. Whenever the commission of the special complex crime of robbery with homicide is proven, all those who took part in the robbery are liable as principals even though they did not take part in the killing.[32]

The penalty for robbery with homicide is "reclusion perpetua to death." [33] Since there are no mitigating or aggravating circumstances present, the lesser of the two indivisible penalties, reclusion perpetua, is applicable.

Damages

The trial court correctly awarded P50,000 as civil indemnity for the wrongful death of the victim. As for funeral expenses, the court can only award such amount as are supported by proper receipts.[34] The prosecution proved funeral expenses of P14,000 as evidenced by Receipt No. 2084 issued by Funeraria Mendoza and burial expenses of P9,950 as shown by Receipt No. 0851 issued by Bustos Memorial Park,[35] aggregating P23,950. However, Mrs. Adelan also testified that she spent P60,000 for the traditional wake of her husband.[36] The defense did not object to this. The rule is that evidence not objected to is deemed admitted. The trial court may consider such evidence in arriving at its judgment.[37] The trial court's award of P83,950 for actual damages is therefore correct.

The computation of the trial court with respect to lost earning capacity needs correction. At the time of his death, Domingo Adelan was 37 years old. Loss of earning capacity is computed using the following formula:[38]

$$\begin{array}{l} \text{Net Earning Capacity} \\ = \\ \text{remaining life expectancy [2/3 (80-age at death)]} \\ \times \\ \text{Gross Annual Income (GAI)} \\ - \\ \text{Living Expenses (50\% of GAI)} \end{array}$$

Using the formula, the victim's remaining life expectancy is 28.66 years.[39] According to the certification[40] given by his employer, his income as seaman was US\$724 monthly or a total of US\$8,688 annually. The defense did not contest this amount. Deducting 50% as reasonable living expenses,[41] this amounts to US\$4,344 or US\$124,499 for 28.66 years (28.66 x US\$4,344). Adopting the exchange rate used by the trial court in its judgment (P25 = US\$1), the total amount is P3,112,476 for lost earnings.

The grant of moral damages is proper taking into consideration the pain and anguish suffered by the victim's family.[42] Mrs. Adelan testified that her husband's untimely demise severely affected their family emotionally.[43] Contrary to appellant's claim, we find no reason to disturb the trial court's basis for awarding

moral damages. Nonetheless, the amount of moral damages recoverable is pegged by current jurisprudence at P50,000.[44] We reduce the trial court's award of P250,000 for moral damages to this amount. We delete the P25,000 attorney's fees awarded by the trial court for lack of legal basis.

WHEREFORE, the Decision of the Regional Trial Court, Branch 9, of Malolos, Bulacan, in Criminal Case No. 1955-M-94, convicting appellant Dominador Sumalinog, Jr. of the crime of Robbery with Homicide and sentencing him to reclusion perpetua, is AFFIRMED with the MODIFICATION that appellant is ordered to indemnify the heirs of Domingo A. Adelan as follows: P83,950 for actual damages, P50,000 as civil indemnity, P3,112,476 for lost earnings, and P50,000 as moral damages. The attorney's fees awarded by the trial court are deleted.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Panganiban, and Ynares-Santiago, JJ., concur.

Azcuna, J., on official leave.

[1] Penned by Judge Roy A. Masadao, Jr.

[2] Records, p. 1.

[3] Rollo, pp. 163-169.

[4] Ibid., pp. 127-128.

[5] Ibid., p. 23.

[6] Ibid., pp. 36-37.

[7] Rollo, pp. 121-122.

[8] People v. Geromo, G.R. No. 126169, 21 November 1999, 321 SCRA 355.

[9] People v. Sumalpong, 348 Phil. 501 (1998).

[10] People v. Maceda, G.R. No. 138805, 28 February 2001, 353 SCRA 228.

[11] People v. Batidor, 362 Phil. 688 (1999).

[12] People v. Enoja, G.R. No. 102596, 17 December 1999, 321 SCRA 7.

[13] TSN, 27 March 1995, p. 7.

[14] TSN, 10 July 1995, p.10.

[15] TSN, 2 August 1995, p. 3.

[16] People v. Apongan, 337 Phil. 393 (1997).

[17] Supra note 12.

[18] People v. Zamora, 343 Phil. 574 (1997).

[19] Rollo, p. 33.

[20] People v. Inocencio, G.R. No. 98401, 27 January 1994, 229 SCRA 517; People v. Desalisa, G.R. No. 95262,

4 January 1994, 229 SCRA 35.

[21] TSN, 27 March 1995, pp. 12-16.

[22] TSN, 27 March 1995, p.15.

[23] Rollo, p. 134.

[24] TSN, 20 July 1994, p. 6.

[25] TSN, 2 August 1994, p. 11.

[26] TSN, 2 August 1994, pp. 6-9.

[27] *People v. Mangat*, 369 Phil. 347 (1999).

[28] Art. 294.(1). 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 xxx

[29] *People v. Taboga*, G.R. No. 144086-87, 6 February 2002, 376 SCRA 500.

[30] TSN, 20 July 1994, pp. 20-21.

[31] *People v. Antonio*, 363 Phil. 33 (1999).

[32] *People v. Suela*, G.R. No. 133570-71, 15 January 2002, 373 SCRA 163.

[33] Article 294, Revised Penal Code, As amended by Section 9 of Republic Act 7659.

[34] *People v. Maxion*, 413 Phil. 740 (2001).

[35] Exhibits F and G, Records, pp. 50 and 51.

[36] TSN, 20 July 1994, p. 39.

[37] *People v. Barellano*, G.R. No. 121204, 2 December 1999, 319 SCRA 567.

[38] *People v. Pansensoy*, G.R. No. 140634, 12 September 2002, 388 SCRA 669.

[39] *People v. Panado*, G.R. No. 133439, 26 December 2000, 348 SCRA 679.

[40] Exhibit E, p. 49.

[41] *Ibid.*

[42] *People v. Bañago*, 368 Phil. 728 (1999).

[43] TSN, 20 July 1994, pp. 40-41.

[44] *Supra* note 30.

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