PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ANDRES ORTIZ Y PEBRERO, ACCUSED-APPELLANT.

G.R. No. 133814. July 17, 2001

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

For failure to pay an indebtedness of P210.00 for pork sold to him on credit, Juanito Coronado was ganged upon and stabbed to death by several persons. Andres Ortiz y Pebrero and three (3) others who are still at large were charged with his Murder in an Information[1] which alleges:

> That on or about the 4th day of November 1996, in Quezon City, Philippines, the above-named accused, conspiring, confederating with three (3) other persons whose true names, identities and whereabouts have not as yet been ascertained, and mutually helping one with another, with intent to kill and qualified with treachery, with evident premeditation and taking advantage of superior strength, did then and there, wilfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of JUANITO CORONADO y SEDA, by then and there hitting him with a hammer and stabbing him [with] the use of [a] deadly weapon, hitting him on different parts of the body, thereby inflicting upon him serious and mortal injuries which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of the said Juanito Coronado y Seda.
>
> CONTRARY TO LAW.

Upon arraignment on November 29, 1996, accused pleaded "not guilty" to the crime charged.[2] The case thereafter proceeded to trial.

On March 4, 1995, the court a quo rendered judgment against the accused, the dispositive portion of which reads:

> WHEREFORE, premises considered, judgment is hereby rendered finding the accused Andres Ortiz guilty beyond reasonable doubt of the crime of murder and hereby sentences him to suffer the penalty of reclusion perpetua and to indemnify the heirs of Juanito Coronado the amount of P50,000.00 for the death of Juanito Coronado and the amount of P80,000.00 for funeral and burial expenses, plus moral damages in the amount of P30,000.00 and costs.
>
> SO ORDERED.

Dissatisfied, accused interposed this appeal alleging that -

> - THE TRIAL COURT ERRED WHEN IT DISREGARDED THE TESTIMONY OF ACCUSED-APPELLANT'S WITNESS FOR BEING A PERJURED WITNESS AND INSTEAD GAVE FULL FAITH AND CREDENCE TO THE PROSECUTIONS' VERSION OF THE INCIDENT DESPITE SEVERAL MATERIAL INCONSISTENCIES IN THEIR TESTIMONIES AS WELL AS CONTRADICTIONS IN ITS OWN DOCUMENTARY EVIDENCE.
>
> - THE TRIAL COURT ERRED IN CONVICTING HEREIN ACCUSED-APPELLANT FOR THE CRIME CHARGED DESPITE THE MATERIAL INCONSISTENCIES IN THE TESTIMONY OF THE

PROSECUTION WITNESSES AND FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

The trial court summed the versions of the incident of both Prosecution and Defense, as culled from their evidence, thus:

> Prosecution evidence tend to show that on or about 5:00 o'clock in the afternoon of November 4, 1996, the victim Juanito Coronado was repairing a tricycle in front of his house in Culiat, Quezon City. Four to five meters away, his live-in partner Rebecca Mayo and their one-and-a half year old child were watching him. Suddenly four male persons came. Rebecca Mayo recognized one of them as their best friend Jose Leano alias "Joven". Without provocation, Jose Leano attacked the victim Juanito Coronado from behind by hitting him with a hammer he picked up near the place where Coronado was working. After being hit for about four times, Coronado fell backwards. Leano then held his hands and accused Andres Ortiz stabbed the victim on his chest four times with a bladed weapon. Upon seeing what happened Rebecca Mayo shouted for help. The assailants fled from the scene of the incident together with their two companions. The neighbors responded and brought the victim to the hospital.
>
> Immediately prior to the attack on Coronado, Rebecca heard that Leano was collecting from the victim an indebtedness of P210.00 for the pork sold to the victim on credit. Leano told Coronado "kailangang kailangan ko lang ang pera." Coronado told him that he has no money yet. After the conversation, Leano said "Itutuloy ko na, bay." He went around the victim and hit him with the hammer he picked up at the back of Coronado.
>
> Immediately upon hearing that Coronado was stabbed, SPO3 Angelito Salas, whose residence was only a few meters from the scene of the crime, responded. He saw the assailants running away from the scene of the crime. Upon seeing them board a tricycle, he fired a warning shot into the air ordering the driver to stop. The tricycle stopped and the passengers scampered away in different directions. SPO3 Salas and his brother Esteban Salas, also a policeman, apprehended the accused Andres Ortiz who was then and there mobbed by responding neighbors of the victim. The accused was brought to East Avenue Medical Center for treatment of his injuries. He was later brought to the police precinct for investigation.
>
> Meanwhile, Coronado died of four fatal wounds on his chest above his heart. He sustained minor wounds and abrasions in other parts of his body.
>
> Victim's legal wife Dominica Coronado, who lives in General Santos City, learned about the death of her husband from the newspapers. She came to this City and found her deceased husband at the Prudential Funeral Homes. She spent P80,000.00 for the funeral and burial of her husband in General Santos City.
>
> On the basis of the sworn statements of complaining witnesses, the arresting officer and the medico legal report, the instant action was filed against the accused Andres Ortiz. The other known assailant Jose Leano alias Joven has not yet been apprehended and was not included in the instant case.
>
> Defense witness Melinda Villar testified that she knows the accused Andres Ortiz whose aunt is her neighbor. She also knew the deceased Juanito Coronado alias "King". On November 4, 1996 at about 5:00 o'clock in the afternoon, she went out of her house to make a call by telephone to her sister whose birthday fell on that day. While on the way home, after making the call to her sister, she heard the sounds "ugh, ugh" from her right side. When she looked at the direction where the sound was coming, she saw two men facing "King" (Coronado). One of them was stabbing the victim on his chest. She did not know the assailants as it was the first time she saw them. However, if she is given a chance to see them again, she would recognize them. Not anyone of them is inside the courtroom. One of them was about 5'6" in height, dark and with a big body built (sic). Another was fair-skinned with a height of about 5'3". The third one has a small built with haircut like the Beatles and with fair complexion. The fourth man was about 5'6" in height. The man with the hairstyle of the Beatles stabbed the victim Coronado. She was about nine meters away when she witnessed the incident. After stabbing the victim, one of the men said "takbo na". The men ran towards the direction of Philcoa. After the incident,

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she was shocked and urinated in her panty. She narrated the incident only to a neighbor named Linda Agno.

Villar further testified that she was shocked when she learned that Andres Ortiz was apprehended as one of the suspects in the stabbing incident. She is not familiar with Rebecca Mayo. She knows only "King" (Coronado). She was not aware whether there were other persons who were in the vicinity of the incident.

Under cross-examination, Villar stated that the incident happened in about five minutes. She was trembling and stunned. The incident happened at about 5:00 o'clock when it was about to get dark on November 4, 1996. She did not notice whether the people in the neighborhood run (sic)after the assailants.

Accused, testifying for his defense stated that on November 4, 1996, at about 5:00 o'clock in the afternoon, he was in the house of his cousin Marita Llano (Leano). He is a resident of Las Piñas and he came to visit his cousin. He was on board a tricycle when he heard a gunshot and the tricycle he was riding was told to stop. The passengers scampered away including him because the person who fired the shot was in civilian clothes. There were three other passengers in the tricycle. He did not know his co-passengers. He sat at the back of the driver. When he ran towards a corner, he saw a highway patrol car. He noticed that the person who fired the shot was already near him. he did not notice that another passenger of the tricycle was behind him, also running. Before that he heard somebody shout "you chase the other one." One of the policemen on board the patrol car chased the other passengers while the two in civilian clothes arrived and one of them hit him on the face and head. When he asked them why they did that to him, they asked him "why did you kill?" he answered "I did not kill anybody". He was then brought to the East Avenue Medical Center and later to the police precinct No. 3. At the precinct, he was told to undress and they took his clothes. He was not investigated by the police. The person in civilian clothes told the police investigator that he killed somebody. He was the same person who hit him and who fired a gunshot at the tricycle he was riding on November 4, 1996 so that it will stop. He admits that Jose Leano, who is also being accused for the killing of the victim Coronado, is his cousin.

In fine, accused-appellant assails the credibility of the prosecution witnesses and adverts to several alleged inconsistencies in their testimonies which he insists should have been appreciated by the trial court in his favor.

Accused-appellant first points out that eyewitness Rebecca Mayo's testimony is inconsistent for while she testified on direct examination that she was inside their yard, about 4 or 5 meters away from the victim, she testified during cross-examination that their house is enclosed by a fence which is 2 meters away from the house. Appellant thus concludes that Rebecca Mayo is confused as to her exact location in relation to the victim. He further observes that she was outside their yard when the incident happened.[3]

A circumspect scrutiny of the transcript of Rebecca Mayo's testimony, however, discloses that there are, in fact, no inconsistencies in her testimonial declarations.

On direct examination she testified as follows:

FISCAL DY

Q

Madam Witness, where were you when Juanito Coronado was beaten with a hammer?

A

I was inside the yard 4 to 5 meters away from him, from the place where the incident happened.

Q

You mean to tell the Honorable Court that you were 4 to 5 meters away from Juanito Coronado?

A

Yes, Ma'am.

Q

And this was in your yard?

A

Yes, Ma'am.

Q

And your yard is in front of the house where you are living?

A

Yes, Ma'am.[4]

Rebecca practically said the same thing on cross-examination, viz.:

ATTY. FERRER:

Q

Madam Witness, you stated earlier that you are inside the yard when the incident happened is that correct?

A

Yes, sir.

Q

Is there a fence separating or enclosing your residence from the victim?

A

Yes, sir, there is.

Q

How far was the fence from your house?

A

Two meters away.

Q

You will agree with me that when you say `inside the yard' you are referring to the place between your house and the fence, you are inside the fence?

A

Yes, sir.

Q

And according to you, you are 4 to 5 meters away from the victim is that correct?

A

Yes, sir.[5]

It can clearly be seen from the foregoing excerpts of Rebecca's testimony that she could see the victim who was about 4 to 5 meters away from her. While indeed it may appear that Rebecca could not make up her mind whether she was inside or outside the yard when the incident happened, this apparent inconsistency will not detract from the fact that she was 4 to 5 meters away when she saw accused-appellants and his cohorts attack the victim.

Stated differently, the foregoing circumstance is a minor inconsistency that can not override the said prosecution witness' positive identification of accused-appellant as one of the perpetrators of the crime. Although there may be inconsistencies in the foregoing details of Rebecca Mayo's testimony, the same do not impair her credibility as a witness. Minor variances in the details of a witness's account, more frequently than not, are badges of truth rather than indicia of falsehood and they often bolster the probative value of the testimony.[6]

Indeed, even the most candid witnesses oftentimes make mistakes and would fall into confused statements, and at times, far from eroding the effectiveness of the evidence, such lapses could instead constitute signs of veracity.[7] In fact, a witness whose testimony is perfect in all aspects, without a flaw and remembering even the minutest details which jibe beautifully with one another, lays herself open to suspicion of having been coached or having memorized statements earlier rehearsed.[8] The credibility, moreover, of a witness is not affected by inconsistencies or improbabilities in her testimony if it does not appear that she 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.[9] This principle holds true in the case of Rebecca Mayo.

Furthermore, there is no standard form of human behavioral response when one is confronted with a strange, startling and frightful experience because the workings of the human mind when placed under emotional stress are unpredictable.[10] The sudden cold-blooded attack on the victim must have heightened the memory of Rebecca, such that the images of the accused-appellant and his cohorts must have literally been burned into her memory and thus enabled her to identify accused-appellant subsequently with confidence[11] because often, the face and body movements of the assailant create an impression which cannot be easily erased from the memory of the witness.[12]

Accused-appellant next points out that Rebecca Mayo's testimony that Juanito Coronado was beaten by a hammer in the back of his head four times is contradictory to the physical evidence as the hammer had no bloodstains. Furthermore, according to accused-appellant, Dr. Roselyn Cosidon, the medico-legal officer who conducted the autopsy on the cadaver found no abrasions at the back of the victim's head.

The contention is unpersuasive much more so vis-à-vis the following excerpts from Dr. Cosidon's testimonial declarations on cross-examination:

> Q
>
> Now, did you notice from the cadaver of the victim if there were any abrasions at the back of his head aside from the abrasions on the left mammary region?
>
> A
>
> None, sir, there were no abrasions at the back.
>
> Q
>
> Madam Witness, in your experience as a medico-legal officer, if a person is attacked with a hammer at the back of his head will it produce abrasions at the back of his head?
>
> A

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Provided there are some rough portions on that hammer.

Q

As a result will it produce abrasions?

A

Usually, a hammer is a blunt instrument so it would produce contusions, not abrasions.[13]

It should then come as no surprise that no abrasions were found behind the victim's head because, if at all, the victim sustained contusions, which are bloodless, rather than abrasions from the hammer blows inflicted on him.

Accused-appellant then claims that Rebecca's testimony that the victim fell backwards after being hit at the back of the head and was held at the hand by Jose "Joven" Leano contradicted the findings of Dr. Cosidon that the incised wound at the deceased's left thumb could have been caused when Juanito put up a fight before he was stabbed.[14]

The contention is tenuous. The phrase "putting up a fight" simply means that the victim tried to defend himself from the impending knife thrust. In this case, since his hands were being held by Jose Leano, it is clear that the victim tried to break away from the clutches of Leano to shield his chest. Therefore, Dr. Cosidon's findings does not preclude the possibility that the wound at the victim's left thumb may have been the result of the victim's attempt to deflect accused-appellant's thrusts, a reaction which is compatible when one wards off a frontal attack after falling backwards.

Accused-appellant further assails the allegedly irregular manner by which the police conducted the investigation of the incident, contending that Rebecca Mayo herself testified that her affidavit was already prepared when she went to the police station.

A circumspect scrutiny of the transcripts of Rebecca Mayo's testimony however, discloses that the alleged irregularity referred to is more apparent than real as can be gleaned from the following pertinent portions of her testimony:

ATTY. FERRER:

Q

What were the exact words of Jose Leano when he was collecting the debt of your husband?

A

"Kailangang kailangan ko lang ang pera."

Q

And your husband replied that he has no money at that time?

A

He has no money yet.

Q

All of this conversation between Jose Leano and your husband were personally heard by you?

A

That is all I heard.

Q

Is it not true that earlier when you were asked what were the words uttered by Jose Leano, you stated that the only words you heard was "itutuloy ko na Bay", is that correct?

A

Yes, sir.

Q

And is it not correct that those statements or conversation between Jose and your husband were not included in your affidavit?

A

I told that to the police.

Q

But it was not included in your statement?

A

No, sir.

ATTY. FERRER:

Q

Did you not call the attention of the police regarding that omission?

A

I told him about it but he did not repeat it anymore.

Q

And that statement or affidavit of yours was executed after you visited the accused in his cell on November 5, 1996?

FISCAL DY:

We object to the use of the word "visited." She was there because she was investigated, not to visit, to report to give her statement.

COURT:

Sustained.

Q

In other words you executed your affidavit after you saw the accused inside the cell?

A

Actually, it was already being prepared when I went there.

Q

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Do you mean to tell that your affidavit was prepared even before you were investigated?

FISCAL DY:

Objection, how can an affidavit be prepared without investigation? We object to that, that is very misleading.

ATTY. FERRER:

The witness testified that the affidavit is being prepared.

FISCAL DY:

Prior to the identification but not prior to the investigation.

ATTY. FERRER:

There was no statement from the witness that she identified.

ATTY. FERRER:

Q

Which came first, you identified the accused from the cell or you executed the affidavit?

A

We started the affidavit then we went to the prison cell.

COURT (to witness)

Q

So you went to the cell of the accused to identify him?

A

Yes, Your Honor.

Proceed.

Q

And it was at that time that the investigator of the case pointed to the accused as the one who was caught by PO3 Salas?

FISCAL DY:

Objection, there is no such statement, misleading, Your Honor.

ATTY. FERRER:

I am on cross.

COURT:

May answer.

A

I was the one who pointed to the accused.[15]

Accused-appellant likewise assails PO3 Angelito Salas's credibility contending that Salas contradicted himself

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when he testified that appellant ran on foot for about fifty (50) meters before Salas was able to arrest accused but stated in his Sinumpaang Salaysay[16]that he saw appellant on board a tricycle and again when he said that accused-appellant was arrested about two (2) kilometers away.

These alleged inconsistencies in Salas's testimony and his sworn statement will not extricate accused-appellant from his predicament because they do not detract from the primordial fact that when he and his brother PO3 Esteban Salas rushed to the crime scene, Rebecca "Vicky" Mayo-Coronado pointed to them the fleeing assailants of the victim. He then saw the assailants on board a tricycle and later scampered in different directions when he fired a warning shot which prompted the tricycle to stop. In the ensuing chase, he was able to collar accused-appellant. An assiduous examination of the sworn statement and the transcript of PO3 Angelito Salas' testimony reveals that there is, in fact, no inconsistency in the account of the incident on this point.

In his sworn statement dated November 6, 1996, PO3 Angelito Salas narrated the incident thus:

> x x x x x x x x x
>
> Na, humigit kumulang ng alas 5:00 ng hapon, ika-04 ng Nobyembre 1996 habang ako at ang aking kapatid na Pulis din na si PO3 Esteban Salas ay nasa aming bahay ay biglang meron tumawag sa amin na sinaksak si Juanito Coronado @ King na aming kapitbahay. Agad kaming lumabas ng aking kapatid at nakita namin si King na nakabulagta sa lupa at sinabi sa amin na yung suspect ay apat na tao at tumatakbong patungong Arborretum. Aming hinabol at nakita namin na sumakay ng trisekal at aming sinigawan yung trisekal driver para huminto. Noong huminto yung trisekal ay tumakbo yung apat at hanggang sa nahuli namin yung isa sa kanila. At ito'y biglang binugbog ng taong bayan tamang tama ay dumating si PO3 Armando Rivera ng STAG QC. Pagkatapos ay dinala na namin yung nahuli namin sa Hospital para ipagamot. Pagkatapos, siya ay aming dinala sa Station 3, CFDO para sa kaukulang imbestigasyon.
>
> Na, yung nahuli naming tao ay nakilala sa pangalan na: ANDRES ORTIZ y PEBRERO, 28 na taong gulang, binata, driver, tubong Claver, Surigao del Norte, at nakatira sa Block 11, Lot 2, Ford St., Merville 3-A, Talon, Las Pinas, MM. x x x.

PO3 Salas, on direct examination, testified as follows:

> Q
>
> Do you know the victim in this case in which you are testifying now?
>
> A
>
> Yes, mam.
>
> Q
>
> Why do you know him?
>
> A
>
> We are neighbors.
>
> x x x x x x x x x
>
> Q
>
> Do you remember where you were on November 4, 1996 at around 5:00 in the afternoon?
>
> A

Yes, mam, in my house.

Q

Were you alone?

A

I was with my brother.

Q

What is the name of your brother?

A

PO3 Esteban Gonzales (sic).

Q

Do you remember what you were doing at around 5:00 [p.m.] in the same day?

A

We were watching TV.

Q

While watching TV, what happened?

A

Somebody approached me and told me that King was stabbed.

Q

Who was this person who approached you?

A

It was just a shout. I don't recall who shouted.

Q

You heard clearly that King was stabbed?

A

Yes, mam.

Q

What did you do when King was stabbed?

A

I went out of the house with my brother.

Q

Where did you go?

A

We went to see what happened to him.

Q

What did you find out?

A

When we arrived, he was already dead.

Q

In what place was he when you arrived at the place?

A

He was lying on his back.

Q

Where was this in relation to his residence?

A

In front of his house.

Q

What did you do when you found him already faced up and dead?

A

Somebody pointed to me the one who stabbed him.

Q

Who pointed to you the person who stabbed King?

A

Vicky Coronado. She was the one who pointed to the assailants.

Q

What did you do when the person [who] stabbed King [was] pointed to you by Vicky Coronado?

A

We ran after them.

Q

In what direction did Andres Ortiz go?

ATTY. FERRER:

Objection. There is still no statement from the witness that the accused was one of the persons who ran from that direction of the house of the victim. There is no basis. There is no statement that the accused was one of them.

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FISCAL DY:

Who was this assailant pinpointed to you by Vicky Coronado?

A

The accused together with three others who ran away.

Q

Is this Andres Ortiz present in Court?

A

Yes, mam.

Q

Will you please stand up and tap his shoulder.

(Witness tapping the shoulder of Andres Ortiz).

Q

You said Andres Ortiz, the accused was with three others?

A

Yes, mam.

Q

How far did they run on foot?

A

50 meters.

Q

After that, what happened next?

A

We were able to catch them and handcuffed them.

Q

How many were caught by you?

A

One only.

Q

How about the others, where were they?

A

We were not able to run after them because they ran in different directions.

Q

It is only accused Ortiz you were able to catch up?

A

Yes, sir (sic).

Q

What did you do with him after catching him up?

A

We arrested him and handcuffed him and turned him over to Station 3.[17]

PO3 Salas remained steadfast and unwavering with regard to his account on how he apprehended accused-appellant on cross-examination despite repeated attempts by defense counsel to throw him off-track.[18]

With respect to the contradictions between the sworn statement and testimony in court of PO3 Angelito Salas, it has been observed that such inconsistencies are oftentimes due to the fact that affidavits are generally not prepared by the affiants themselves but by others and are only signed by the affiants.[19] As this Court pointed out in People vs. Nestor Seduco:[20] "[C]ertain discrepancies between declarations made in an affidavit and those made at the witness stand seldom could discredit the declarant.[21] Sworn statements, being taken ex parte, are almost always incomplete and often inaccurate for various reasons, sometimes from partial suggestion or for want of suggestion and inquiries."[22] They are generally inferior to the testimony of the witness given in open court.[23] Our case law is unequivocal in saying that the testimony of a witness prevails over an affidavit.[24] In short, affidavits are generally subordinated in importance to open court declarations,[25] or, more bluntly stated, whenever there is inconsistency between an affidavit and the testimony of a witness in court, the testimony commands greater weight.[26]

Furthermore, the inconsistencies adverted to between PO3 Salas' sworn statement and his testimony are mere trifles which do not detract from the straightforward manner in which he narrated the manner in which he arrested accused-appellant. Restating what had been said earlier "[T]rivial inconsistencies do not shake the pedestal upon which the complainant's credibility rests. On the contrary, they are taken as badges of truth rather than as indicia of falsehood for they manifest spontaneity and erase any suspicion of a rehearsed testimony."[27]

Accused-appellant also points to the non-presentation at the witness stand of the tricycle owner as well as of Police Officer Armando Rivera to refute appellant's claim that he ran to Rivera to seek refuge from a person in civilian clothes who was pursuing him with a gun.

Accused-appellant cannot seek refuge behind the non-presentation at the witness stand of the tricycle driver and Police Officer Armando Rivera because the matter of presentation of witnesses by the prosecution is neither for the accused-appellant nor even the trial court to decide; such discretion on how the prosecution should present its case belongs to the prosecutor who has the right to choose whom he would present as witnesses.[28] As more explicitly stated in People v. Barellano[29]-

> Appellant cannot fault the prosecution for failure to present Bernadette Matias. The prosecution has [the] discretion to decide on who to call as witness during trial and its failure to do so did not give rise to the presumption that "evidence" willfully suppressed would be adverse if produced"[30] since the evidence was at the disposal of both parties.[31] If the defense believed that the testimony of Bernadette Matias was important to its case, it should have insisted on presenting her as a witness, or as appellee points out, made a tender of the excluded evidence of the witness in question under Section 40, Rule 132 of the Rules of Court. The same may

be said of Joana Santiago, another supposed witness to the shooting, who was not presented.[32]

It must be stressed in this regard that the testimony of a single witness is sufficient to establish the guilt of the accused for evidence is weighed not counted.[33] Indeed, the testimony of a single witness, if positive and credible, is sufficient to convict the appellant even in a murder charge[34] for truth is established not by the number of witnesses but by the quality of their testimonies.[35] Stated differently, truth "[i]s established not by the number of witnesses but by the quality of their testimonies,[36] for in determining the value and credibility of evidence, the witnesses are to be weighed not numbered.[37]

Neither will the failure to present the murder weapon exculpate accused-appellant from criminal liability. The presentation and identification of the weapon used are not indispensable to prove the guilt of the accused[38] much more so where, as in this case,[39] the perpetrator has been positively identified by a credible witness.[40]

It should be noted that there has been no showing that prosecution witnesses, particularly eyewitness Rebecca Mayo, were actuated by ill motives to implicate accused-appellant in so grave a crime as murder. Where, as in this case, there is no evidence that the principal witness for the prosecution was actuated by improper motives, the presumption is that she was not so actuated and her testimony is entitled to full faith and credit.[41] Nor will relationship adversely affect such credibility.[42] Thus, it has been held that the testimony of the widow of the victim is far more worthy of credit than not because of her natural interest to bring to justice the real perpetrators of the crime.[43] Certainly, it would be unnatural for the victim's relatives to commit an injustice by taking the witness stand and impute the crime to innocent persons and not to those who were actually responsible therefor.[44]

All told, an overall scrutiny of the records of this case leads us to no other conclusion but the correctness of the trial court in holding that the accused-appellant together with his cohorts committed murder. It is an established rule that when it comes to the issue of credibility of witnesses, the appellate courts generally will not overturn the findings of the trial courts. They are in the best position to ascertain and measure the sincerity and spontaneity of witnesses through their actual observation of the witnesses' manner of testifying, demeanor and behavior in court.[45] In this case, we find no basis to depart from the rule. What remains to be determined is whether the elements of the crime have been established.

The Information indicting accused-appellant for Murder alleged that treachery, evident premeditation and abuse of superior strength attended the killing of the victim.

There is treachery when the offenders commit any of the crimes against persons employing means, methods or forms in the execution thereof which tend directly and specially to insure its execution without risk to himself arising from the defense which the offended party might make.[46] In order that alevosia may be appreciated as a qualifying circumstance, it must be shown that: a.] the malefactor employed means, method or manner of execution affording the person attacked no opportunity to defend himself or to retaliate; and b.] the means, method or manner of execution was deliberately or consciously adopted by the offender.[47] Its essence is the sudden, unexpected attack by the aggressor on an unsuspecting victim, depriving the latter of any real chance to defend himself, thereby ensuring its commission without risk to the aggressor, and without the slightest provocation on the part of the victim.[48]

As to the qualifying circumstance of alevosia, the treacherous manner in which accused-appellant and his group perpetrated the crime is shown not only by the sudden and unexpected attack upon the unsuspecting and apparently unarmed victim but also by the deliberate manner in which the assault was perpetrated. In this case, the accused-appellant and his companions, numbering four (4) with accused-appellant armed with a bladed weapon ganged upon the unsuspecting victim with Jose "Joven" Leano first surreptitiously going behind him and beating

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him senselessly with a hammer. In the ensuing attack, the deceased was stabbed four (4) times in the chest above his heart by accused-appellant with a bladed instrument while the victim's hands were held by Joven Leano.

It must be noted in this regard that the manner in which the stab wounds were inflicted on the deceased were clearly meant to kill without posing any danger to the malefactors considering their locations and the manner in which the victim was first stunned into insensibility by the hammer blows and restrained while being stabbed. To reiterate, treachery is present when the offender commits any of the crimes against persons employing means, methods or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.[49] That circumstance qualifies the crime into murder.

Evident premeditation is appreciated where the execution of a criminal act is preceded by cool thought and reflection upon the resolution to carry out the criminal intent. The requisites of evident premeditation are: 1.] the time when the accused determined to commit the crime; 2.] an act manifestly indicating that the accused clung to his determination; and 3.] a sufficient lapse of time between such determination and the execution to allow him to reflect upon the circumstances of his act.[50]

"[A]buse of superior strength requires, at base, a deliberate intent on the part of the malefactor to take advantage thereof. Besides the inequality of comparative force between the victim and the aggressor, there must be a situation of strength notoriously selected and made use of by the offender in the commission of the crime."[51] In this case, there were four (4) malefactors including accused-appellant who was armed with a bladed weapon when they attacked and ganged up on the unarmed victim. It need not be overemphasized that there was a blatant inequality of strength between the victim and his assailants.[52]

While the commission of the crime was attended by abuse of superior strength, this aggravating circumstance will not be appreciated against accused-appellant because it is already absorbed in treachery.[53] With regard to evident premeditation, although this qualifying circumstance was alleged in the information, the same was not proven by the prosecution considering that there was no concrete proof as to how and when the plan to kill was hatched or what time had elapsed before it was carried out.[54] While treachery qualified the killing to murder, neither aggravating nor mitigating circumstances attended the commission of the felony. Hence, the penalty of reclusion perpetua was properly imposed.[55]

Actual damages were correctly awarded to the victim's heirs considering that they spent for the funeral and burial expenses. Consistent with controlling jurisprudence,[56] we sustain the award of P50,000.00 as indemnity ex delicto.

On the award of moral damages, this Court is convinced that the prosecution has amply demonstrated that the heirs suffered mental anguish to justify this award. Current jurisprudence has set moral damages at P50,000.00.[57]

A resolution of the issues raised in this case will not be complete without a final word on the grant of moral damages in murder and homicide. Unlike in the crime of rape, moral damages in murder and homicide are granted only when the heirs of the victim have alleged and proved mental suffering. However, the Court recently pointed out in People v. Uldarico Panado, et al.,[58] that "[a]s borne out by human nature and experience, a violent death invariably and necessarily brings about emotional pain and anguish on the part of the victim's family. It is inherently human to suffer sorrow, torment, pain and anger when a loved one becomes the victim of a violent or brutal killing. Such violent death or brutal killing not only steals from the family of the deceased his precious life, deprives them forever of his love, affection and support, but often leaves them with a gnawing feeling that an injustice has been done to them." In rethinking its policy on the award of moral damages when a life is taken, the

Court in People v. Carlito Cortez, et al.,[59] stated that such an award -

> . . . is fair and just even though the prosecution did not present any proof, apart from the fact of death of the victim and the culpability of the accused. Article 2217 of the Civil Code, which governs the award of moral damages, provides:
> Art. 2217. Moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation and similar injury. Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate result of the defendant's wrongful act or omission.

A careful scrutiny of Art. 2217 shows that it does not preclude a more liberal interpretation where it is sufficient that claimants prove only the fact of death of the victim and the guilt of the accused. From these established facts, the existence of moral damages can be easily deduced. Once the accused is convicted of homicide, the fact of death of the victim and the culpability of the person against whom damages are claimed are already undisputed. Requiring proof of damages over and above the already established homicide and culpability of the accused becomes a superfluity. That families of homicide victims suffer mental anguish, serious anxiety, moral shock and wounded feelings is too obvious to be overemphasized. For, it is the natural tendency of human beings to mourn the death of their loved ones. Moral damages follow death in a family as night follows day.

We are not unaware of People v. Manegdeg[60] and other cases which held that for moral damages to be awarded it is essential that the claimant satisfactorily proves the existence of the factual basis of the damage and its causal relation to defendant's acts. However, we do not contravene the spirit and letter of the law by interpreting "factual basis" to mean the fact of death of the victim. Once death is proved, it takes only simple logic to deduce the existence of moral damages. With this interpretation, we can do away with the tedious and time-consuming process of proving the suffering and anguish of the heirs of the victim which, more often than not, is almost a matter of formality or a useless ceremony which delays and consumes the time of the court. After all, as already intimated, it is undisputed that the families of victims of violence invariably suffer as a consequence thereof... The anguish and social humiliation suffered by parents of rape victims, although indeed grave, may disappear with nurture and care and the loss of social standing restored through the lapse of time. But in homicide or murder where the victim dies, the loss is complete and irreparable. No amount of nurturing or caring will ever replace the life of a parent or an offspring, or any member of the bereaved family. (Emphasis supplied)

WHEREFORE, in view of all the foregoing and with the sole MODIFICATION that the award of moral damages be increased to P50,000.00 consistent with controlling case law, the Decision appealed from finding accused-appellant guilty beyond reasonable doubt of the crime of murder and sentencing him to suffer the penalty of reclusion perpetua, is hereby AFFIRMED in all other respects.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Puno, Kapunan, and Pardo, JJ., concur.

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[1] Record, p. 1.

[2] Ibid., p. 15.

[3] Appellant's Brief, pp. 9-10.

[4] TSN, 20 February 1997, p. 17; emphasis supplied.

[5] Ibid., pp. 26-27; emphasis supplied.

[6] People v. Gerry Cirilo, G.R. No. 134245, 1 December 2000, citing People v. Molina, 311 SCRA 517 [1999].

[7] People v. Salimbago, 314 SCRA 282 [1999], citing People v. Bernal, 254 SCRA 659 [1996].

[8] People v. Roche, 330 SCRA 91 [2000], citing People v. Rosario, 159 SCRA 192 [1988].

[9] People v. Rodrigo Galo, et al., G.R. No. 132025, 16 January 2001, pp. 14-15, citing People v. Geguira, 328 SCRA 11 [2000], citing People v. Resagaya, 54 SCRA 350 [1973].

[10] People v. Quilang, 312 SCRA 314 [1999], citing People v. Talaboc, 256 SCRA 441 [1996].

[11] See People v. Galano, 327 SCRA 462 [2000].

[12] People v. Aquino, 329 SCRA 247 [2000], citing People v. Gomez, 251 SCRA 455 [1995].

[13] TSN, 20 June 1997, pp. 9-10; emphasis supplied.

[14] Ibid., pp. 10-11.

[15] TSN, 20 February 1997, pp. 35-38; emphasis supplied.

[16] Record, p. 5.

[17] TSN, 11 March 1997, pp. 3-5.

[18] Ibid., pp. 6-8.

[19] People v. Jerito Amazan, et al., G.R. Nos. 136251, 138606 & 138607, 16 January 2001, citing People v. Reyes, 316 Phil. 1 [1995].

[20] G.R. No. 130643, 16 January 2001.

[21] People v. Travero, 276 SCRA 301 [1997].

[22] People v. Abrera, 283 SCRA 1 [1997].

[23] People v. Silvestre, 307 SCRA 68 [1999]; People v. Jaberto, 307 SCRA 93 [1993].

[24] People v. Costelo, 316 SCRA 895 [1999], citing People v. Maldo, 307 SCRA 424 [1999]; People v. Oliva, 282 SCRA 470 [1997]; People v. Jamiro, 279 SCRA 290 [1997]; People v. Marollano, 274 SCRA 84 [1997].

[25] People v. Yanson-Dumancas, 320 SCRA 584 [1999].

[26] People v. Estorco, 331 SCRA 38 [2000].

[27] People v. Rafael Diopita y Guzman, G.R. No. 130601, 4 December 2000, citing People v. Plasencia, 249 SCRA 674 [1995].

[28] People v. Requiz, 318 SCRA 635 [1999].

[29] 319 SCRA 567 [1999].

[30] Citing Sec. 3 (e), Rule 131, Rules of Court.

[31] People v. Andal, 279 SCRA 474 [1997].

[32] Citing People v. Silvestre, supra.

[33] People v. Buendia, 314 SCRA 655 [1999], citing People v. Corea, 269 SCRA 76 [1997]; People v.

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Quitoriano, 266 SCRA 373 [1997].

[34] People v. Barellano, 319 SCRA 567 [1999]; People v. Ocumen, 319 SCRA 539 [1999]; People v. Batidor, 303 SCRA 335 [1999]; Boneng v. People, 304 SCRA 252 [1999]; People v. Lotoc, 307 SCRA 471 [1999]; People v. Garcia, 313 SCRA 279 [1999]; People v. Villablanca, 316 SCRA 13 [1999].

[35] People v. Benito, 303 SCRA 468 [1999].

[36] People v. Ramirez, 266 SCRA 335 [1997]; People v. Matubis, 288 SCRA 210 [1998].

[37] People v. Gaspar, 318 SCRA 649 [1999], citing Marco v. CA, 273 SCRA 276 [1997]; People v. Villanueva, 284 SCRA 501 [1998]; People v. Hayahay, 279 SCRA 567 [1997]; U.S. v. Oracion, 18 Phil. 530 [1911].

[38] People v. Sumaoy, 263 SCRA 460 [1996], citing People v. Fulinara, 247 SCRA 28 [1995] and People v. De Guzman, 231 SCRA 737 [1994].

[39] TSN, 20 February 1997, p. 18.

[40] People v. Padao, 267 SCRA 64 [1997].

[41] People v. Gadin, 331 SCRA 345 [2000], citing People v. Nava, 306 SCRA 15 [1999] and People v. Alfeche, 294 SCRA 352 [1998].

[42] People v. Dacibar, 325 SCRA 725 [2000]; People v. Durado, 321 SCRA 498 [1999].

[43] People v. Repollo, 331 SCRA 375 [2000], citing People v. Montero, 277 SCRA 194 [1997]; People v. Salvame, 270 SCRA 766 [1997] and People v. Oliano, 287 SCRA 158 [1998].

[44] People v. Legaspi, 331 SCRA 95 [2000], citing People v. Pareja, 265 SCRA 429 [1996].

[45] People v. Jimmy Alo, et al., p. 8.

[46] Article 14, Revised Penal Code; People v. Ybeas, 213 SCRA 793 [1993]; People v. Compendido, Jr., 258 SCRA 254 [1996]; People v. Tabag, 268 SCRA 115 [1997].

[47] People v. Domingo, et al., 312 SCRA 487 [1999]; People v. Bermudez, 309 SCRA 124 [1999], citing People v. Hubilla, Jr., 252 SCRA 471 [1996]; People v. Landicho, 258 SCRA 1 [1996]; People v. Cabodoc, 283 SCRA 183 [1997].

[48] People v. Felix Celeste, G.R. 130281, 15 December 2000, citing People v. Vermudez, 302 SCRA 276 [1999].

[49] People v. Felipe Abordo, et al., 321 SCRA 232 [1999], citing People v. Patrolla, Jr., 254 SCRA 467 [1996].

[50] People v. Sesbreno, 314 SCRA 87 [1999].

[51] People v. PO3 Ernesto D. Langres, 316 SCRA 769 [1999], citing People v. Solis, 291 SCRA 529 [1998], citing People v. Escoto, 244 SCRA 87 [1995].

[52] People v. Ralph Velez Diaz @ Jimboy, 320 SCRA 168 [1999] citing People v. Gatcho, 103 SCRA 207 [1981].

[53] People v. Romeo Ugiaban Lumandong, G.R. No. 132745, 9 March 2000, p. 18; People v. Pedro Lumacang, et al., G.R. No. 120283, 1 February 2000, p. 13, citing People v. Panganiban, 241 SCRA 91 [1995].

[54] People v. Felipe Abordo, et al., supra., citing People v. Patrolla, supra., citing People v. Penones, 200 SCRA 624 [1991].

[55] People v. Felix Celeste, supra.

[56] People v. Edilberto Durado, Sr., et al., 321 SCRA 498 [1999], citing People v. Suplito, 314 SCRA 493 [1999]; People v. Eleuterio Costelo, et al.,supra, citing People v. Quitlong, 292 SCRA 360 [1998]; People v. Lagarteja, 291 SCRA 142 [1998]; People v. Marollano, 276 SCRA 84 [1997]; and People v. Caballes, 274 SCRA 83 [1997]; People v. Elizalde Culala y Bognot, 316 SCRA 582 [1999], citing People v. Denilo, et al., 271 SCRA 633 [1997]; People v. Recones, 310 SCRA 809 [1999] and People v. Patalin, 311 SCRA 186 [1999]; People v. Roberto Gonzales y Mendoza @ Bobbit, 311 SCRA 547 [1999], citing People v. Robles, 305 SCRA 273 [1999]; People v. Piamonte, 303 SCRA 577 [1999] and Pepito v. CA, 310 SCRA 128 [1999]; People v. Glenn Lotoc, et al., 307 SCRA 471 [1999].

[57] People v. Uldarico Panado, et al., 26 December 2000.

[58] Ibid.

[59] G.R. No. 131924, 26 December 2000.

[60] 316 SCRA 689 [1999].

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