

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
MARGARITO GALO, JUNE “TOTO” SANAYAN, RODRIGO
“DIGOY” SANAYAN, AND ANACLETO
“TITO” ASAS, ACCUSED-APPELLANTS.**

G.R. No. 132025. January 16, 2001

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the decision[1] of the Regional Trial Court, Branch 4, Tagbilaran City, finding accused-appellants Margarito Galo y Bernacer, June "Toto" Sanayan y Sernikula, Rodrigo "Digoy" Sanayan y Segoro, and Anacleto "Tito" Asas y Quimson guilty of murder and sentencing each of them to suffer the penalty of reclusion perpetua and to pay to the heirs of the victim, Argeo Cuizona, the amount of P50,000.00 as civil indemnity and P30,000.00 as actual and moral damages.

The information[2] against accused-appellants alleged-

That on or about the 27th day of September, 1994, in the municipality of Mabini, province of Bohol, Philippines and within the jurisdiction of this Honorable Court, the abovenamed accused, conspiring, confederating, and mutually helping each other, with intent to kill and without any justifiable cause, with treachery by employing craft, and with abuse of superior strength (the victim being unarmed), did then and there willfully, unlawfully, and feloniously attack, assault, and strike with the use of a club, bamboo, and pestle one Argeo Cuizona thereby inflicting upon his body mortal wounds which resulted [in] his instantaneous death; to the damage and prejudice of the heirs of the victim in the amount to be proved during the trial.

Acts committed contrary to the provisions of Article 248 of the Revised Penal Code, as amended by Republic Act No. 7659.

Accused-appellants pleaded not guilty to the crime charged, whereupon they were tried.[3]

The prosecution presented the following as witnesses: Aniano Amoroto, Felicitas Vallecer, Marcelo Vallecer, Sr., Rizalina Recorba, Dr. Oscar Fudalan, SPO3 Virgilio Vergara, Marcelo Vallecer, Jr., Vicente Vallecer, and Socorro Sarabosing. Their testimonies show the following:

On September 27, 1994, at around 2 o'clock in the afternoon, in Barangay San Jose, Mabini, Bohol, accused-appellants Margarito Galo, June Sanayan, Rodrigo Sanayan, and Anacleto Asas, all working at the ranch owned by Robert Nazareno, had a drinking session at the store of Rizalina Recorba. After staying there for 30 minutes, they transferred to a waiting shed in front of the store. At around 3 o'clock, Galo, June Sanayan, and Asas went to the house of Argeo Cuizona and invited him to join them. Argeo Cuizona went with accused-appellants. June Sanayan bought two more bottles of rum from the store of Recorba. Later, he went back to the store to borrow a knife from Recorba, but he was not given one. He tried to borrow from Prudencio Vallente and Lino Boiser, none of whom gave him a knife. He returned to the waiting shed and resumed drinking

with his companions.[4]

At around 5 o'clock that afternoon, Aniano Amoroto, who happened to pass by, saw Argeo Cuizona having drinks with accused-appellants. Amoroto himself was offered drinks, which he accepted. After some time, however, he heard June Sanayan saying that he would have killed Argeo Cuizona had he been able to borrow a knife. Amoroto was disturbed by what he heard, and he told the group to go home. He warned Argeo Cuizona that his life was in danger, but the latter dismissed the warning, saying that he had nothing to fear from June Sanayan.

At 6 o'clock in the afternoon, Amoroto's wife came and fetched him, but, although he went with her, Amoroto nonetheless returned to the waiting shed at about 7 o'clock that evening, worried that June Sanayan might carry out his threat. He was told by Ondoy Gulasito and Dodong Vallente that the group had already left.[5]

On the other hand, Felicitas Vallecer said she was in her house preparing supper at about 7 o'clock in the evening when June Sanayan came looking for a bolo. As June Sanayan could not find one, he took her husband's night stick. Felicitas noticed that Rodrigo Sanayan, Anacleto Asas, Margarito Galo, and Argeo Cuizona were in her yard, talking in Tagalog. Although she did not actually see them, she recognized them through their voices because she had known them for a long time. After June Sanayan had gone out of the house, Felicitas Vallecer heard a commotion in the yard. She heard Argeo Cuizona cry for help, "Help me, Ting." ("Ting" is Vicente, Felicitas Vallecer's husband.) Felicitas shouted at the men outside to stop, but the beating continued for about half an hour more.[6]

At around 7 o'clock that same night, Vicente Vallecer arrived home and saw a dead person lying in his yard. His wife told him what had happened and that she heard familiar voices in the yard. Vicente Vallecer then fetched the barangay captain and Aniano Amoroto, a barangay tanod. With the use of a flashlight, the barangay captain identified the dead person to be Argeo Cuizona. Found near the body of Argeo Cuizona were a night stick, three bamboo sticks, and a pestle, all of which belonged to Vicente Vallecer. They had been used to kill Argeo Cuizona. Vicente decided to take his family to his father's house.[7]

SPO3 Virgilio Vergara was one of the policemen who responded to the report of the killing. He found the dead person lying on the ground, about 20 meters from the house of Vicente Vallecer. Near the body of the victim were a night stick, bamboo sticks, and a pestle, all of which had bloodstains. A pestle was found around six to 10 meters away from the body. A grassy area, six to 10 meters away from the crime scene, showed signs of struggle. SPO3 Vergara found Argeo to have suffered injuries in the head.[8]

That same evening, accused-appellants went to the house of Marcelo Vallecer, Sr., the father of Vicente. Accused-appellant Rodrigo "Digoy" Sanayan told Marcelo Vallecer, Sr. that they had killed Argeo Cuizona. After accused-appellants had left, Vicente and his wife and child arrived. Vicente told his father that Argeo Cuizona was found dead in his yard.[9]

Marcelo Vallecer, Jr., 13 years old, overheard the four accused-appellants when they told his father that they had killed Argeo Cuizona. On October 24, 1994, he executed an affidavit on what he knew of the incident. Marcelo, Jr. explained that the delay in the execution of his affidavit was due to the fact that one of the accused-appellants, June "Toto" Sanayan, took him to the ranch on September 29, 1994, trying to persuade him not to testify against him. Marcelo, Jr. said, however, that he was not prevented from leaving the ranch nor threatened if he testified.[10]

Vicente Vallecer was charged with murder, along with herein accused-appellants, for the death of Argeo Cuizona.[11] However, he was later excluded from the charge for insufficiency of evidence.[12]

Dr. Oscar Fudalan, the Municipal Health Officer who conducted the postmortem examination on the body of

Argeo Cuizon, issued a report[13] which reads:

DATA: ARGO A. CUIZONA, 44 years old, farmer, residing at San Jose, Mabini, Bohol.

FINDINGS:

The cadaver was about 5 ft. 6 inches long weighing 85 kilograms which was already in RIGOR MORTIS.

- Lacerated wound, C-shaped, 5 cm. long, cheek, right
- Abrasions, multiple, superficial, frontal area
- Fractures, multiple, occipito-parietal regions, postero-lateral, left, with small fragments of bone . . . detached and parts of the brain protruding through the wound and fractures.
- Lacerated wound, ear (almost detached), left
- Ce[re]bral injuries, multiple, occipito-parietal lobes, brain

NOTE:

Injuries Nos. 3 and 5 were the ones responsible for the death of the above-mentioned individual.

Dr. Fudalan testified that the body of Argeo Cuizon was already in a state of rigor mortis when he conducted the examination at 9 o'clock in the morning of September 28, 1994. He estimated that death occurred more than six hours prior to the autopsy, so that it was possible Argeo Cuizon died in the evening. He said wound no. 1, which was found on the cheek of the victim, could have been caused by any of the weapons presented in evidence, i.e., night stick, the bamboo sticks, or the pestle. On the other hand, wound no. 2 consisted of superficial abrasions on the forehead of the victim. These abrasions could have been caused by sand particles if the victim were lying on his back. It is also possible that the victim was dragged, Dr. Fudalan explained. With respect to wound no. 3, he said some of the brain tissues were protruding from the wound at the left side portion of the victim's head. According to Dr. Fudalan, any blunt instrument could have caused these fractures, such as the pestle or the night stick. He said that wound no. 3 could not have been caused by a sharp-bladed instrument because the lips of the wound are uneven but that it was possible that the night stick caused the same because of the night stick's sharp edge. Wound no. 4 was a lacerated wound running from the left portion of the ear to its base, almost severing the ear. In wound no. 5, part of the brain was already destroyed because of the fractures. Dr. Fudalan was of the opinion that wound nos. 3 and 5 were the fatal wounds as these involved the brain.

Dr. Fudalan stated that it was possible that the injuries were caused by more than one person. On cross-examination, however, he said it was possible that the injuries were caused by only one person, depending on the victim's position, and by only one instrument. He admitted that he did not see the alleged weapons when he conducted the postmortem examination. Dr. Fudalan explained that it was possible there would be no bloodstain on the weapons because the blood would not come out immediately, unlike in stab wounds. Dr. Fudalan explained that wound no. 4 could have been inflicted before wound no. 3 and vice-versa. However, if wound no. 4 had been inflicted beforehand, Dr. Fudalan admitted that the instrument inflicting wound no. 3 would have been stained with blood.[14]

Socorro Sarabosing, the deceased victim's sister, testified as to the burial and other expenses incurred by the victim's family. For the burial, nightly prayers, and other expenses connected to her brother's death, she stated that they spent approximately P10,000.00. They also spent P500.00 when they requested that a warrant be issued against the four accused. They spent P500.00 during the preliminary investigation, while they set aside P1,000.00 for every trial date, the latter amount being due to the fact that they had to bring witnesses. The transportation fare

from their barrio to Tagbilaran City, where the trial was held, was P35.00 per person. All in all, Socorro Sarabosing testified, they incurred expenses in the amount of P24,200.00.[15]

Accused-appellants Margarito Galo, Rodrigo Sanayan, June Sanayan, and Anacleto Asas testified in their defense. All of them admitted that they had drinks with Argeo Cuizon, but they denied killing him.[16]

On March 21, 1997, the trial court rendered its decision finding accused-appellants Margarito Galo, Rodrigo Sanayan, June Sanayan, and Anacleto Asas guilty of murder. The dispositive portion of the decision reads:

WHEREFORE, the Court finds accused Margarito Galo y Bernacer, June Sanayan y Sernikula, Rodrigo Sanayan y Sagoro, and Anacleto Asas y Quimson guilty beyond reasonable doubt of the crime of Murder contrary to the provisions of Article 248 of the Revised Penal Code, as amended by Republic Act No. 7659, and sentences EACH of them to suffer the penalty of reclusion perpetua, to solidarily and jointly pay to the heirs of the deceased victim Argeo Cuizon the sum of P50,000.00 as death indemnity and another sum of P30,000.00 in the concept of actual and moral damages.

SO ORDERED.[17]

Hence this appeal. Accused-appellants contend that:

- THE COURT A QUO ERRED IN FINDING THE ACCUSED-APPELLANTS GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF MURDER ON CIRCUMSTANTIAL EVIDENCE.
- THE COURT A QUO ERRED IN FINDING THAT CONSPIRACY EXISTED IN THE COMMISSION OF THE CRIME.
- THE COURT A QUO ERRED IN ORDERING THE ACCUSED-APPELLANT TO SOLIDARILY AND JOINTLY PAY THE HEIRS OF VICTIM THE SUM OF P50,000.00 AS DEATH INDEMNITY AND P30,000.00 AS ACTUAL AND MORAL DAMAGES.[18]

First. Accused-appellants question the trial court's evaluation of the testimonies of prosecution witnesses Aniano Amoroto, Marcelo Vallecer, Sr., and Felicitas Vallecer. Accused-appellants say that it is unbelievable for accused-appellant June Sanayan to tell Aniano Amoroto that he wanted to kill Argeo Cuizon. With regard to the testimony of Marcelo Vallecer, Sr., accused-appellants point out that the former's affidavit was executed only on February 15, 1995, almost four months after the incident. And with respect to Felicitas Vallecer and Marcelo Vallecer, Sr., accused-appellants claim that the two testified for the prosecution to save Vicente Vallecer from prosecution for the death of Argeo Cuizon.[19] Vicente Vallecer is the husband of Felicitas Vallecer and the son of Marcelo Vallecer, Sr.

The evaluation of the testimonies of witnesses is chiefly the function of the trial court. When there is no indication that patent inconsistencies have been overlooked or that the conclusions reached are unsupported by the evidence, the trial court's evaluation of the credibility of witnesses must be accorded the highest respect. This is for no other reason than that the trial court had the opportunity to observe the demeanor of the witnesses while testifying.[20]

In this case, the trial court found the following:

The Court does not give credence to the version of the four (4) accused denying the charge alleging that Argeo Cuizon accompanied them in the evening of September 27, 1994 on their way to the Nazareno farm as Cuizon would drop by the house of Vicente Vallecer to dress a chicken.

With utmost objectivity, as between a mere denial of the accused and the chronologically detailed declarations of the prosecution witnesses, the Court gives more evidentiary value to the latter.

In a spirit of vindictiveness, the four accused deceptively invited Argeo Cuizon to go with them to the ranch

of the Nazarenos where they were working on the pretext that they would dress a chicken when in fact they had bad intention against the victim Argeo Cuizona and the victim realizing such bad intention of the accused on their way to the ranch, an altercation between Cuizona on one hand and the four (4) accused on the other hand ensued when they were near the house of Vicente Vallecer where the four accused decided to finish off Argeo Cuizona and that during which time, June Sanayan went up the house of Vicente Vallecer to look for a bolo, but unable to find a bolo, brought a night stick instead, which he found in Vicente Vallecer's house.

The aforecited circumstances constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the fact that the four accused, confederating and mutually helping each other, attacked and struck the victim with the use of a night stick, pestle, and pieces of bamboo in the road and after realizing that he is already dead, they dragged the body of the victim towards the front yard of the house of Vicente Vallecer causing multiple abrasions on the frontal area of the body of the victim to make it appear that it was Vicente Vallecer who killed the victim.

This factual setting would clearly indicate that the four accused acted in conspiracy regarding the commission of a crime, i.e., to kill Argeo Cuizona in vengeance against him who sometime in September 13, 1994, or two weeks before the incident in question, had slapped accused June Sanayan, a co-worker at the Nazareno ranch.[21]

Accused-appellants have not shown any reason for us to overturn these findings of the trial court. Aniano Amoroto's testimony that he heard June Sanayan say that he wanted to kill Argeo Cuizona was corroborated by Rizalina Recorba who said that accused-appellant tried to borrow a knife from her and from other people. Aniano Amoroto was so worried about the safety of Argeo Cuizona that he returned to the waiting shed looking for accused-appellants and Argeo Cuizona.[22] His testimony was corroborated by Vicente Vallecer.[23] These witnesses had no motive to testify falsely against accused-appellants. Hence, their testimonies are entitled to full faith and credit.[24]

On the other hand, Felicitas Vallecer testified as follows:

Q

And when you heard voices outside your house, as you said you heard voices from the yard of your house, you never saw a person who was at your yard?

A I did not see, but I heard their voices, especially the voices of Toto Sanayan.

Q Can you tell the Honorable Court what did you hear from them, if you heard from them anything?

A I did not hear what they were talking about.

COURT:

Q You did not hear, but you are familiar with the voices you heard?

A Yes, your Honor.

Q And who was that person who allegedly entered your house?

A Toto Sanayan.

Q What did he do when he entered your house?

A He was looking for his elder brother because he was looking for a weapon.

Q Did he tell on any member of the household what kind of weapon?

A Bolo.

Q Did he tell you what did he do with the bolo?

A

Toto Sanayan or June Sanayan told me that he wanted to borrow the bolo because he wants to kill Argeo Cuizona.

....

ATTY. MAGALLANO:

Q Was he able to borrow a bolo from you?

A No, sir.

Q Then, what did he do next?

A He was looking for anything and he got the night stick of my husband

Q Why did your husband possess a night stick? What is his function in the barangay?

A He is a member of the Barangay Tanod.

Q And the husband of yours is Vicente Vallecer?

A Yes, sir.

Q

Was your husband detained in connection with this case filed against him by the Judge in MTC, Mabini, Bohol?

A Yes, sir.

Q When was that?

A October 1, 1994.

....

ATTY. MAGALLANO:

My question is: When your husband was arrested, the night stick was in your wall.

WITNESS:

It was not hanging.

ATTY. MAGALLANO:

Q

So, where was [it] specifically placed, and how was it placed at your wall on October 1, 1994 when your husband was arrested?

A It was found in the road.

COURT:

Q Where?

A In our yard.

Q How far from your house did that night stick lay?

A About four (4) arm length from our door.

ATTY. MAGALLANO:

After Toto Sanayan got the night stick from your wall in the night of September 27, 1994 and he went out, and after you heard a commotion outside your house. Is that correct?

A Yes, sir.

Q

But because the yard of your house was very dark, and you remained inside your house which is about 4 arm lengths from your yard, you did not see the people who had caused the commotion?

A I did not see them personally, but I am certain that the voices I heard were theirs.

Q

Earlier you testified that you did not hear what they were talking about. But how come that you became familiar of their voices. [sic]

A

Because the words that they uttered were very clear to me because I am familiar with their voices.[25]

As already stated, Felicitas Vallecer is the wife of Vicente Vallecer who was initially charged with murder together with accused-appellants. It is now claimed that her testimony was given to save her husband from prosecution. It is contended that it was inconsistent for her to say that she heard accused-appellants as they allegedly gathered in the yard of her house but did not hear what they were talking about.[26]

This contention has no merit. It was quite possible for anyone to hear people talking and yet not understand what they are talking about. What is important is that Felicitas recognized accused-appellants by their voices. "The sound of the voice of a person is an acceptable means of identification where it is established that the witness and the accused knew each other personally and closely for a number of years." [27] In the instant case, Felicitas Vallecer explained that she is familiar with accused-appellants' voices because they passed by her house almost everyday. In fact, accused-appellant June Sanayan is married to the sister of Felicitas' husband, Vicente Vallecer.[28]

Moreover, the credibility of a witness is not affected by inconsistencies or improbabilities in her testimony if it does not appear that she has willfully perverted the truth as may be gleaned from the tenor of her testimony and found by the trial judge from her demeanor and behavior on the witness stand.[29] This principle holds true in the case of Felicitas Vallecer.

With respect to the fact that Marcelo Vallecer, Sr. gave his affidavit only on February 15, 1995, almost five months after the killing of Argeo Cuizon, we are inclined to believe that Marcelo Vallecer, Sr. failed to execute an affidavit earlier because of oversight. After all, his son, Marcelo Vallecer, Jr., had earlier executed an affidavit on October 24, 1994, containing substantially the same matters covered in his (Marcelo, Sr.'s) affidavit, i.e., that accused-appellants went to the house of Marcelo, Sr. and that accused-appellant Rodrigo Sanayan told him that they had killed Argeo Cuizon.[30]

With respect to the fact that Marcelo Vallecer, Jr. executed his affidavit only on October 24, 1994, almost a month after the incident, Marcelo Jr. explained:

PROSECUTOR NAMOCATCAT:

Q

Could you tell the Court why you [executed] your affidavit only on October 24, 1994, instead of earlier, because the incident happened almost a month ago before the actual taking of your affidavit?

....

WITNESS:

It was delayed because I was brought by Toto Sanayan to the ranch.

PROSECUTOR NAMOCATCAT:

Q

When was that when you were brought by Toto Sanayan as the cause of the delay to execute your affidavit? [sic]

A September 29, 1994.

....

PROSECUTOR NAMOCATCAT:

Q Why? Why did he bring you [to the ranch] on September 29, 1994?

....

WITNESS:

I was brought to the ranch by Toto Sanayan because he did not want me to testify.

....

Q

Why did you finally decide to testify against Toto Sanayan when, as you said, he did not want you testify? In fact, he brought you to his ranch?

A

I have decided to testify against Toto Sanayan because my elder brother was already in prison.[31]

It has been held that "the delay of a witness in revealing the identity of the perpetrator of a felony does not affect his credibility if such delay is adequately explained." [32] In this case, June Sanayan is the brother-in-law of Marcelo Vallecer, Jr. Marcelo Vallecer, Jr. had been asked by June Sanayan not to testify against him. Although Marcelo, Jr. subsequently testified in court, it was only when his own brother, Vicente Vallecer, was implicated in the killing that he decided to break his silence.

Both Marcelo Vallecer, Sr. and his son Marcelo, Jr. testified that accused-appellants went to the house of the older Vallecer where accused-appellant Rodrigo Sanayan admitted that they had killed Argeo Cuizona.[33] Although these witnesses did not actually see the killing of Argeo Cuizano, their testimonies are admissible not for their truth but for their tenor, the same being relevant to the question of the cause of the death of the victim.[34] In

other words, the testimonies of Marcelo Vallecer, Sr. and Marcelo Vallecer, Jr. have probative value not because accused-appellant Rodrigo Sanayan's admission was true but because such an admission was actually made by him.

In sum, the following circumstances relating to Argeo Cuizonza's death point to accused-appellants as the persons responsible therefor, to wit:

- (1) Accused-appellants invited Argeo Cuizonza to a drinking session.[35]
- (2) After taking Cuizonza with them, June Sanayan tried to get a knife from Rizalina Recorba's store. When he failed to do so, he tried to borrow from Prudencio Vallente and Lino Boiser, both of whom also refused to lend him a knife.[36]
- (3) Aniano Amoroto, who had also been invited to the drinking session, heard accused-appellant June Sanayan saying that he would have killed Argeo Cuizonza had he been able to borrow a knife.[37]
- (4) The victim was last seen alive with accused-appellants going to the ranch.[38]
- (5) At around 7 o'clock in the evening, June Sanayan went to the house of Felicitas Vallecer, looking for a bolo, and, unable to find one, took the night stick of Vicente Vallecer (Felicitas Vallecer's husband).[39]
- (6) At about the same time, Felicitas Vallecer heard accused-appellants Rodrigo Sanayan, Anacleto Asas, Margarito Galo, and the victim Argeo Cuizonza talking in the yard of her house. A commotion broke out and she heard someone being beaten with a stick.[40] She recognized Argeo Cuizonza's voice, crying "Help me, Ting," as he called Vicente Vallecer for help.[41]
- (7) Argeo Cuizonza was found dead in the yard of Vicente Vallecer.[42] Found near the body of the victim were a night stick, bamboo sticks, and a pestle, apparently used against the victim because they were bloodstained.[43] Dr. Fudalan opined they could have caused the injuries sustained by the victim.[44]
- (8) Accused-appellants went to the house of Marcelo Vallecer, Sr. the same night, and Rodrigo Sanayan admitted to the latter that they had killed Argeo Cuizonza.[45] Marcelo Vallecer, Jr. overheard Rodrigo Sanayan's confession.[46]

Second. Accused-appellants would make it appear that Vicente Vallecer was the killer, because Argeo Cuizonza's body was found in the yard of his house and the instruments used in killing Cuizonza belonged to him (Vicente Vallecer). However, the extent of injuries suffered by the victim and the number of weapons used against him indicate that several persons were responsible for the death of Argeo Cuizonza, and not an individual acting alone.

Nor did Vicente Vallecer have any motive to kill Argeo Cuizonza. On the other hand, accused-appellants had a motive to commit the crime. As accused-appellant June Sanayan himself testified, two weeks before the incident, he and Argeo Cuizonza had an altercation arising from the fact that cows from the Nazareno ranch, where June Sanayan works, had destroyed Cuizonza's plants. It appears that Argeo Cuizonza hit June Sanayan on the shoulder as he sternly told the latter to keep the cows in Nazareno's ranch properly fenced in so they would not be able to destroy other people's plants.[47]

Apparently, accused-appellant June Sanayan resented being told so, and he vowed to take revenge. However, June Sanayan was no match for Argeo Cuizonza, who was taller and heavier. As accused-appellant Anacleto Asas admitted, any of accused-appellants, alone, could not have beaten the victim in a fight.[48] Accused-appellant June Sanayan, therefore, sought the help of accused-appellants Galo, Rodrigo Sanayan, and Anacleto Asas.

A conspiracy existed among accused-appellants as shown by the conduct of accused-appellants before, during,

and after the commission of the crime. Such conduct shows a joint purpose and design, concerted action, and community of interest, to wit: (1) Various weapons, i.e., the pestle, the night stick, and the bamboo sticks, were used to kill the victim; (2) As Felicitas Vallecer testified, accused-appellants were in her yard when she heard a commotion and the victim crying for help; (3) SPO3 Vergara testified that a grassy area located six to 10 meters from the crime scene bore signs of a struggle; and (4) The extent and number of injuries sustained by Argeo Cuizon indicate that several persons attacked him.

Third. Considering the manner in which Argeo Cuizon was attacked, we find that his killing was committed with abuse of superior strength. Accused-appellants made use of their superiority not only in number but also in arms. By simultaneously beating the victim with their various weapons, accused-appellants clearly took advantage of their superiority in number and arms.[49]

Murder is punishable by reclusion perpetua to death.[50] As there were neither mitigating nor aggravating circumstances, accused-appellants were correctly sentenced by the trial court to reclusion perpetua in accordance with Art. 63(2) of the Revised Penal Code.

The trial court awarded P30,000.00 as actual and moral damages. Actual damages under Art. 2199 of the Civil Code are different from moral damages under Article 2217 of the same. The Court has held that in every case, trial courts must specify the award of each item of damages and make a finding thereon in the body of the decision.[51]

In this case, with regard to the question of actual damages, only the testimony of Socorro Sarabosing, the victim's sister, was presented to prove the amount of the same. Such testimony is insufficient to support the claim for actual damages.[52] Actual damages must be substantiated by documentary evidence, such as receipts, in order to prove burial expenses and loss of income incurred as a result of the death of the victim.[53] Consequently, the award of actual damages must be disallowed.

The award of P50,000.00 as civil indemnity is correct and is in accordance with our present rulings.[54] In addition, moral damages in the amount of P50,000.00 should be awarded to the heirs of the victim, also in consonance with our recent rulings.[55]

WHEREFORE, the decision of the Regional Trial Court, Branch 4, Tagbilaran City, is **AFFIRMED** with the **MODIFICATION** that the award of P30,000.00 as actual and moral damages is deleted but accused-appellants are **ORDERED** to pay to the heirs of Argeo Cuizon the amount of P50,000.00 as moral damages, in addition to the award of P50,000.00 as civil indemnity for the death of Argeo Cuizon.

SO ORDERED.

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

[1] Per Judge Achilles L. Melicor.

[2] Records, p. 66.

[3] Certificate of Arraignment; *id.*, p. 81.

[4] TSN (Rizalina Recorba), pp. 2-8, July 4, 1995.

[5] TSN (Aniano Amoroto), pp. 5-8, Feb. 9, 1995.

[6] TSN (Felicitas Vallecer), pp. 4-7, Feb. 23, 1994.

- [7] TSN (Vicente Vallecera), pp. 4-7, Aug. 10, 1995.
- [8] TSN (SPO3 Virgilio Vergara), pp. 13-20, July 27, 1995.
- [9] TSN (Marcelo Vallecera, Sr.), pp. 6-8, May 9, 1995.
- [10] TSN (Marcelo Vallecera, Jr.), pp. 1-5, 11-15, Aug. 1, 1995.
- [11] Records, p. 1.
- [12] Id., p. 68.
- [13] Exh. C; id., p. 2.
- [14] TSN (Dr. Oscar Fudalan), pp. 3-11, July 27, 1995.
- [15] TSN (Socorro Sarabosing), pp. 8-11, Aug. 17, 1995.
- [16] TSN (Margarito Galo), pp. 6-11, Nov. 27, 1995; TSN (Rodrigo Sanayan), pp. 10-17, Jan. 26, 1996; TSN (June Sanayan), pp. 16-25, Feb. 29, 1996; TSN (Anacleto Asas), pp. 11-25, July 9, 1996.
- [17] Decision, p. 13; Records, p. 170.
- [18] Brief for Accused-Appellants, p. 1; Rollo, p. 62.
- [19] Id., pp. 8-10; id., pp. 69-71.
- [20] See *People v. Tañeza*, G.R. No. 121668, June 20, 2000.
- [21] Decision, pp. 11-12; Records, pp. 168-169.
- [22] TSN, p. 8, Feb. 9, 1995.
- [23] TSN, p. 13, Aug. 10, 1995.
- [24] *People v. Dela Cruz*, 229 SCRA 754 (1994).
- [25] TSN, pp. 2-5, March 21, 1995.
- [26] Brief for the Accused-Appellants, pp. 9-10; Rollo, pp. 70-71.
- [27] *People v. Gayomma*, G.R. No. 128129, Sept. 30, 1999; *People v. Reynaldo*, 291 SCRA 701 (1998); *People v. Baligod*, 227 SCRA 834 (1993).
- [28] TSN, pp. 2-6, Feb. 23, 1994.
- [29] *People v. Geguirra*, G.R. No. 130769, March 13, 2000 citing *People v. Resagaya*, 54 SCRA 350 (1973).
- [30] Exh. F-1; Records, p. 37.
- [31] TSN, pp. 12-13, Aug. 1, 1995.
- [32] *People v. Paglinawan*, G.R. No. 123094, Jan. 31, 2000.
- [33] TSN (Marcelo Vallecera, Sr.), p. 6, May 9, 1995; TSN (Marcelo Vallecera, Jr.), pp. 4-5.
- [34] See *People v. Cloud*, 265 SCRA 472 (1996). See generally, 5 M. MORAN, COMMENTS ON THE RULES OF COURT 285-291 (1980).
- [35] TSN, p. 6, July 4, 1995.

- [36] Id., p. 8.
- [37] TSN, p. 6, Feb. 9, 1995.
- [38] TSN, p. 8, July 4, 1995.
- [39] TSN, pp. 4-5, Feb. 23, 1994.
- [40] Id.
- [41] Id., p. 7.
- [42] TSN, pp. 5-6, Aug. 10, 1995.
- [43] TSN, pp. 14, 7, July 27, 1995.
- [44] TSN, p. 7, July 27, 1995.
- [45] TSN, p. 6, May 9, 1995.
- [46] TSN, p. 5, Aug. 1, 1995.
- [47] TSN, p. 8, Feb. 29, 1996.
- [48] TSN, pp. 11-13, July 15, 1996.
- [49] *People v. Ladit*, G.R. No. 127571, May 11, 2000.
- [50] REVISED PENAL CODE, ART. 248, as amended by R. A. No. 7659.
- [51] *People v. Laceste*, 293 SCRA 397 (1998).
- [52] *People v. Enoja*, G.R. No. 102596, Dec. 17, 1999.
- [53] *People v. Emberga*, G.R. No. 116616, Nov. 26, 1999.
- [54] *People v. Gallarde*, G.R. No. 133025, Feb. 17, 2000; *People v. Dando*, G.R. No. 120646, Feb. 14, 2000; *People v. Naguita*, 313 SCRA 292 (1999).
- [55] E.g., *People v. Suelto*, Feb. 8, 2000.

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