

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROMEO UGIABAN LUMANDONG, ACCUSED-APPELLANT.

G.R. No. 132745. March 09, 2000

Ponente: DE LEON, JR., J.

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DE LEON, JR., J.:

Before us on automatic review is the Decision[1] in Criminal Case No. 96-106 of the Regional Trial Court (RTC) of Cagayan de Oro City, Branch 19, dated February 2, 1998 finding Romeo Lumandong y Ugiaban guilty of murder for the killing of Analou Eduave and sentencing him to suffer the supreme penalty of death.

The lifeless and naked body of eight (8) year old Analou Eduave was found by the local residents of Sitio Bolihon, Taglimao, Cagayan de Oro City in the isolated and grassy portion of the Iponan River on December 1, 1995, at about 8:00 o'clock in the morning. She sustained multiple stab and hack wounds on different parts of her body. Her neck was slashed. There was no witness to the gruesome murder. However, the relentless efforts of the barangay officials of Taglimao resulted in the arrest of appellant Romeo Lumandong who allegedly confessed to the killing.

The Information[2] dated January 12, 1996 charging appellant Romeo Lumandong with the crime of Murder defined and penalized under Article 248 of the Revised Penal Code, as amended, reads:

"The undersigned Prosecutor accuses Romeo Ugiaban Lumandong of the crime of Murder, committed as follows:

That on or about November 30, 1995, at more or less 9:00 o'clock in the evening, at (sic) Bolihon, Taglimao, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, armed with a bladed knife which he was then conveniently provided, with treachery, and abuse of superior strength, did then and there wilfully, unlawfully, and feloniously kill one Analou L. Eduave, an 8 year old child/girl, by then and there attacking her, stabbing and hitting her chest and different vital parts of her body several times with said bladed knife, seriously injuring the said victim, resulting to her sudden death.

That the commission of the above offense is attended by the aggravating circumstances of nighttime, and abuse of superior strength.

Contrary to Article 248 in relation to R.A. 7659 which took effect on January 1, 1994 and Article 14 of the Revised Penal Code."

The evidence of the prosecution shows that Rebecca Eduave and her four (4) children were in their house in Sitio Bolihon, Taglimao, Cagayan de Oro City in the evening of November 30, 1995. Her husband, Cruz Eduave, was not around as he stayed in the house of his elder brother in Bubao, Iponan. After studying her school assignment, the victim, Analou Eduave, then a grade two (2) student and second to the eldest, went to sleep. At about 8:30 in the evening, Rebecca retired beside her children.[3]

At about 2:00 o'clock in the morning, Rebecca was awakened by the cry of her youngest child. She lit the lamp

inside the house and noticed that Analou was missing.[4]

Rebecca immediately went to the house of her parents-in-law which was just fifteen (15) meters away from her house to inquire about her daughter but she was told that Analou was not there. Initial search for Analou in the neighborhood, led by the barangay captain, proved futile. It was already 8:00 o'clock in the morning when the lifeless and naked body of Analou was found by a couple in the grassy portion of the village near the Iponan River.[5]

The body of the victim was brought by a combined team of the police and NBI authorities to the funeral parlor where a post mortem examination thereon was conducted by Dr. Tammy Cruz, M.D., of the NBI medico-legal office in Cagayan de Oro City. The Autopsy Report[6] which is signed by Dr. Tammy Cruz and noted by Atty. Sancho K. Chan, Jr., NBI Regional Director, Cagayan de Oro City, contains the following findings:

"Pallor, marked, generalized. Rigor mortis, lower legs and knee joints.

"ABRASIONS, with fresh scabs, confluent: 2x1.2 cms. And 2.2x1 cms., mid-aspect of the forehead; 3x1.1 cms., right temple region.

"INCISED WOUND, with clean-cut edges: 3.8 cms. long; located at the middle third of the left forearm, lateral aspect; with an approximate depth of 0.8 cm.; involving the skin and underlying soft tissues and muscles.

"STAB WOUNDS, non-penetrating: five (5) in number; elliptical in shapes; measuring 0.7 cm., 1 cm., 0.5 cm., 1.5 cms., and 1.4 cms. long; located at the right shoulder joint region, right infrascapular region, right subcostal region, left thigh, and left lumbar region; edges, clean cut; one (1) extremity is sharp, the other, blunt; involving the skin and underlying tissues and muscles; with approximate depths of 0.8 cm., 2.6 cms., 0.6 cm., 2.4 cms., and 1.5 cms., respectively.

"STAB WOUNDS, non-penetrating: two (2) in number; elliptical in shapes; measuring 2.5 cms. and 3.5 cms. long; located at the left lateral infrascapular region and antero-lateral aspect of the left thigh; edges, clean-cut; one (1) extremity is sharp, the other is blunt; involving the skin and underlying soft tissues and muscles, with approximate depths of 3.4 cms. and 4 cms.

"STAB WOUNDS, four (4) in number; elliptical in shapes; one (1) extremity is sharp, the other is blunt; edges, clean-cut:

-measuring 2.6 cms., 3.4 cms., 2.5 cms., and 1.1 cms. long.

-located at the left side of the chest, lower inner quadrant; right side of the chest, inferior aspect; left upper quadrant of the abdomen; and left lower thoracic region of the back.

-involving, among others, the skin and underlying soft tissues and muscles.

-completely cutting the fifth left rib, piercing the left ventricle of the heart, the diaphragm, and the right lobe of the liver; with an approximate depth of 8.2 cms.

-partially cutting the upper border of the 7th right rib and piercing the lower lobe of the right lung; with an approximate depth of 9.5 cms.

-piercing the full thickness of the abdominal wall and perforating portions of the small intestines with intestinal evisceration; with an approximate depth of 5.5 cms.

-through the 6th left intercostal space and piercing the lower lobe of the left lung; with an approximate depth of 6.5 cms.

"HACK WOUND, neck, gaping; 14.5 cms. long; running from the right side to the left side of the neck; edges,

clean-cut; the right extremity is 10 cms. below and 1.5 cms. in front of the right external auditory meatus, while the left extremity is 4 cms. below and 2 cms. behind the left external auditory meatus; directed backward; involving among others, the skin and underlying soft tissues and muscles, the blood vessels of the neck, including the left internal jugular vein and left internal carotid artery, completely cutting the thyroid cartilage, partially cutting the 4th cervical vertebra and the underlying spinal cord; with an approximate depth of 4.3 cms.

"HEMOTHORAX, right, about 100 cc.; left, about 50 cc.

"HEMOPERICARDIUM, about 50 cc. of dark fluid and clotted blood.

"HEMOPERITONEUM, about 200 cc. of dark fluid and clotted blood.

"Stomach, about $\frac{3}{4}$ filled with semidigested corn grits and other food particles.

"Heart chambers, empty of blood.

"Brain and other visceral organs, pale.

"CAUSE OF DEATH: Hemorrhage, severe, secondary to multiple stab wounds, and hack wound of the neck."

Dr. Uy explained that the victim suffered abrasion on her forehead which could have been caused by a violent contact against a hard surface. An incised wound which measures 3.8 centimeters was inflicted on the mid-section of her left forearm. Moreover, the body of the victim bore eleven (11) stab wounds mostly on the chest and abdomen. Four (4) of the stab wounds located on the chest and abdominal regions penetrated the vital organs and were, therefore, fatal. The gaping wound on the neck which completely cut through the left artery and the cartilage of the airway was also fatal. The weapon used by the assailant was a sharp object such as a knife or a bolo.[7]

The prosecution presented in evidence a list[8] of expenses, certified by Ruben P. Obsioma, Barangay Captain of Taglimao, Cagayan de Oro City, which were incurred due to the death of Analou Eduave.

Ruben Obsioma, Barangay Captain of Sitio Bolihon, Taglimao, Cagayan de Oro City instructed Kagawad Osias Pabilona to prepare a list of the persons who attended the birthday party of a certain Bonifacio Daang which was held in the same evening when Analou Eduave was killed. Appellant Romeo Lumandong was among the persons included in the list that was subsequently forwarded to the police. The investigation by the police of the said suspects yielded negative result. Later, however, Barangay Captain Obsioma received information that appellant Lumandong had knowledge about the crime.[9]

Consequently, Barangay Captain Obsioma wrote a letter to Homer Paduga requesting the latter to bring the appellant to his house in the afternoon of December 17, 1995. At the appointed time and date, Homer Paduga and appellant Lumandong appeared before Barangay Captain Obsioma in his house. Homer Paduga remained at the terrace while the appellant proceeded to the backyard with the barangay captain. Obsioma asked the appellant what he knew about the killing of Analou Eduave. The appellant initially gave no answer and merely bowed his head. After having been asked for the third time, appellant admitted the killing of Analou Eduave allegedly because her parents withheld his past earnings in the farm. In addition, appellant revealed that it was actually Analou's father whom he intended to kill, but he was not in the house that fateful evening and that he stabbed Analou with a double bladed knife only five (5) times, the other wounds being mere exit wounds. He also said that he did not rape Analou and undressed her only to confuse the investigators about the motive for the killing.[10]

In view of the admissions of the appellant, Barangay Captain Obsioma did not allow him anymore to leave his house that evening. On the following day, Obsioma accompanied the appellant to the Homicide and Arson

Division of the Cagayan de Oro police for formal investigation.

At the police headquarters, SPO1 Agbalog apprised the appellant of his constitutional rights. Since the appellant had no lawyer, Agbalog suggested that he would be given a lawyer who could provide him legal services for free to which the appellant agreed. Thus, the legal services of Atty. Emelgar Paasa of the Public Attorney's Office (PAO) was engaged by the police to assist the appellant during the investigation.[11]

According to Atty. Paasa, the appellant accepted him to act as his counsel during the custodial investigation. After having been informed by Atty. Paasa of his rights under the Constitution, the appellant agreed to give a statement[12] wherein he admitted stabbing Analou Eduave with a double bladed knife at around midnight of November 30, 1995 in the grassy portion of the Iponan river in Sitio Bolihon inasmuch as he harbored a grudge against her parents. Also in the presence of Atty. Paasa during the same investigation, the appellant executed a waiver[13] for his continued detention. Both documents were acknowledged by the appellant before Atty. Anabel Carmen S. Casino, Branch Clerk of Court, RTC, Cagayan de Oro City, Branch 17.

Appellant Lumandong testified that he attended the birthday party of a certain Boni Daang in the afternoon of November 30, 1995. Among those who attended the birthday party were Homer Paduga, Isagani Pabilona, Wilfredo Eduave, Zaldy Eduave and Rubio Paduga. After eating and drinking Red Horse beer, appellant left the party at around 9:00 o'clock in the evening and proceeded to sleep in the house of Homer Paduga where he had been staying for eight (8) months.[14]

Appellant vehemently denied in court that he killed Analou Eduave and claimed that he confessed to the crime before the barangay captain and the police for fear of his life. He stated that he and Homer Paduga were fetched on December 17, 1995 from the latter's house by a barangay tanod upon order of the barangay captain. Upon reaching the house of the barangay captain, the appellant was led to the back portion of the house while Homer Paduga was instructed to remain at the terrace in front of the house. In the presence of six (6) barangay tanods, the barangay captain asked the appellant three (3) times if he had anything to do with the killing of Analou Eduave on November 30, 1995, to which he replied in the negative each time. Apparently losing his patience, the barangay captain hit the appellant on the left side of his body with the butt of his shotgun. The barangay tanods kicked and mauled the appellant on the different parts of his body. Thereafter, appellant was handcuffed by the barangay captain and the same was attached to a live electric wire which caused the appellant to feel numb and loss consciousness. Upon recovering his consciousness and while still feeling the pain, appellant pleaded for his life as he acceded to admit killing Analou Eduave. That evening, appellant stayed in the house of the barangay captain inasmuch as he was not permitted to return home.[15]

In the early morning of the following day, the appellant was brought by the barangay captain and the chief of the tanods to the police headquarters in Cagayan de Oro City. It was PO3 Agbalog who interrogated him about the killing of Analou Eduave in the presence of the barangay captain and the chief of the tanods. He recalled having confessed his guilt before Agbalog due to fear arising from the threat of the barangay captain that he will be killed by the police if he would not admit to the crime. Atty. Emelgar Paasa arrived only after the interrogation and informed him that he was going to be his counsel. Appellant denied that he admitted killing the victim before Atty. Paasa and Atty. Casino, who appeared to have administered the oath to him, inasmuch as they did not talk to him anymore.[16]

Homer Paduga was presented by the prosecution as a rebuttal witness. He testified that appellant Lumandong had been residing in his house for almost eight (8) months before the killing happened on November 30, 1995 and that a barangay tanod went to his house on December 17, 1995 upon order of the barangay captain to fetch him and the appellant. Appellant went with the barangay captain inside his house while Paduga remained outside. About

thirty (30) minutes later, the barangay captain went out and told Paduga that appellant admitted killing Analou Eduave. Thereafter, the appellant narrated to the barangay captain and Homer Paduga how he killed the victim and the reason for killing his said victim. He denied that appellant was mauled while the said appellant was inside the house of the barangay captain. He emphasized that only the appellant and the barangay captain talked during the occasion. In addition, Paduga disclosed that he was the one who turned over to the barangay captain the knife^[17] which was allegedly used by the appellant in killing the victim.^[18]

After analyzing the evidence, the trial court adjudged the appellant guilty of the crime of murder as charged in the Information. It stated, thus:

"Accused first made his admission of culpability in the presence of the Barangay Captain Ruben Obsioma and his roommate Homer Paduga in Taglimao, Cagayan de Oro City, which admission became confession when he agreed to set this down as affidavit before PO3 Vladimir Agbalog on December 18, 1995 in the presence of counsel Emelgar Paasa, and swore to the truth thereof before Atty. Anabel Carmen Casino. All these lady and gentlemen testified in court—in a straightforward, clear and convincing manner without any sign of bias and prejudice against the accused.

"xxx

"The court is convinced that accused voluntarily and freely executed his confession, and that his denial of the contents therein is an afterthought. There are so many matters in the confession that are corroborated by the rest of the prosecution evidence and which he himself knew and which had never been testified on by any other witness. Take motive. For not having been paid the money due him from the parents of Analou Eduave, and for so long a time before he started to stay for 8 months with Homer Paduga, despite his repeated plea for payment to the Eduave spouses, he could not help himself from harboring ill-will against said spouses. Then came November 30th (1995), Bonnie Daang's birthday where he and others ate and drank Red Horse beer. There is no testimony about the amount of Red Horse beer that he drank, nor that he was drunk, but having drunk could easily relate to becoming bold and aggressive, outbalanced and reckless. It is not improbable that being influenced by Red Horse, he remembered the Eduaves' unjustness and inequity to him. Hence, as he stated in his confession, Exh. "E", he proceeded to the Eduaves' house with practically open doors as there was no door shutter even of (sic) the sleeping room or space. His object was Mr. Eduave, but he was not there, in the alternative, Mrs. Eduave, but he waxed fearful that she might shout upon his assailing her. So he settled with the presumably meek 8 year old Analou who he deemed he could carry away in silence even should she wake up, and brought her 200 meters away from the Eduave house, near Iponan River and on a grassy spot struck her and stabbed her 7 times with his double blade knife but inflicting 11 wounds, 4 of which being fatal, and 7 being contributory to the victim's demise.

"xxx

"There are 5 aggravating and no mitigating circumstances in the case, namely:

- The fact that Analou was an 8 year old girl thus making her death a crime of murder qualified by treachery.
- Nighttime.
- Abuse of superior strength.
- Uninhabited place (despoblado).
- Cruelty.

"Nighttime and superior strength are absorbed by treachery which is the qualifying circumstance. Uninhabited place and cruelty are generic aggravating circumstances."^[19]

Therefore, the appellant was meted out the following penalty:

"WHEREFORE, the court finds accused guilty of the crime of murder for killing Analou Eduave. He is hereby sentenced to death, and imposed the accessory penalties provided by law. He is ordered to indemnify the heirs of his victim the following: P50,000.00 as civil indemnity, P10,000.00 as moral damages, P10,000.00 as exemplary damages and P5,000.00 as actual damages. He is also ordered to pay the costs of this case." [20]

In the instant appeal, appellant raised the following assignment of errors, to wit:

"I

THE LOWER COURT ERRED IN FINDING (sic) CONVICTION OF (sic) THE ACCUSED-APPELLANT DESPITE HAVING BEEN SHOWN THAT HIS CONFESSION WAS TAKEN THROUGH THREAT, TORTURE AND VIOLENCE.

II

THE LOWER COURT ERRED WHEN IT GAVE CREDENCE TO THE TESTIMONIES OF THE PERSONS WHO ALLEGEDLY ASSISTED IN EXTRACTING THE CONFESSION OF THE ACCUSED-APPELLANT WHO WERE FOUND TO HAVE FUMBLING IN THEIR TESTIMONIES." [21]

It is clear from the records of this case that the minority status of appellant Lumandong at the time of the commission of the crime was not disputed by the prosecution. The appellant stated during the trial that he was born on March 15, 1981 [22]. A verification with the Civil Registrar's Office in Cagayan de Oro City proved futile considering that all records of birth prior to 1986, according to the head of the said office, were burned by fire [23]. Nevertheless, it is doctrinal that the claim of minority by an accused will be upheld by the court even without any proof to corroborate his testimony until the same is disproved by the prosecution [24]. Consequently, the trial court erred when it failed to consider that appellant was a minor at the time of the commission of the crime. Minority being a privileged mitigating circumstance under Article 13(2) of the Revised Penal Code, as amended, appellant Lumandong should have automatically been spared the supreme penalty of death.

Anent the issue of admissibility of the extrajudicial confession of the appellant, this Court is guided by four fundamental requirements, namely: 1) the confession must be voluntary; 2) the confession must be made with the assistance of competent and independent counsel; 3) the confession must be express; and 4) the confession must be in writing. [25]

Appellant Lumandong denied during the trial that he killed Analou Eduave. He alleged that he was maltreated by the barangay officials in the house of Barangay Captain Obsioma in Sitio Bolihon, Taglimao, Cagayan de Oro City in the evening of December 17, 1995. He also alleged that he confessed before PO3 Agbalog due to fear arising from the threat from Obsioma that the police would kill him should he refuse to admit the crime.

An extrajudicial confession will be struck for being involuntary if it had been obtained with the use of coercion, intimidation, inducement or false promises. [26] The evidence, however, fails to support the allegation of the appellant that he was maltreated by the barangay officials in the house of Barangay Captain Obsioma. It appears that the appellant was accompanied by his friend, Homer Paduga, when he went to the house of Barangay Captain Obsioma in Sitio Bolihon, Taglimao, Cagayan de Oro City in the afternoon of December 17, 1995. Paduga waited for the appellant at the terrace while the latter was conversing with the barangay captain at the backyard. After about thirty (30) minutes, the barangay captain informed Paduga that the appellant admitted to him that he killed Analou Eduave. He then inquired from the appellant himself and the latter confirmed that he was the one who killed Analou Eduave on November 30, 1995.

Homer Paduga categorically denied the allegation of the appellant that he was maltreated by the barangay officials while he was in the house of Barangay Captain Obsioma. Paduga disclosed that he even remained in the house of

Barangay Captain Obsioma the entire evening of December 17, 1995 to be with the appellant.[27] Besides, the credibility of the appellant is seriously put to doubt when he failed to divulge during the trial the names of the barangay tanods who allegedly mauled and kicked him despite the fact that he was also a resident of the same village.

Significantly, the appellant did not assail the regularity of the custodial investigation that was conducted by the police at the police headquarters in Cagayan de Oro City on December 18, 1995. His bare allegation of threats from the barangay captain is certainly not convincing in view of the overwhelming evidence to the contrary. Barangay Captain Obsioma and the chief of the barangay tanods merely accompanied the appellant to the police headquarters in view of the latter's previous admission to the killing of Analou Eduave. Upon arrival thereat, Barangay Captain Obsioma immediately turned over the appellant to the police and informed PO3 Vladimir Agbalog, who is the police officer assigned to the case, that the appellant wanted to surrender for killing Analou Eduave. Before formally starting with the investigation, PO3 Agbalog apprised the appellant of his rights under Section 12 (1), Article III of the 1987 Constitution namely: 1) the right to remain silent; 2) the right to have counsel of his own choice; and 3) the right to be informed of said rights. The appellant indicated that he had no counsel. PO3 Agbalog then suggested that he would be given a lawyer who could provide him legal assistance for free. The appellant agreed.

PO3 Agbalog contacted the Public Attorney's Office in Cagayan de Oro City to request legal assistance for the appellant. Accordingly, the head of the said office, Atty. Sofia Bacal, designated Atty. Emelgar Paasa to assist the appellant during the custodial investigation.

At the police headquarters, Atty. Paasa talked to the appellant alone for about one (1) hour inside a room away from the police and the barangay officials.[28] During the occasion, Atty. Paasa asked the appellant if the latter was willing to accept him as his counsel to which the appellant agreed. Atty. Paasa proceeded to explain to the appellant his constitutional rights before inquiring about the incident. The appellant revealed that he harbored a grudge against the parents of Analou Eduave inasmuch as they maltreated him. Consequently, on November 30, 1995 at almost midnight, the appellant carried Analou from her house toward the Iponan River where he continuously stabbed her until she died. The appellant decided to surrender to the police for the reason that he was bothered by his conscience and that he was also willing to execute a written statement before the police.

The written statement of appellant Lumandong was taken by PO3 Agbalog in the presence of Atty. Paasa. PO3 Agbalog simultaneously typed the questions and the corresponding answers of the appellant which were both made in the Visayan dialect inasmuch as the same was comprehensible to the appellant. The truth of the contents of the written statement was affirmed by the appellant before Atty. Annabel Carmen S. Casino, Branch Clerk of Court, RTC, Cagayan de Oro City, Branch 17, after the latter also informed the appellant of the consequences of his statement. Specifically, Atty. Casino warned the appellant that he might be convicted for life and that appellant could still retract his statements if the same were not true. However, the appellant stated that he was bothered by his conscience and then proceeded to sign his written statement.[29] Thereafter, Atty. Emelgar Paasa signed the written statement as the assisting counsel of the appellant before Atty. Casino who likewise signed the same in her capacity as administering officer.

The foregoing facts clearly do not show that the appellant was coerced, intimidated nor induced to admit the killing of Analou Eduave. The appellant failed to substantiate his allegations that he was maltreated and intimidated by the barangay officials. Likewise, he never complained to the police or to Atty. Paasa or Atty. Casino about the alleged maltreatment and intimidation which he allegedly suffered at the hands of the barangay officials when he had all the opportunity to do so. The failure of the appellant to present evidence of compulsion or duress or violence on his person and to complain to the officers who administered the oath are clear indications

of the voluntariness of his confession.[30] In addition, the presence of Atty. Paasa, who is an officer of the PAO, effectively insured that no force, threat or intimidation was employed to obtain a confession from the appellant.[31]

We agree with the lower court that the killing of Analou Eduave by appellant Lumandong was attended by treachery in view of the age of the victim who was only eight (8) years[32] old at the time of her death on November 30, 1995.[33] Likewise, the aggravating circumstance of uninhabited place under Article 14(6) was correctly appreciated against the appellant. It appears from the evidence that the appellant deliberately carried his victim to the isolated and grassy portion of the Iponan River which is about two hundred (200) meters away from her house[34] before killing his said victim thereby facilitating the commission of the crime. The aggravating circumstances of nighttime and abuse of superior strength are absorbed in treachery. The aggravating circumstance of cruelty may not be appreciated against the appellant absent any showing that the other wounds found on the body of the victim were inflicted to prolong her suffering before the fatal wound was delivered.[35]

On the other hand, it appearing that the appellant was only fourteen (14) years, eight (8) months, and fifteen (15) days old at the time of the commission of the crime, he is entitled to a reduced penalty due to the privileged mitigating circumstance of minority under Article 13(2) in relation to Article 68(1) of the Revised Penal Code which provides at least two (2) degrees lower than that prescribed for the crime of murder under Article 248 of the same code. Consequently, there being one (1) aggravating circumstance, the imposable penalty on the appellant is prision mayor in its maximum period. Applying the Indeterminate Sentence Law, the minimum shall be within the range of the penalty next lower in degree that is prision correccional.

WHEREFORE, the Decision of the Regional Trial Court of Cagayan de Oro City, Branch 19, convicting Romeo Lumandong y Ugiaban of the crime of Murder is hereby **AFFIRMED** subject to the **MODIFICATION** that the penalty to be imposed on him is the indeterminate penalty of six (6) years of prision correccional, as minimum, to ten (10) years and one (1) day of prision mayor, as maximum. The appellant is also ordered to pay the heirs of the victim the sum of P50,000.00 by way of civil indemnity ex delicto, P50,000.00 as moral damages, P50,000.00 as exemplary damages and P5,000.00 as actual damages.

SO ORDERED.

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

Pardo, J., on leave.

[1] Penned by Judge Anthony E. Santos, Record, pp. 582-589.

[2] Record, p. 1.

[3] TSN, dated August 18, 1997, pp. 35-38.

[4] TSN, Ibid., p. 39.

[5] TSN, Ibid., pp. 39-40.

[6] Exhibit "B".

[7] TSN, dated August 7, 1997, pp. 5-10.

[8] Exhibit "J".

[9] TSN, dated February 26, 1997, pp. 9-11.

[10] TSN, Ibid., pp. 12-16.

[11] TSN, Ibid., p. 24.

- [12] Exhibit "E".
- [13] Exhibit "F".
- [14] TSN, dated September 2, 1997, pp. 33-34.
- [15] TSN, Ibid., pp. 35-40.
- [16] TSN, dated October 21, 1997, pp. 1-5.
- [17] Exhibit "A".
- [18] TSN, dated January 8, 1998, pp. 2-8.
- [19] Decision dated February 2, 1998, pp. 5-7, Record, pp. 582-589.
- [20] Id., p.7, id., p. 582.
- [21] Appeal Brief, p. 3, Record, pp. 34-51.
- [22] TSN, dated September 2, 1997, p. 32.
- [23] TSN, Ibid., p. 30.
- [24] People vs. Villagracia, 226 SCRA 374, 381 (1993) citing U.S. vs. Bergantino, 3 Phil. 118 (1903); People vs. Ebor, 141 SCRA 282 (1986); and People vs. Tismo, 204 SCRA 535 (1991).
- [25] People vs. Deniega, 321 Phil. 1028, 1041 (1995).
- [26] People vs. Santos, 283 SCRA 443, 454 (1997).
- [27] TSN, dated January 8, 1998, pp.5-6.
- [28] TSN, dated August 18, 1997, pp.33-34.
- [29] TSN, dated August 7, 1997, pp. 23-26.
- [30] People vs. Pia, 145 SCRA 581, 586 (1986).
- [31] People vs. Oracoy, 224 SCRA 759, 768 (1993).
- [32] Exhibit "H".
- [33] People vs. Mabilangan, 111 SCRA 398, 403 (1982).
- [34] TSN, dated August 18, 1997, p. 37.
- [35] People vs. Artieda, 90 SCRA 144, 156 (1979) citing People vs. Dayug, et al., 49 Phil. 423.

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