

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MARIO CONCEPCION Y NONADO, NELSON TEJERERO Y DELOS SANTOS, JOHN DOE @ “COCOY” AND PETER DOE @ “JERRY,” ACCUSED, MARIO CONCEPCI...

G.R. No. 131477. April 20, 2001

Ponente: BUENA, J.

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BUENA, J.:

For automatic review is the decision[1] dated August 5, 1997 of the Regional Trial Court of San Pedro, Laguna, Branch 31, in Criminal Case No. 9060-B, convicting accused-appellant Mario Concepcion y Nonado of the crime of robbery with homicide, the dispositive portion of which reads:

"WHEREFORE, finding accused Mario Concepcion guilty of the crime of robbery with homicide, the Court hereby sentences said accused to suffer the death penalty, to pay the heirs of Lolita Corpuz y Ocampo the following sums: P50,000 as civil indemnity, P97,588 representing expenses incurred during her wake, funeral and interment, P50,000 as moral damages, and P40,500 representing the value of the stolen articles, and to pay the costs.

"The provincial jail warden of the provincial jail of Laguna in Sta. Cruz, Laguna is hereby directed to immediately release accused Nelson Tejerero from his detention unless he is being held for some other valid and legal grounds."

On January 26, 1995, an information[2] was filed before the RTC of San Pedro, Laguna charging Mario Concepcion y Nonado, Nelson Tejerero y Delos Santos, John Doe @ "Cocoy," and Peter Doe @ "Jerry," with robbery with homicide committed as follows:

"That on or about October 18, 1994, in the Municipality of Laguna, Philippines and within the jurisdiction of this Honorable Court, accused Mario Concepcion y Nonado, Nelson Tejerero y Delos Santos conspiring and confederating with John Doe alias 'Cocoy' and Peter Doe alias 'Jerry' whose true identities have not yet been fully ascertained and mutually helping one another with intent to gain and without the knowledge and consent of the owner thereof and with the use of force upon things, to wit: by forcibly destroying the door lock of the house to gain entry thereto and once inside, did then and there willfully, unlawfully and feloniously take, steal and carry away one (1) Sony component with SN-105118, two (2) Sony Speakers with SN-1995653, one (1) brown travelling bag, three (3) pieces of lady's belt, assorted jewelries and undetermined amount of cash with a total value of Forty Thousand Five Hundred (P40,500.00), belonging to Lolita Corpuz Ocampo.

"That on the occasion of or by reason of said robbery and in the pursuance of such conspiracy and for the purpose of enabling them to take, steal and carry away said items, the above-named accused, conspiring, confederating and mutually helping one another, with intent to kill and without justifiable cause, did then and there willfully, unlawfully and feloniously attack, assault and strike Lolita Corpuz Ocampo with the use of a hard object, thereby inflicting upon her mortal stab wound on her head which directly caused her instantaneous death, to the damage and prejudice of her surviving heirs."

Upon arraignment, accused-appellant Mario Concepcion and accused Nelson Tejerero entered a plea of not guilty.[3] The two other accused remained at large.

Trial on the merits ensued with the prosecution presenting the following witnesses: Marilou dela Cruz Mislang, daughter of the victim, SPO1 Bertito Almenanza, police investigator, SPO3 Clemente Raymundo, who corroborated the testimony of SPO1 Almenanza, Romulo Bernal, a barangay tanod, Nancy Tejerero, Analyn Balmes, Dr. Maximo Reyes and Norma Salo, Medical Technologist. The defense presented accused Nelson Tejerero and accused Mario Concepcion.

The evidence for the prosecution is summarized by the Office of the Solicitor General (OSG) in the Appellee's Brief, which we quote in full and adopt as our own for being fully supported by the records of the case:

"The victim Lolita Corpuz y Ocampo was living alone in the house of her son, Romeo Ocampo in Block 27, Lot 18, Southville Subdivision, Barangay Sto. Tomas, Binan, Laguna (p. 6, tsn, May 24, 1995). On October 18, 1994, Lolita Corpuz y Ocampo was found lying dead on her bed and the things in the bedroom were in disarray (pp. 11-12, tsn, May 24, 1995; p. 3, tsn, June 14, 1995).

"The following items were ascertained to be missing.

Item

Value

1. Electric guitar

P 8,000.00

2. Travelling bag

500.00

3. CD component with speaker

30,000.00

4. Wall clock

500.00

5. Jewelry items (and cash)[4]

40,500.00[5](sic)

"A bloodstained knife and lead pipe were found in the room (pp. 5, tsn, June 14, 1995, Exhibits B and C).

"At 11:30 a.m. of October 19, 1990, Dr. Maximo Reyes, whose expert testimony was admitted by the defense (p. 2, tsn March 27, 1996), examined the cadaver of the victim. He ascertained the cause of death of the victim as 'traumatic head injuries' (pp. 5, 11, tsn, March 27, 1996). He described his findings as follows:

`Cyanosis, lips and fingernailsbeds: Hemorrhage, meningeal: epidural subdural and subarachnoidal extensive: Contused abrasions 1.0 x 2.0 cms, left side of chest 0.3 x 7.0 cms. Posterior aspect, left forearm 3.0 x 6.0 cms. Left side of face 1.0 x 1.5 cms. Antero-lateral aspect, right side of neck, Hematomas, periorbital 2.0 x 5.0 cms. Left eye, interstitial covering the scalp, fronto parietal area from left to right including the vertex. Fractures, linear, left parieto-occipital, complete left mandible. Heart and all other internal visceral organs are congested.

Stomach 1/3 filled with digested food.' (Exhibit AA,)[6] "On October 19, 1964, SPO1 Almenanza and SPO3 Raymundo went to the scene and found a grassy and narrow trail leading from the house of the victim to a construction site. While following the trail leading to the construction site, they saw appellant carrying a plastic bag acting suspiciously and leaving a house under construction. Noting bloodstain on his t-shirt and on one of his slippers, they invited appellant to the police station (p. 7, tsn, March 7, 1997). They found that the plastic bag carried by appellant contained soiled clothes and shoes (pp. 3-4, tsn, August 23, 1995; pp. 11-12, tsn, August 7, 1995).

"The police investigators sent the appellant's stained t-shirt and slipper to the PNP Crime Laboratory for examination (p. 12, tsn, August 7, 1995). Dr. Vergara examined these items and found them positive[7] for human blood (pp. 7-10, tsn, February 26, 1997).

"Appellant, who is from Camarines Sur, stayed with his co-accused Nelson Tejerero and the latter's blind sister Nancy Tejerero in Maligaya I, Barangay San Vicente, San Pedro, Laguna (p. 9, tsn, November 27, 1995). Around 4:00 o'clock in the early morning of October 18, 1994, she heard somebody knocking at the door. Nancy asked who was there. When appellant identified himself, she opened the door. Appellant told her that he was tired after carrying a heavy bag. Appellant placed the bag under her bed and left the house. (pp. 13-14, tsn, November 27, 1995).

"Around 3:00 p.m. of October 18, 1994, Nancy Tejerero felt that somebody again entered the room. She recognized appellant after stating 'Ate (I am)' (p. 18, tsn, November 27, 1995). Appellant said he was taking the CD component he left in the bag to be pawned to Analyn Balmes. When Nancy Tejerero asked what a component is, appellant let her touch the component, the bag and its contents, such as the wall clock and the electric guitar. Appellant instructed Nancy not to tell anyone about the things that he brought to her house (pp. 19-22, tsn, November 27, 1995).

"When Nancy's brother Nelson Tejerero learned that appellant left some things in their house, Tejerero reported the matter to Barangay Tanod Romulo Bernal. Bernal took the items from the house of the Tejereros to the Barangay Hall (p. 23, tsn, November 27, 1995).

"Analyn Balmes turned over the CD component which appellant pawned to her by appellant for P500.00 and which appellant promised to redeem after he had received his salary (pp. 6-9, tsn, January 22, 1996).

The evidence for the defense is summarized in the Brief for the accused-appellant; thus:

"Co-accused Nelson Tejerero testified that in October, 1994 he was residing at Brgy. Nueva, Baybay Riles, San Pedro, Laguna. He had known Mario Concepcion by that time for just a month.

"He surrendered the items because he didn't have anything to do with them. It was Mario who brought these items to their house on October 18, 1994 (the day the victim was killed). He was in the house when the items were delivered by Mario. Mario said the items came from his uncle and he brought these items to Nelson's house because he had no other place to go.

"He (witness) was arrested at home. When he reached the police station, Mario was already there but did not talk to him.

"When the incident happened, he was at home. (TSN, May 17, 1996, pp. 1-10).

"Under cross-examination, he said he came to know Mario because he was the companion of his cousin Jerry Nonado from Quezon.

"He reached only Grade 1. He does not know how to read and write. (TSN, July 29, 1996, pp. 1-7)

"Mario Concepcion denied knowledge of the killing and robbery that took place at the house of Lolita Ocampo on October 18, 1994. That day in the afternoon, he was in the house of Nelson Tejerero at Baybay Riles, San Pedro, Laguna. He was not doing anything at that time; neither was he employed. He is from Bicol, Camarines Sur. The cousin of Nelson who is Jerry Nonado brought him to the house of Nelson because, allegedly there was construction work at Binan available for him.

"He does not recall where he was on October 20, 1994, a Sunday. He denied that on that day he was arrested and was seen with a bloody t-shirt and slippers. He recalls that on the day of his arrest, he was at the construction site where he was waiting for the owner of the house, Bebot delos Santos. Bebot told him that after 3 weeks he should come back. Suddenly, 3 police officers arrived. They asked him if he was Mario Concepcion and he admitted this. They told him to go with them and when he refused, Raymundo boxed him on the stomach, chest and back. The 2 others joined in. They warned him that if he will not go with them they will kill him. They asked him to board a jeep and inside, they continued boxing him. He was told to admit the crime but he told them he did not know anything about it. They had no warrant of arrest at the time they picked him up.

"He denied the allegations of Nancy Tejerero, the blind sister of his co-accused Nelson.

"He, however, admitted pawning the component to Balmes on October 19, 1994. It belongs to Cocoy, the neighbor of Nelson. Cocoy owed him P200.00 and told him if he wanted to be paid, he should pawn it to Balmes (TSN, August 12, 1996, pp. 1-7).

"The police did not allow him to undergo medical examination (TSN, September 11, 1996, p. 3)

"Under cross-examination, he said he first learned he was an accused in this case when Nelson told him that he had informed the police that he (Mario) was the one who brought those items to the Tejerero house. This he denied.

"He does not know what robbery with homicide is.

"Definitely, he did not kill Lolita Ocampo.

"From October 18, 1994 to October 20, 1994, he was still residing at the house of Nelson. (TSN, September 11, 1996, pp. 3-27)"

In finding herein accused-appellant Mario Concepcion guilty of the crime of robbery with homicide, the trial court found that the following circumstantial evidence leads to the conclusion that accused-appellant Mario Concepcion is the malefactor: 1.) Appellant arrived in the house of the Tejereros at the unholy hour of 4:00 o'clock in the morning following the discovery of the robbery and killing of Lolita Corpuz y Ocampo, leaving a bag containing the following articles: a wall clock, an electric guitar, a component and 3 ladies' belts to Nancy Tejerero, the blind sister of accused Nelson Tejerero, with instructions to deny that he left anything to anyone who will make an inquiry relative thereto; 2.) those articles which were later on recovered by the police were identified by Marilou dela Cruz Misleng as the ones found to be missing on the date of the incident on October 18, 1994 from the house of her mother Lolita Corpuz y Ocampo; 3.) the presence of a narrow trail whose one end leads to the house of the victim, and the other end to a construction site where appellant was found by the police after the incident on a Sunday, a non-working day, (and in fact he admitted that the construction work had stopped for about half a month already due to lack of materials); 4.) the presence of human blood on the t-shirt and slipper he was wearing at that time, and a bag he was carrying containing soiled clothes and shoes. (The trial court observed that if appellant's testimony were to be believed that he was still residing with the Tejereros on that day and went to the construction site merely to wait for Bebot delos Santos, owner of the construction project, to drop by then why was he carrying a bag with his soiled clothes and shoes if his intention was not to flee from the pursuing authorities and go scot-free.); 5.) the recovery by the police of the crowbar at the construction site which

admittedly was used in hitting the head of the victim; 6.) the pawning by appellant of the component with speakers which Marilou dela Cruz Misleng identified as one of the articles stolen from her mother's house; 7.) Concepcion's failure to deny Analyn Balmes' testimonies of his representations that the component pawned belongs to his uncle and Nancy Tejerero, and that all the other articles brought to their house belong to his uncle too. In court, Concepcion claimed that the component came from one "Cocoy," yet the latter was not presented as his witness.

Appellant asserts that:

I

"The trial court erred in giving credence to the testimony of the prosecution's blind eyewitness Nancy Tejerero who linked accused Concepcion to the crime but exculpated her own brother, co-accused Nelson Tejerero.

II

"The trial court erred in convicting accused Concepcion on the basis of circumstantial evidence when the same is too tenuous to link him to the crime.

III

"Assuming *arguendo* that accused Concepcion is guilty, he is only guilty of the separate crimes of homicide and theft.

IV

"The trial court erred in finding the accused guilty beyond reasonable doubt of the crime of robbery with homicide."

The appeal is without merit.

On the first assigned error, appellant contends that Nancy Tejerero's testimony is too incredible to be believed and that it served to single out appellant alone as the culprit, and to exculpate her brother Nelson Tejerero. According to appellant, Nancy was blind since childhood hence, she could not have identified an electric guitar, a wall clock and a CD component. Also, it is allegedly improbable for her to be awake and listening to the radio at 3:00 to 4:00 a.m., when the rest are asleep.

Appellant also casts doubt on the police officers' testimonies that two days after the death of the victim, appellant was found at the construction site located near the house of the victim, wearing a bloody t-shirt and bloody slippers. Counsel for appellant contends that since appellant allegedly had been boxed, that would also produce blood on his t-shirt and slippers. But there was no expert testimony to declare that the alleged blood found on his t-shirt and slippers was the same blood type as that of the victim, Lolita Ocampo.

In sum, this Court is once again asked to revise a trial court's assessment of the credibility of witnesses, especially Nancy Tejerero and the police officers in this case. The elementary rule is when the issue is one of credibility of witnesses, appellate courts will generally not disturb the findings of the trial court, considering that the latter is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial, unless it has plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case.[8] We find no fault with the trial court's analysis of witnesses' credibility.

Independent of the trial court's assessment, we still see no reason to doubt the credibility of prosecution witnesses Nancy Tejerero and police officers Almenanza and Raymundo. A review of the testimonies given in court by the

said witnesses shows that their answers were straightforward and not evasive. Nancy Tejerero's blindness did not make her an incompetent witness. In fact, she was able to perceive and make her perception^[9] known to others.

Also, the Court is not convinced with the reasons cited by the appellant to overturn the assailed decision.

Appellant was not convicted nor was accused Nelson Tejerero acquitted on the basis of the sole testimony of Nancy Tejerero. The testimony of Nancy Tejerero is only one among the interlocking prosecution evidence which points to appellant as the perpetrator of the crime. Nelson Tejerero's innocence was also bolstered by his act of turning over to the barangay tanod the stolen articles which he found in their house. The dictum which is derived no less from the Proverbs that "The wicked fleeth when no man pursueth, but the innocent is as bold as a lion." applies to Nelson Tejerero, who went to the barangay tanod and testified, thus:

"Q: Tell us, why did you proceed to the office of Brgy. Nueva on October 19, 1994?

"A: I talked to Romulo Bernal, sir.

"Q: Who is this Romulo Bernal?

"A: My cousin, sir.

"Q: Is he an official in the barangay?

"A: Barangay Tanod, sir.

"Q: And why did you go there to see your cousin?

"A: I made a request, sir.

"Q: What was your request?

"A: To tell me or to advise me on what to do with the things which were left in our house, sir.

"Q: And what was the response of your cousin?

"A: He is the one who will take charge over it, sir.

"Q: What were those items that you are talking about?

"A: Electric guitar, wallclock, bag, lady's belt and lady's bag, sir."^[10]

Appellant decries the non-presentation of Captain Vergara as a witness who actually examined the t-shirt and slippers and found the same to be positive for human blood. Appellant cites the case of *People vs. Padilla*^[11] and *People vs. Morada*^[12] which held that mere bloodstains on the bolo, shirt and pants of the appellant without any corresponding evidence of the blood type matching is not sufficient to support appellant's conviction. Those cases are not applicable to the case at bar, for in the cases cited by appellant, the appellant therein was acquitted because of the improbabilities and inconsistencies of the prosecution evidence, and for the further reason that this Court found it contrary to human behavior for the appellant in *People vs. Padilla*, after having killed another human being, to just nonchalantly sleep off his gruesome act without as much as hiding the weapon used and his bloodstained clothes. Thus, this Court considered it possible for the true assailant to have placed the fatal weapon in appellant's hand and wiped the blood on appellant's shirt and pants while the latter was sleeping. On the other hand, not only was such circumstance absent in this case; there are also other circumstantial evidence which point to herein appellant as the perpetrator of the crimes which shall be discussed later.

While Captain Vergara was not presented as witness, Ms. Norma Salo, the Medical Technologist, testified that she was the one who typed the results of the examination. Ms. Norma Salo is presumed to have regularly

performed her official duty. It is a legal presumption, born of wisdom and experience, that official duty has been regularly performed.[13] Similarly, expert testimony declaring that the alleged blood found in his t-shirt and slippers were the same blood type as that of the victim, Lolita Ocampo, is not indispensable under the circumstance of this case.

Appellant also argues that the CD component was not properly identified by family members in court as the same one belonging to their mother Lolita Ocampo. On this point, We quote with approval the response of the people's counsel, thus:

"The non-presentation of the victim's daughter to identify the CD component as one of those stolen from the house of her mother is not fatal. Appellant admitted[14] that he pawned the CD component to Analyn Balmes. He should have presented his uncle who allegedly owned the CD component which he pawned to Balmes. His failure to do so confirmed the fact that it was the CD component that was taken from the house of the victim. When retrieved from Balmes, the CD component was returned to the daughter of the victim. If it really belonged to his uncle, then appellant should have insisted that the CD component be returned to him." [15]

On the second and fourth assigned errors, the trial court also did not err in finding appellant guilty of the offense charged on the basis of circumstantial evidence.

It is settled jurisprudence as expressed in the recent case of *People vs. Ortiz*[16] that conviction may be had even on circumstantial evidence so long as a combination of all the circumstances proven produces a logical conclusion which suffices to establish appellant's guilt beyond reasonable doubt. The three requisites necessary to sustain a conviction based on circumstantial evidence provided in the Rules of Court and in settled jurisprudence are: 1.) there is more than one circumstance; 2.) the facts from which the inferences are derived are proven; and 3.) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt. The foregoing elements concur in the case at bar. More specifically, these circumstances are:

"1. Appellant was seen with bloodstained t-shirt and slipper and acting suspiciously;[17]

"2. The day after the robbery and homicide, appellant brought items consisting of, among others, CD component, wall clock and electric guitar to the house of Nancy and Nelson Tejerero;[18]

"3. The items brought by appellant to the house of Nancy Tejerero and Nelson Tejerero were identified by the victim's daughter as among those lost in the house of her mother;[19]

"4. The compact disk component which appellant pawned to Analyn Balmes was also identified as the one lost in the house of the victim.[20]

A combination of the foregoing circumstances clearly shows that appellant was the culprit and was thus responsible for the theft and the death of the victim.

The Court finds the third assigned error to be tenable.

In light of *People vs. Judy Sanchez*,[21] the crime established in the case at bar is not robbery with homicide but two distinct offenses of theft and homicide.

From the records of this case, we find that the prosecution failed to substantiate its allegation of the presence of criminal design to commit robbery, independent of the intent to commit homicide. There is no evidence showing that the death of the victim occurred by reason of or on the occasion of the robbery. The prosecution was silent on appellant's primary criminal intent. Did he intend to kill the victim in order to steal the CD component, electric guitar, wall clock, set of jewelry and suitcase? Or did he intend only to kill the victim, the taking of the latter's personal properties being merely an afterthought? Where the homicide is not conclusively shown to have been

committed for the purpose of robbing the victim, or where the robbery was not proven at all, there can be no conviction for robbery with homicide.

At the time the investigators entered the house, they saw things in disarray. The investigators entered the open door. Almenanza could not recall how it was opened.[22] There is no evidence that any wall, roof or floor has been broken. Hence, appellant should also be convicted of a separate offense of theft, instead of robbery, force upon things not having been proved.

The penalty for homicide under Article 249 of the Revised Penal Code is reclusion temporal: There being no modifying circumstances proved by the prosecution or the defense, the penalty shall be imposed in the medium period. Applying the Indeterminate Sentence Law, he can, for the homicide charge, be sentenced to an indeterminate penalty the minimum of which shall be within the range of prision mayor (the penalty next lower in degree to that provided in Article 249) and the maximum of which shall be within the range of reclusion temporal in its medium period.

Award of P50,000.00 as moral damages is justified under Art. 2217 of the Civil Code as the victim's death caused her family mental anguish and serious anxiety.[23] Following prevailing jurisprudence and in line with the policy of the court, for the death of each victim, an award of P50,000.00, as civil indemnity is proper without any need of proof.[24] We, however, reduce the amount of expenses incurred during her wake, funeral and interment from P97,588.00 to P32,400.00, it appearing that the only documentary evidence presented were: 1.) Manila Memorial Park Cemetery, Inc. O.R. No. 77339 for interment and Sunday fee - P6,820.00 (Exh. "H"); 2.) Veronica Memorial Chapels Receipt No. 20766 for memorial services - P8,450.00; 3.) Deveza's Catholic Mart & Marble Works Receipt No. 12557 - P400.00; and 4.) Manila Memorial Park Cemetery, Inc. O.R. No. 10337 for the lot - P16,730.00.

We shall now discuss the penalty for the theft committed by the appellant. The penalty for theft is graduated according to the value of the thing/s stolen. The value of the articles stolen should be used as basis for the imposable penalty although the electric guitar, wall clock, traveling bag and CD component were recovered.[25] The recovery of the stolen property does not mean that the crime of theft was not consummated.[26] Per testimony of the victim's daughter Marilou dela Cruz, and as found by the trial court, the total value of the articles stolen by the appellant is P40,500.00 broken down as follows: 1.) electric guitar - P8,000.00; 2.) travelling bag - P500.00; 3.) CD component with speaker P30,000.00; 4.) wall clock - P500.00; and 5.) jewelry items and cash - approximately P1,500.00. However, upon cross-examination, she testified that she cannot recall the cost of the wall clock that was reported lost. It was her brother who bought the electric guitar, the cost of which she is not certain. The speakers and the Sony component is worth P30,000.00, more or less. She cannot recall how much cash was lost. She also cannot recall how much jewelry was lost.[27] In view of this, the only evidence that the prosecution was able to present with regard to the value of the things stolen, is that of the CD component which should be valued at P500.00, the amount for which appellant admittedly[28] pawned the CD component to Analyn Balmes.

Article 309 of the Revised Penal Code provides:

"Art. 309. Penalties. - Any person guilty of theft shall be punished by:

"xxx

"3. The penalty of prision correccional in its minimum and medium periods, if the value of the property stolen is more than 200 pesos but does not exceed 6,000 pesos.

There being no mitigating or aggravating circumstance, the maximum term of the indeterminate penalty, which is

prision correccional in its minimum and medium periods, should be imposed in the medium period or one (1) year, eight (8) months and 21 days, to two (2) years, eleven (11) months and eleven (11) days. The minimum of the indeterminate penalty is anywhere within the range of the penalty next lower, or arresto mayor, in its medium and maximum period which is two (2) months and one (1) day to six (6) months.

The trial court also erred in awarding to the heirs of the victim Lolita Corpuz y Ocampo, the sum of P40,500.00, representing the value of the stolen articles, considering that the CD component, electric guitar, the wall clock and the travelling bag were recovered and, while the set of jewelry and cash were not recovered, the value/amount of the latter two items were uncertain.

WHEREFORE, the judgment appealed from is **AFFIRMED** with **MODIFICATION**. As modified, accused-appellant Mario Concepcion is found guilty beyond reasonable doubt of two distinct crimes of homicide for the death of Lolita Corpuz y Ocampo and of theft. He is hereby sentenced to the following indeterminate penalties: a.) for homicide, from eight (8) years and one (1) day of prision mayor, as **MINIMUM**, to seventeen (17) years and four (4) months of reclusion temporal, as **MAXIMUM**; and b.) for theft, from six (6) months of arresto mayor as **MINIMUM**, to two (2) years, eleven (11) months and eleven (11) days of prision correccional, as **MAXIMUM**. He is ordered to indemnify the heirs of Lolita Corpuz y Ocampo the following sums: P50,000.00 as indemnity for her death; P32,400.00 representing expenses incurred for funeral and interment; and P50,000.00 as moral damages.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Gonzaga-Reyes, Ynares-Santiago, De Leon, Jr., and Sandoval-Gutierrez, JJ., concur.
Pardo, J., on sick leave.

[1] Original Record, pp. 333-342. Per Judge Stella Cabuco Andres.

[2] Original Record, pp. 4-5.

[3] Original Record, p. 38.

[4] Amount undetermined.

[5] Approximate total value of stolen articles.

[6] Original Records, p. 162.

[7] Medico Legal Report No. S-0084-A-96, Exhibit "HH", Original Records, p. 327.

[8] *People vs. Naguita*, 313 SCRA 292 [1999].

[9] defined by the Webster's Dictionary as awareness of environment through physical sensation; ability to perceive: insight, comprehension, synonymous to discernment, discrimination.

[10] TSN, July 29, 1996, p. 5.

[11] 177 SCRA 129 [1989].

[12] 307 SCRA 362 [1999].

[13] Bordador vs. Luz, 283 SCRA 374 [1997].

[14] August 14, 1996, TSN, p. 15.

[15] Appellee's Brief, pp. 31-32.

[16] 316 SCRA 407 [1999].

[17] Aug. 7, 1995, TSN, p. 12.

[18] Nov. 27, 1995, TSN, pp. 14 and 20.

[19] June 14, 1995, TSN, pp. 15-17; Salaysay ni Marilou dela Cruz Mislang, Original Records, p. 20.

[20] June 14, 1995, TSN, p. 17; Salaysay ni Marilou de la Cruz Mislang, dated Oct. 23, 1994, Exh. "G", Tanong at Sagot Blg. 11 at 12, Original Records, p. 20.

[21] 298 SCRA 48 [1998].

[22] Aug. 23, 1995, TSN, p. 12.

[23] People vs. Bahenting, 303 SCRA 558 [1999].

[24] People vs. De Vera, 312 SCRA 640 [1999].

[25] People vs. Canales, 297 SCRA 667 [1998]; People vs. Juan Carpio, 54 Phil. 48 [1929].

[26] Ibid.

[27] TSN, June 28, 1995, pp. 21-23.

[28] TSN, August 14, 1996, p. 15.

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