

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. SALVADOR ARROJADO, ACCUSED-APPELLANT.

G.R. No. 130492. January 31, 2001

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the decision[1] of the Regional Trial Court, Branch 19, Roxas City, finding accused-appellant Salvador Arrojado guilty of murder and sentencing him to suffer the penalty of 30 years of reclusion perpetua and to pay the amounts of P60,000.00 as civil indemnity, P80,000.00 as moral damages, and the costs to the heirs of the victim Mary Ann Arrojado.[2]

The information against accused-appellant alleged:

That on or about the 1[st] day of June, 1996, in the City of Roxas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with a knife, with intent to kill, with treachery and evident premeditation, did then and there willfully, unlawfully, and feloniously attack, assault, and stab one Mary Ann Arrojado, on the different parts of the body, to wit:

- Stab wound, gaping, 1.5 cm. in length with a depth of 5 cm. located at the supra sternal area;
- Stab wound, elongated, gaping, measuring 3 cm. in length, 10 cm. depth, directed downward 5 cm. above the left nipple area at the level of midclavicular line;
- Stab wound, elongated, gaping, measuring 2.5 cm. in length, 5.5 cm. depth, located 4 cm. above the left nipple area, midclavicular line;
- Stab wound, elongated, gaping, measuring 3 cm. in length, 18.5[3] cm. in depth, directed medially downward, located 3 cm. above the left nipple, midclavicular line;
- Stab wound, elongated, gaping, measuring 3 cm. in length, 5 cm. depth, located 3 cm. medial to the left nipple;
- Stab wound, elongated, gaping, measuring 4 cm. in length, 10.5 cm. in depth, directed laterally downward, located 2 cm. medial to the left nipple;
- Stab wound, elongated, gaping, measuring 3.5 cm. in length, 12 cm. in depth, directed laterally, located 2 cm. medial to the left nipple;
- Stab wound, elongated, gaping, measuring 3 cm. in length, 5.5 cm. in depth directed downward, located at the xiphoid area;
- Stab wound, elongated gaping, measuring 3 cm. in length, 4 cm. in depth, directed medially, located 4 cm. below the left nipple;
- Stab wound penetration, measuring 4 x 4 cm. in length with [e]visceration of the small intestine;

thereby inflicting upon her serious and mortal wounds which were the direct and immediate cause of her death.

That by reason of the death Mary Ann Arrojado, her heirs incurred actual and moral damages which may be awarded under the Civil Code of the Philippines.

CONTRARY TO LAW.[4]

The information was read and explained to accused-appellant in his native dialect, after which he pleaded not guilty.[5] Trial on the merits then ensued.

The evidence for the prosecution shows the following:

Accused-appellant Salvador Arrojado and the victim Mary Ann Arrojado are first cousins, their fathers being brothers. The victim's father, Alberto Arrojado, who was living in Canada, suffered a stroke for which reason he decided to come home to Roxas City and spend the remainder of his days there. The victim accompanied her father to the Philippines. They eventually settled in a house in Barangay Tanque, Roxas City, where they lived on the financial support of the victim's sister Asuncion, who continued to live in Canada, and her brother Buenaventura, who lived in Manila.

Starting February 15, 1996, accused-appellant lived with the victim and her father. He helped care for the victim's father, for which he was paid a P1,000.00 monthly salary.[6]

In the early morning of June 1, 1996, accused-appellant went to the house of his cousin, Erlinda Arrojado Magdaluyo, and reported that the victim had committed suicide. In response, Erlinda, together with her husband Romulo Magdaluyo and her father Teodorico Arrojado, went with accused-appellant to the house in Barangay Tanque where they found the victim dead. The victim, who was bloodied, was lying on her left side facing the bedroom door with her hands clasped together. On her bed was a rosary and a crucifix. Near her was a knife (Exh. C).[7] Erlinda recognized it to be the knife kept in the kitchen. Erlinda also noticed that the electric fan was turned on full blast, while all the windows were closed except the window on the east side which was slightly open. As he went to the other room, where the victim's father stayed, accused-appellant told Erlinda that he was afraid he might be suspected as the one responsible for the victim's death.[8]

The matter was reported to the police which noticed that the victim's room "was very neat as if nothing happened." The police saw no signs of forcible entry.[9] They made a sketch of the victim's position in relation to the whole house (Exh. D)[10] and took pictures of her (Exhs. E--E-3).[11]

Dr. Ma. Lourdes Roldan, of the Roxas City Health Office, conducted the postmortem examination of the victim at 1:30 p.m. of June 1, 1996. Her findings revealed that the victim sustained the following stab wounds:

- Stab wound, gaping, 1.5 cm. in length with a depth of 5 cm. located at the supra sternal area;
- Stab wound, elongated gaping, measuring 3 cm. in length, 10 cm. depth, directed downward, located 5 cm. above the left nipple area at the level of midclavicular line;
- Stab wound, elongated, gaping, measuring 2.5 cm. in length, 10.5 cm. depth, located 4 cm. above the left nipple area, midclavicular line;
- Stab wound, elongated, gaping, measuring 3 cm. in length, 18.5 cm. in depth directed medially downward located 3 cm. above the left nipple, midclavicular line;
- Stab wound, elongated, gaping, measuring 3 cm. in length, 5 cm. in depth, located 3 cm. medial to the left nipple;
- Stab wound, elongated, gaping, measuring 4 cm. in length, 10.5 cm. in depth, directed laterally downward,

located 2 cm. medial to the left nipple;

- Stab wound, elongated, gaping, measuring 3.5 cm. in length, 12 cm. in depth, directed laterally, located 2 cm. medial to the left nipple;

- Stab wound, elongated gaping measuring 3 cm. in length and 5.5 cm. in depth, directed downward, located at the xiphoid area;

- Stab wound, elongated, gaping, measuring 3 cm. in length, 4 cm. in depth, directed medially, located 4 cm. below the left nipple;

- Stab wound penetration, measuring 4 x 4 cm. in length with evisceration of the small intestine;[12]

Dr. Roldan testified that the victim died at around midnight of May 31, 1996 from wound nos. 2, 4, 6, 7, and 10, which she deemed fatal.[13] Thus, in the victim's death certificate (Exh. B),[14] she listed "HEMORRHAGIC SHOCK" as the victim's immediate cause of death and "multiple stab wounds" as the antecedent cause.

Erlinda Arrojado Magdaluyo testified that the relationship between the victim and accused-appellant had been strained as the victim constantly picked on accused-appellant even for the slightest mistake. Erlinda remembered the scolding that the victim gave accused-appellant on May 27, 1996 over the loss of keys. Accused-appellant was badly hurt by the victim's tongue-lashing, according to Erlinda, and complained to the victim, "You're too much." Erlinda said she offered to take the victim in her house, but the latter refused, saying that her place was with her father. The victim entrusted, however, her jewelry and bank book with signed withdrawal slips to Erlinda. Three days later, on May 30, 1996, Erlinda returned the same and told the victim that she should not be afraid of accused-appellant because he was taking care of both her (the victim) and her father. Erlinda said she again met the victim on May 31, 1996 when she reminded the latter of their agreement to go out the following day, June 1, 1996. On that day, however, the victim was found dead.[15]

Another relative of accused-appellant and the victim, Thelma Arrojado, corroborated Erlinda's testimony. The father of Thelma's husband, Roque Arrojado, is a brother of the victim's father and that of accused-appellant. Thelma said that she and her husband lived at one time with the victim, and she knew the latter to be a snob ("suplada") and overly strict. Because they did not get along with the victim, Thelma and her husband eventually left. She testified that accused-appellant was angry at the victim and in fact passed by her store thrice (on May 27, 29, and 31, 1996), complaining to her of the victim's maltreatment of him.[16]

Accused-appellant testified in his behalf. He told the court that on June 1, 1996, at around 6:00 a.m., Alberto Arrojado asked him for food, so accused-appellant went to the kitchen to find out if the victim had already prepared breakfast. When accused-appellant found that the victim was not in the kitchen, he proceeded to the victim's room. From the doorway, he saw the victim lying on her bed, bloodied. He thought that the victim had committed suicide because the victim had told him that she felt tied down taking care of her father. She in fact once remarked that "It would be better that my father and I commit suicide." Accused-appellant said that the victim scolded him only once and that was for buying rotten cabbage.[17] He said that the victim was the one who was constantly being scolded by her father who often found fault with her. When presented with the knife found on the victim's bed (Exh. C), accused-appellant admitted he was familiar with the knife as he saw the victim using it in the kitchen.

On April 21, 1997, the trial court rendered its decision, the dispositive portion of which reads:

WHEREFORE, in view of all the foregoing, this Court finds and declares accused Salvador Arrojado GUILTY beyond reasonable doubt of the heinous crime of murder, defined and penalized by Art. 248 of the Revised Penal Code, as amended by Section 6 of Republic Act 7659, and, there being no aggravating circumstance,

hereby sentences him to imprisonment of thirty (30) years of reclusion perpetua, and to indemnify the heirs of the deceased Mary Ann Arrojado in the amount of P60,000.00, pay them moral damages of P80,000.00, and pay the costs of this action.

In the service of his sentence consisting of deprivation of liberty, the accused, who is a detention prisoner and not otherwise disqualified, shall be credited with the full time of his confinement under preventive imprisonment, provided he voluntarily agrees in writing to abide by the same disciplinary rules imposed on convicted prisoners, pursuant to Art. 29 of the Revised Penal Code.

SO ORDERED.[18]

The trial court held that there was sufficient circumstantial evidence to convict accused-appellant for the victim's death. In its decision, the trial court said:

The accused was the only person in the world who had the strong motive to eliminate from earthly existence the deceased, who had no known enemies, as he could no longer endure the verbal abuse to which he was frequently subjected, even on trivial matters, by the deceased whom he must have perceived as his evil tormentor. Being older [but] every now and then scolded, insulted, and humiliated, he must have felt that the deceased had no respect for him as a person and elder cousin. Suicide being physically impossible and there being no shred of evidence showing that an intruder could have surreptitiously entered the house as all doors and windows were securely closed, the killing could have been done only by someone who was already inside the house. Certainly it could not have been the deceased's old and invalid father who could not stand on his own, much less walk from his room to the kitchen, get the fatal weapon, the kitchen knife, from where it was placed therein, walk to his daughter's room, and then stab her. As there were only the three of them inside the house, that leaves no one else, by the process of elimination, who could have perpetrated the dastardly act but the accused who had the only motive to do it and who was inside the house at the time of the commission of the crime. Reinforcing this conclusion is the admission of the accused that when he peeped into the room of the deceased and allegedly saw for the first time the lifeless body of the victim, he was already sure, even without going near or touching her body and asking aloud what happened to her, that she was already dead because he himself killed her. He saw to it that she would die because he stabbed her not only once, but ten (10) times, inflicting five (5) mortal wounds. And he had the gall to attribute his cousin's untimely death to suicide because he could not concoct any other reason to save himself.[19]

Hence this appeal. Accused-appellants assigns the following errors as allegedly having been committed by the trial court:

THE REGIONAL TRIAL COURT ERRED IN FINDING THAT MARY ANN ARROJADO WAS STABBED TEN TIMES AT HER HOME.

THE REGIONAL TRIAL COURT ERRED IN RULING THAT MARY ANN ARROJADO COULD NOT HAVE COMMITTED SUICIDE.

THE REGIONAL TRIAL COURT ERRED IN FINDING THAT THE HOUSE OF MARY ANN ARROJADO WAS TOTALLY CLOSED AND LOCKED AGAINST INTRUDERS.

THE REGIONAL TRIAL COURT ERRED IN FINDING THAT ACCUSED-APPELLANT WAS ABUSED AND OPPRESSED BY MARY ANN ARROJADO THAT LED ACCUSED-APPELLANT TO KILL MARY ANN ARROJADO.[20]

First. Accused-appellant claims that most of the victim's wounds were inflicted after she had already committed suicide to make it appear that she was murdered. He says that he saw only one wound in the victim's stomach,[21] while Erlinda Arrojado Magdaluyo said she saw only two wounds, one on the victim's neck and the other in her abdomen. These are wound nos. 1 and 10 in the postmortem examination.[22] Of these two, the stomach wound

was fatal, according to Dr. Roldan.[23] Accused-appellant says that the other wounds may have been inflicted on the victim between the time the body was brought out of the house in the morning and the time Dr. Roldan examined the same at around 1:30 o'clock in the afternoon of June 1, 1996 at the De Jesus funeral parlor.[24]

Accused-appellant's contention has no merit. That accused-appellant only saw one wound while Erlinda Magdaluyo saw two wounds on the victim does not necessarily mean that the other wounds were inflicted upon the victim afterwards. The two might have simply missed seeing the other wounds. In accused-appellant's case, it may be because he did not go inside the room but only viewed the body from a distance.[25] On the other hand, while Erlinda Arrojado Magdaluyo went near the victim, she said she did not see if there were wounds on the victim's chest because the latter was dressed.[26] But Dr. Roldan, who conducted a postmortem examination, testified that the victim actually sustained ten wounds. Between the cursory examination of the victim by accused-appellant and Erlinda Arrojado Magdaluyo and Dr. Roldan's exhaustive examination, there is no doubt that the latter's findings are entitled to credence.

Accused-appellant also argues that the varying depths of wound nos. 2, 4, 5, 8, and 9 (10 cm., 10.5 cm., 5 cm., 5.5 cm., and 4 cm.) despite the fact that they had the same surface length of 3 cm. could only mean that after the victim was found dead, she was again stabbed with a knife or knives other than the one (Exh. C) found beside her.[27]

The contention is without merit. The variance in depth does not necessarily mean that more than one weapon was used. As has been stated:

[I]t is not possible to determine the depth of penetration of a stab wound with any degree of accuracy, inasmuch as effusion of blood into the tissues, changes in the position of the viscera, or numerous other circumstances may alter the conditions existing at the time when the wound was inflicted. Consequently, the depth of the track at autopsy may be different from the actual penetration of the instrument at the time of the stabbing. Moreover, it is not always possible to correlate the depth of the wound with the blade of the stabbing instrument. For example, a short blade of two inches can penetrate four inches into a soft area like the thigh or through the anterior abdominal wall because the force of the thrust may dent the tissues appreciably and thus deepen the wound. Conversely, a long blade may not be thrust into its full length, and the wound may be shorter than the blade. For these reasons attempts to correlate the depth of the track and the length of the weapon should be made with caution.[28]

Dr. Roldan in fact testified that the kitchen knife, marked as Exh. C, could have caused all the wounds sustained by the victim.[29] She also testified that the stab wounds could have all been inflicted in the span of one minute.[30] Having examined no less than 100 victims of violence,[31] Dr. Roldan's conclusions should be given credence.

Moreover, with the exception of wound no. 10, all the wounds were described by Dr. Roldan as "gaping." As stated in Forensic Medicine:

. . . An ante-mortem wound gapes; there is eversion of the edges; a large amount of blood is present, this is coagulated and infiltrating the wound; and there is swelling and signs of inflammation and repair. In a post-mortem wound there is no gaping. The bleeding is slight, if any, and it does not infiltrate the wound.[32]

This belies accused-appellant's theory that the victim committed suicide and that it was only after she was found dead that she was again stabbed to make it appear that she had been killed.

Nor were the bloodstains which PO2 Orly Baril[33] and Erlinda Arrojado Magdaluyo[34] found on the victim's hands necessarily evidence of the victim's suicide. The bloodstains could have come from the wounds sustained by her rather than from her attempt to kill herself.

Accused-appellant also insists the victim committed suicide because she was feeling despondent over her remaining single, her lack of regular employment which made her dependent on the support of her siblings, and the responsibility of taking care of her father who had become an invalid. He cites Erlinda Arrojado Magdaluyo's testimony that the victim entrusted her jewelry and bank book to her four days before she died.[35]

Erlinda, however, testified that the victim did this because she had a premonition that accused-appellant might harm her, and not because of any intimation that she (the victim) would kill herself.[36]

Contrary to the claim of accused-appellant that the victim was a depressed person with a low sense of self-worth, Erlinda Arrojado Magdaluyo described the victim as "a jolly person" who had many friends who go to her house. Moreover, according to Erlinda, the victim, while not earning a fixed income, was not without means of livelihood. The victim was good at cooking and took orders from neighbors. Erlinda also disclosed that on the very day the victim was found dead, she and the victim had plans to go out for relaxation.[37] This negates any theory that the victim committed suicide.

Second. Somewhat inconsistently with his claim that the victim was a suicide, accused-appellant disputes the trial court's conclusion that only one of those residing in the house could have killed the victim because the police found no sign of a break-in. Accused-appellant says that in the morning of June 1, 1996, he found that the kitchen door leading outside was open.[38]

Accused-appellant's contention must fail. Accused-appellant admitted that it did not occur to him that an intruder was in the house in the evening of May 31, 1996 because "No person could get inside because the windows were closed and besides the doors were closed." [39]

Significantly, Erlinda Arrojado Magdaluyo testified that accused-appellant also said that no person could get inside the house because the doors and the windows were closed.[40] Accused-appellant never told Erlinda that the kitchen door was open that morning. Indeed, Erlinda testified that "it is not possible that somebody would enter the house as the doors were securely locked . . . with additional barrel bolts, and the windows have grills." [41]

Third. Accused-appellant contends that Thelma Arrojado's testimony does not deserve consideration because, by her own admission,[42] the victim's sister Asuncion asked her to testify on accused-appellant's complaints against the victim's treatment of him. He also claims that it was inconsistent for Erlinda to testify, on the one hand, that the victim was "loving, friendly, and reasonable" and, on the other, to say that she was strict and domineering. Accused-appellant cites the testimony of the victim's brother, Buenaventura Arrojado, that before her death the victim denied having any quarrel with accused-appellant.[43]

To be sure, the evaluation of the trial court of the credibility of witnesses will not be disturbed on appeal unless it is shown that it overlooked certain facts or circumstances of substance that, if considered, could have affected the outcome of case. This is because the trial court is in a better position to decide the question of credibility having heard the witnesses and observed their deportment during the trial.[44] In this case, accused-appellant's contention that the testimonies of Thelma Arrojado and Erlinda Arrojado Magdaluyo are incredible is without merit. Thelma Arrojado's admission that the victim's sister Asuncion had asked her to testify does not impair her credibility. Thelma was candid enough to say that at first she was hesitant to testify because accused-appellant is also her relative. But she denied having been coached on what to say, stating that she only testified as to "what Salvador Arrojado said to me" which is that he could not bear the victim's maltreatment.[45]

As for Erlinda Arrojado Magdaluyo, she said that she suspected accused-appellant but she did not want to say anything until she had proof.[46] She testified also that so far as she knew, only accused-appellant harbored a

grudge against the victim, and that accused-appellant himself told her so.[47] With regard to Erlinda's seemingly inconsistent description of the victim, suffice it to say that the victim's treatment of accused-appellant does not necessarily reflect her attitude and behavior toward other people.

Anent the testimony of the victim's brother, Buenaventura Arrojado, that the victim denied having any quarrel with accused-appellant when he called her up two weeks before her death,[48] it is possible that the victim did not want to bother her brother who was after all too far (since he lived in Manila) to be of much help. It is only to be expected that Erlinda Arrojado Magdaluyo and Thelma Arrojado, who lived near accused-appellant and the victim, have a much more accurate assessment of the real relationship between accused-appellant and the victim. Buenaventura Arrojado testified that it was Erlinda Arrojado Magdaluyo who told him of the alleged quarrel between the victim and accused-appellant.[49]

In sum, the following circumstances point to accused-appellant as the perpetrator of the crime:

- Accused-appellant, the victim, and the latter's father were the only ones living in the house in which the crime was committed in the evening of May 31, 1996.[50]
- No one from the outside can gain entry since all doors of the house were locked and the windows had grills.[51]
- Accused-appellant had access to the victim's bedroom because the bedroom doors were left unlocked so that the victim could check on her father's condition during the night. Accused-appellant sleeps in the same bedroom as the victim's father.[52]
- The murder weapon was a kitchen knife readily accessible to the occupants of the house.[53] As the Solicitor General observed, common sense dictates that if an outsider entered the house with the intent to kill the victim, he would have brought his own weapon to ensure the execution of his purpose.[54]
- None of the victim's belongings was missing or disturbed, indicating that the motive for the crime was not gain but revenge.[55]
- Judging from the number and severity of the wounds (10 stab wounds, half of which were fatal),[56] the killer felt deep-seated resentment and anger toward the victim. Accused-appellant had admitted those feelings to Erlinda Arrojado Magdaluyo and Thelma Arrojado.[57]
- Aside from accused-appellant, no one was known to harbor a grudge against the victim.[58]
- As the Solicitor General also pointed out, accused-appellant's behavior in the morning of June 1, 1996 was inconsistent with someone who had just found his cousin and employer, a person he claims to get along with, dead.[59] By his testimony, he did not even go inside the room to check on her condition on the lame excuse that he was afraid. He also did not inform his neighbors about the incident for the equally flimsy reason that he did not know them nor did he go to the police.[60]

Under Rule 133, §4 of the Rules on Evidence, circumstantial evidence is sufficient for conviction if (a) there is more than one circumstance; (b) the facts from which the inference are derived are proven; and (c) the combination of all circumstances is such as to produce a conviction beyond reasonable doubt. As the foregoing discussion shows, these requisites have been established in this case.

Fourth. With respect to the circumstances attending the commission of the crime, the trial court correctly appreciated the qualifying circumstance of treachery against accused-appellant. To appreciate treachery, two conditions must be present: (1) the employment of means of execution that gives the person attacked no opportunity to defend himself or to retaliate and (2) the means of execution is deliberately or consciously adopted.[61] Both requisites have been established in this case.

Anent the first requisite, Dr. Roldan testified that based on her findings, the victim was not in a position to fight the assailant and that she might have been stabbed while she was asleep.[62] As regards the second requisite, the number and nature of the wounds sustained by the victim lead to no other conclusion than that accused-appellant employed means in killing the victim which tended directly and specially to ensure its execution without risk to himself arising from the defense which the victim might take. Accused-appellant would not have inflicted so many wounds, a total of 10, half of which were fatal, if he had not deliberately adopted such manner of attack.[63] Abuse of superior strength also attended the killing since accused-appellant, a man and armed with a knife, attacked the victim, an unarmed and defenseless woman.[64] However, since abuse of superior strength is absorbed in treachery, there is no need to appreciate it separately as an independent aggravating circumstance.[65]

The trial court correctly held that there was no proof of evident premeditation since the requisites therefor, to wit, (a) the time when the accused determined to commit the crime; (b) an act manifestly indicating that the accused had clung to his determination; and (c) sufficient lapse of time between such determination and execution to allow him to reflect upon the consequence of his act,[66] have not been established in this case.

Nor can the generic aggravating circumstance of dwelling be appreciated against accused-appellant since the latter and the victim lived in the same house.[67]

The aggravating circumstance of abuse of confidence, however, is present in this case. For this aggravating circumstance to exist, it is essential to show that the confidence between the parties must be immediate and personal such as would give the accused some advantage or make it easier for him to commit the criminal act. The confidence must be a means of facilitating the commission of the crime, the culprit taking advantage of the offended party's belief that the former would not abuse said confidence.[68] In this case, while the victim may have intimated her fear for her safety for which reason she entrusted her jewelry and bank book to Erlinda Arrojado Magdaluyo, her fears were subsequently allayed as shown by the fact that she took back her personal effects from Erlinda.[69] Thinking that accused-appellant would not do her any harm, because he was after all her first cousin, the victim allowed accused-appellant to sleep in the same room with her father and left the bedroom doors unlocked.[70]

The murder in this case took place after the effectivity of R.A. No. 7659 on December 31, 1993 which increased the penalty for murder from reclusion temporal maximum to death to reclusion perpetua to death. In view of the presence of the aggravating circumstance of abuse of confidence and in accordance with Art. 63(1) of the Revised Penal Code, the trial court should have imposed the penalty of death on accused-appellant. However, on December 1, 2000, the Revised Rules of Criminal Procedure took effect, requiring that every complaint or information state not only the qualifying but also the aggravating circumstances.[71] This provision may be given retroactive effect in the light of the well settled rule that "statutes regulating the procedure of the court will be construed as applicable to actions pending and undetermined at the time of their passage. Procedural laws are retroactive in that sense and to that extent." [72] The aggravating circumstance of abuse of confidence not having been alleged in the information, the same therefore could not be appreciated to raise accused-appellant's sentence to death.

In accordance with the ruling in *People v. Lucas*[73] that the penalty of reclusion perpetua remains indivisible notwithstanding the fixing of its duration from twenty (20) years and one (1) day to forty (40) years,[74] the trial court erred in imposing on accused-appellant the penalty of 30 years of reclusion perpetua. In line with the ruling in *Lucas*, accused-appellant should suffer the entire extent of forty (40) years of reclusion perpetua.[75]

Consistent with current case law,[76] the civil indemnity for the crime of murder should be reduced from P60,000.00 to P50,000.00, while the award of moral damages in the amount of P80,000.00 should be reduced to

P50,000.00.

WHEREFORE, the decision of the Regional Trial Court, Branch 19, Roxas City, is AFFIRMED with the MODIFICATION that accused-appellant Salvador Arrojado is sentenced to suffer the penalty of reclusion perpetua in its entire duration and to its full extent. Furthermore, he is ordered to pay the heirs of the victim Mary Ann Arrojado the amount of P50,000.00 as civil indemnity and the further sum of P50,000.00 as moral damages and the costs.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, Buena, and De Leon, Jr., JJ., concur.

- [1] Per Judge Sergio Pestaño.
- [2] Records, pp. 106-118.
- [3] Should be 10.5 cm. per Exh. A; id, p. 57.
- [4] Id., p. 1.
- [5] Id., p. 24.
- [6] TSN (Buenaventura Arrojado), pp. 2-36, Aug. 6. 1996.
- [7] Retained by the trial court.
- [8] TSN (Erlinda Arrojado Magdaluyo), pp. 2-16, July 23, 1996.
- [9] TSN (PO2 Orly Baril), pp. 2-59, July 22, 1996.
- [10] Records, p. 59.
- [11] Id., pp. 60-61.
- [12] Exh. A; id., p. 57.
- [13] TSN, pp. 2-45, July 16, 1996.
- [14] Records, p. 58.
- [15] TSN, pp. 19-23, July 23, 1996.15 TSN, pp. 2-29, Aug. 5, 1996.
- [16] TSN, pp. 2-29, Aug. 5, 1996.
- [17] TSN, pp. 2-66, Aug. 12, 1996.
- [18] RTC Decision, p. 13; Records p. 118.
- [19] Id., pp. 12-13; id., pp. 117-118.
- [20] Appellant's Brief, p. 1; Rollo, p. 63.
- [21] TSN, p. 49, Aug. 12, 1996.
- [22] TSN, p. 33, July 29, 1996.
- [23] TSN, p. 27, July 16, 1996.

[24] Accused-Appellant's Brief, p. 8; Rollo, p. 70.

[25] TSN, pp. 15, 48, Aug. 12, 1996.

[26] TSN, p. 58, July 29, 1996.

Q Did you see any hole on the clothing of the victim that a knife might have gone through?

A No, because I don't see her wounds here. (Witness pointing to her chest.) I only saw her wounds on the abdomen and on the back of the neck, because the shirt was lifted up and the back of the neck has no cover.

[27] Appellant's Brief, p. 9; Rollo, p. 71.

[28] T. Gonzales, M. Vance, M. Herlpern, & C. Umberger, Legal Medicine Pathology and Toxicology 338 (1954) . (Emphasis added)

[29] TSN, p. 31, July 16, 1996.

[30] Id., p. 37.

[31] Id., pp. 6-7.

[32] D. Kerr, Forensic Medicine 77 (1954).

[33] TSN, p. 58, July 22, 1996.

[34] TSN, p. 33, July 29, 1996.

[35] TSN, p. 20, July 23, 1996.

[36] Id., pp. 20-21.

[37] TSN, pp. 6-9, 22, July 29, 1996.

[38] TSN, p. 44, Aug. 12, 1996.

[39] Id., p. 45.

[40] TSN, p. 13, July 23, 1996.

[41] Id.

[42] TSN (Thelma Arrojado), pp. 10-11, Aug. 5, 1996.

[43] TSN, pp. 21-22, Aug. 6, 1996.

[44] E.g., People v. Bayotas, G.R. No. 136818, Dec. 19, 2000.

[45] TSN, pp. 10-11, Aug. 5, 1996.

[46] TSN, pp. 12-13, July 29, 1996.

[47] TSN, pp. 23-24, July 23, 1996.

[48] TSN, pp. 21-22, Aug. 6, 1996.

[49] Id, pp. 21-22.

[50] TSN (Salvador Arrojado), p. 9, Aug. 12, 1996.

- [51] *Id.*, p. 45; TSN (Erlinda Arrojado Magdaluyo), p. 13, July 23, 1996.
- [52] TSN (Erlinda Arrojado Magdaluyo), p. 45, July 29, 1996.
- [53] *Id.*, p. 12, July 23, 1996; p. 60, July 29, 1996; TSN (Salvador Arrojado), p. 53, Aug. 12, 1996.
- [54] Appellee's Brief, p. 12; Rollo, p. 124.
- [55] TSN (Buenaventura Arrojado), p. 27, Aug. 6, 1996; TSN (PO2 Orly Baril), p. 12, July 22, 1996.
- [56] TSN (Dr. Ma. Lourdes Roldan), pp. 16-28, July 16, 1998.
- [57] TSN (Erlinda Arrojado Magdaluyo), pp. 23-24, July 23, 1996; TSN (Thelma Arrojado), pp. 10-11, Aug. 5, 1996.
- [58] TSN (Erlinda Arrojado Magdaluyo), p. 35, July 29, 1996.
- [59] Appellee's Brief, p. 14; Rollo, p. 126.
- [60] TSN (Salvador Arrojado), pp. 57, 61-62, Aug. 12, 1996.
- [61] *E.g.*, *People v. Bayotas*, G.R. No. 136816, Dec. 19, 2000.
- [62] TSN, p. 42, July 16, 1996.
- [63] *See People v. Panida*, 310 SCRA 66 (1999).
- [64] *People v. Amazan*, G.R. Nos. 136251 and 138606-07, Jan. 16, 2001.
- [65] *E.g.*, *People v. Candare*, G.R. No. 129558, June 8, 2000; *People v. Gutierrez*, 302 SCRA 643 (1999).
- [66] *People v. De la Tongga*, G.R. No. 133246, July 31, 2000.
- [67] *U.S. v. Rodriguez*, 9 Phil. 136 (1907).
- [68] *People v. Gelera*, 277 SCRA 450 (1997).
- [69] TSN (Erlinda Arrojado Magdaluyo), p. 24, July 29, 1996.
- [70] *Id.*, p. 45.
- [71] Rule 110, §8 states in pertinent part:
- Designation of the offense. ³/₄ The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it.
- [72] *Ocampo v. Court of Appeals*, 180 SCRA 27 (1989); *Alday v. Camilon*, 120 SCRA 521 (1983); *People v. Sumilang*, 77 Phil. 764 (1946).
- [73] 240 SCRA 66 (1995) citing *People v. Reyes*, 212 SCRA 402 (1992).
- [74] Revised Penal Code, Art. 27, as amended by R.A. No. 7659.
- [75] *People v. Gatward*, 267 SCRA 785 (1997).
- [76] *E.g.*, *People v. De la Tongga*, G.R. No. 133246, July 31, 2000.

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