

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CELSO REYNES ALIAS "BOY BAGA", ACCUSED-APPELLANT.

G.R. No. 134607. December 12, 2001

Ponente: CARPIO, J.

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CARPIO, J.:

Treachery, whenever present and alleged in the information, qualifies the killing of the victim and raises it to the category of murder. Once appreciated as a qualifying circumstance, treachery can no longer be considered anew as a generic aggravating circumstance for the purpose of imposing the supreme penalty of death.

The Case

Before this Court, by way of automatic review, is the Decision[1] dated July 13, 1998, of the Regional Trial Court of Urdaneta City, Pangasinan, Branch 46, convicting appellant Celso Reynes alias "Boy Baga" of murder aggravated by treachery and sentencing him to suffer the supreme penalty of death.

The Charge

Celso Reynes was charged with the crime of murder in an Information that reads:

"That on or about June 20, 1997 at barangay Nancamaliran East, Urdaneta, Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused armed with an unlicensed firearm with intent to kill, treachery and evident premeditation, did then and there willfully, unlawfully and feloniously shoot Claro Bernardino y Pasana inflicting upon him multiple mortal wounds which caused the instantaneous death of said Claro Bernardino y Pasana to the damage and prejudice of his heirs.

Contrary to Article 248 as amended by R.A. 7659."[2]

Arraignment and Plea

When arraigned on March 16, 1998, appellant, with the assistance of counsel, entered a plea of not guilty.[3] Thereafter, trial ensued.

The Trial

Version of the Prosecution

The prosecution presented four witnesses, namely: (1) Norma Padilla, common-law wife of the victim and an eyewitness to the incident; (2) Dr. Ramon Gonzales, Jr., rural health physician who conducted the autopsy on the victim and issued the death certificate; (3) SPO1 Asterio Dismaya, member of the Philippine National Police (PNP) in Urdaneta, Pangasinan, who went to the crime scene and the hospital to investigate; and (4) SPO2 Ernesto C. Ganceña, also a member of the PNP in Urdaneta, Pangasinan, who was present when SPO1 Asterio Dismaya and another policeman took the statement of Norma Padilla. The prosecution's version of the incident, as culled from the testimonies of its witnesses, was summed by the Solicitor General in the People's Brief, thus:

"At a little past midnight of June 20, 1997,[4] Claro Bernardino and his common-law wife, Norma Padilla, returned to their house in Nancamaliran East, Urdaneta, Pangasinan after breaking in their motorcycle (pp. 4-5, tsn, April 13, 1998). After parking the motorcycle in front of their house, the couple went inside their house and Norma Bernardino prepared coffee. At about 12:10 a.m., after drinking coffee, Claro Bernardino stepped outside while telling Norma to help him bring the motorcycle inside the house. Norma followed him and went out of the house. She saw Claro Bernardino, about 2 meters away from the motorcycle, urinating at the left side of the front portion of the house which was illuminated by a 100-watt bulb. Appellant suddenly emerged from the wall at the right side of the house, approached appellant on his right side, which was approximately three meters away, and shot him three times with a firearm (p. 3, tsn, April 20, 1998; pp. 5-6, tsn, April 13, 1998). After shooting Claro Bernardino, appellant ran away towards the north. Norma embraced her husband who had fallen and shouted for help. The victim was rushed to the Sacred Heart Hospital in Urdaneta, Pangasinan by his brother but he did not reach the said hospital alive (pp. 7-8, tsn, April 13, 1998).

After receiving a report of the foregoing incident at past midnight, a spot investigation at the crime scene was conducted by SPO1 Asterio Dismaya (pp. 3-4, 7, tsn, April 1, 1998). He was able to investigate Norma Bernardino at her residence where the latter informed him that it was appellant who shot the victim (p. 4, id).

The post-mortem examination conducted by Dr. Ramon Gonzales disclosed that the victim sustained a total of eight (8) gunshot wounds, three of which were identified as entry wounds (pp. 6, 15-16, tsn, April 28, 1998).

In connection with the death of Claro Bernardino, appellant was subsequently arrested by the police and incarcerated at the BJMP detention center in Urdaneta, Pangasinan (p. 5, tsn, June 16, 1998)."[5]

Version of the Defense

For his part, appellant Celso Reynes, a thirty-nine year old construction worker, resident of Umingan, Pangasinan, relied on denial and alibi to maintain his innocence. He testified that at the time of the incident on June 20, 1997, he was in the house of his compadre Manuel Garcia, seeking financial help for the school fees of his son. From 8:00 o'clock in the evening of June 19, 1997 until 2:00 o'clock in the morning of June 20, 1997, he and his compadre, Manuel Garcia and Sergio Tuliao were having a drinking spree. After consuming four bottles of gin, he and his compadre slept in the sala. He woke up at 9:00 o'clock in the morning when Manuel arrived from the market. He claimed that he stayed at his compadre's house from June 19, 1997 until June 24, 1997 and returned to Umingan for the school opening. He admitted knowing the victim, Claro Bernardino, since he stayed in the latter's house for a year, some time in 1995.[6]

Manuel Garcia and Sergio Tuliao were presented to corroborate the alibi of appellant. Manuel Garcia, forty-two years old, resident of Mabanogbog, Urdaneta, Pangasinan, testified that appellant arrived at his house at 6:00 o'clock in the evening of June 20, 1997 with his children. They started drinking from 8:00 o'clock in the evening until about 1:00 o'clock or 2:00 o'clock the following morning. After consuming four bottles of gin, they both slept in the sala. When he woke up at 5:00 o'clock in the morning, he saw appellant near him. When he left to go to the market for his buy and sell business, appellant was still sleeping. According to him, appellant stayed in his house for four days from June 20, 1997 because appellant was ejected from his house in Umingan.[7]

Sergio Tuliao, forty-two years old, an ice cream maker, also a resident of Mabanogbog, Urdaneta City, testified that he was with appellant in the evening of June 20, 1997 until dawn of June 21, 1997. He testified that at around 8:00 o'clock in the evening of June 20, 1997, he joined appellant and Manuel Garcia at the latter's house for drinks. He stayed for less than an hour then left to attend a wake. At 1:00 o'clock in the morning of June 21, 1997, he returned to Manuel Garcia's house. He saw the two still drinking. After taking a shot, he left and went home.[8]

The Trial Court's Ruling

The trial court accorded full faith and credence to the testimony of Norma Padilla and disregarded appellant's defense of alibi. It observed that Norma's testimony was direct, positive, unswerving, and rings with truth. It also noted that the defense has not shown any improper motive as to why Norma would testify falsely and impute a serious charge against appellant.[9] On the other hand, the trial court found appellant's alibi as weak in the face of Norma's positive testimony.

In the decretal portion of the decision, the trial court pronounced judgment thus:

"WHEREFORE, the Court finds Celso Reynes, guilty of Murder (aggravated by Treachery) beyond reasonable doubt, and hereby sentences Celso Reynes to suffer the penalty of Death to be implemented in the manner provided by Law. To pay the heirs the sum of P100,000.00 for actual expenses, plus P50,000.00 moral damages, another P20,000.00 for exemplary damages together with all accessory penalty (sic) provided for by law.

xxx xxx xxx.

xxx xxx xxx.

SO ORDERED."[10]

Hence, the transmittal of the records of the case to this Court for automatic review.

The Issues

Appellant seeks the reversal of the conviction decreed by the trial court, by contending that -

I

THE LOWER COURT ERRED IN ACCORDING UNDUE WEIGHT AND CREDENCE ON THE UNCORROBORATED TESTIMONY OF NORMA PADILLA DESPITE ITS INHERENT BIAS, MARKED CONTRADICTIONS AND IMPROBABILITIES.

II

THE LOWER COURT LIKEWISE ERRED IN APPRECIATING TREACHERY AS ATTENDANT IN THE SHOOTING OF CLARO BERNARDINO ALLEGEDLY BY THE HEREIN ACCUSED-APPELLANT, CELSO REYNES.[11]

The Court's Ruling

The Court sustains the conviction of appellant for the crime of murder,[12] but the penalty imposed by the trial court should be reduced from death to reclusion perpetua.

In support of the first assignment of error, appellant points to the following alleged inconsistencies and improbabilities in the testimony of eyewitness Norma Padilla: (1) her declaration that she saw appellant shoot the victim three (3) times is belied by the medical findings of Dr. Ramon Gonzales, Jr. that there were no less than nine (9) gunshot wounds found on the external part of the victim; (2) her declaration on direct examination that her husband was shot three times while urinating before the motorcycle was brought inside their house contradicts her declaration on cross-examination that her husband went out of the house to urinate after they had brought the motorcycle inside their house; (3) her testimony that her husband urinated only about two meters away from her, but she was not seen by appellant at the time the latter shot her husband at a close range of about two meters, defies reason; and, finally, (4) it was unnatural for Norma not to shout or warn her husband of the impending danger from the assailant who was just as near to her as her husband was to the assailant.

Based on the foregoing arguments, the resolution of this case hinges on the credibility of the prosecution's lone eyewitness, Norma Padilla. Her account on direct examination of what happened at a little past midnight of June 19, 1997 runs in this wise:

"Q:

At about 12:10 in the morning of June 20, 1997, do you still recall what are you (sic) doing?

A:

We just came home from having our motorcycle breaking in, sir.

Q:

After you just came home from breaking in your motorcycle, whose motorcycle is that?

A:

That is ours sir.

Q:

And where did you place that motorcycle after you arrived breaking in?

A:

In front of our house sir.

Q:

By the way, when did you start breaking in your motorcycle?

A:

9:00 o'clock in the evening sir.

Q:

When you arrived at your house, what happened after breaking in your motorcycle?

A:

We took our coffee, sir.

Q:

After that what happened?

A:

We went out, sir.

Q:

Where?

A:

We went out from our house, sir.

Q:

For what purpose?

A:

For my husband to bring inside the house our motorcycle, sir.

Q:

What did your husband do?

A:

He went to urinate sir.

Q:

Where?

A:

At the left side in front of our house, sir.

Q:

How far is the motorcycle parked to the house?

A:

Two (2) meters sir.

Q:

How far is the place where your husband urinate to the motorcycle parked?

A:

About two (2) meters sir.

Q:

How about you where did you go?

A:

I went to help him from bringing inside our house the motorcycle, sir.

Q:

While your husband was urinating what happened next?

A:

He was shot sir.

Q:

How many times was your husband shot?

A:

Three (3) times sir.

Q:

Do you know who shot him?

A:

Yes sir.

Q:

Who shot your husband?

A:

Celso Reynes sir.

Q:

Why do you say that Celso Reynes who shot your husband?

A:

Because I saw it, sir.

Q:

Where was Celso Reynes when he shot your husband?

A:

He was at the right side of our house, sir.

Q:

How far was he when he shot at your husband?

A:

More than two (2) meters, sir.

COURT:

Q:

Is it 3 or more than 3 meters?

WITNESS:

A:

No sir, more than 2 meters but less than 3.

PROS. ESPINOZA:

Q:

How were you able to recognize Celso Reynes who shot your husband?

WITNESS:

A:

I saw him sir when he shot my husband.

Q:

Is Celso Reynes inside the courtroom?

A:

Yes sir.

Q:

Will you please point to him?

A:

Witness pointed to a person and when asked his name, answered, Celso Reynes.

Q:

How many times did Celso Reynes shoot your husband?

A:

3 times sir.

Q:

What was your husband doing when Celso Reynes shot your husband?

A:

He was urinating sir.

Q:

After Celso shot your husband what did he do if he did anything?

A:

He ran sir.

Q:

Where?

A:

He ran towards the North as demonstrated by the witness.

Q:

When you saw your husband was shot and hit what happened to your husband?

A:

He fell down sir.

Q:

How about you, what did you do when you saw your husband fell down?

A:

I embraced him sir.

Q:

After you embraced your husband, what did you do next?

A:

I shouted for a help sir.

Q:

Were there people came and rendered help?

A:

Yes sir.

Q:

Who are those person that came and rendered help?

A:

The brother of my husband, sir.

Q:

What is the name?

A:

Laur Villanueva, sir."[13]

On cross-examination, she testified as follows:

Q:

And after 9:00 o'clock, what did you do?

A:

We went out breaking-in our motorcycle, sir.

Q:

At 9:00 o'clock, Madam Witness, you are breaking-in your motorcycle?

COURT: Is it in the evening?

A:

Evening, sir.

ATTY. DE GUZMAN:

So what time did you return to your house?

A:

About 12:00 o'clock, sir.

Q:

And you said in your direct testimony, Madam Witness, that when you returned to your house you brought the motorcycle inside your house, am I correct?

A:

Not yet, sir.

Q:

So when you returned to your house, what did you do at 12:00 o'clock?

A:

I prepared coffee for my husband, sir.

Q:

So what time was that?

A:

Past 12:00 o'clock already, sir.

Q:

It might be 12:20?

A:

About 12:10, sir.

Q:

When you already finished preparing the coffee of your husband, you served that, am I correct?

A:

Yes, sir.

Q:

So what time is that, if you know?

A:

The same time, sir.

Q:

So you prepared the coffee at 12:10 o'clock and you served at the same time at 12:10 o'clock?

A:

Yes, sir.

Q:

When you prepared the coffee of your husband, do you know what your husband was doing at that time?

A:

Yes, sir.

Q:

What?

A:

He was inside the house seated, sir.

Q:

What particular place in your house was your husband sitting?

A:

In the sala, sir.

Q:

Madam Witness, you said in your direct examination on April 13, 1998 that at 12:10 o'clock on June 20, 1997, you were already in the hospital, is it not?

A:

No, sir.

ATTY. DE GUZMAN:

The transcript is not yet complete, your Honor but I remember that she said that at 12:10 o'clock of June 20, 1997, they were already in the hospital.

COURT:

Go ahead you finish the witness.

ATTY. DE GUZMAN:

When you served already the coffee of your husband, Madam Witness, what else did you do, if any?

A:

I waited my husband to consume the coffee, sir.

Q:

What time did your husband consume the coffee prepared for him?

A:

12:10 o'clock, he already finished, sir.

Q:

So you mean you prepared the coffee at 12:10 o'clock and you served that to your husband and you said your husband also finished that at the same time?

A:

What I mean is that after serving the coffee because he does not like hot coffee. He drunk the coffee at once.

Q:

After your husband finished drinking the coffee did you go to sleep at once?

A:

No, sir.

Q:

What time did you sleep, Madam Witness?

A:

We did not sleep that night already, sir.

Q:

After drinking the coffee of your husband, what did you do, if any?

A:

My husband called for me to help him bring inside the motorcycle inside the house.

Q:

You mean to say that the motorcycle was still outside the house?

A:

Yes, sir.

Q:

Did you follow him?

A:

Yes, sir.

Q:

Immediately?

A:

Yes, sir.

Q:

What happened next, Madam Witness?

A:

My husband urinated, sir.

Q:

You said in your direct testimony that your husband urinated at a distance of more than two meters from your place am I correct?

A:

Yes, sir.

Q:

Madam Witness, what kind of light do you have outside your house?

A:

We have a 100 watt valve (sic) outside, sir.

Q:

What is the distance of that 100 watt valve from your house?

A:

The 100 watt valve was hanged in front of the door of our house, sir."[14]

Independent of the trial court's assessment, we still see no reason to doubt Norma's credibility and the reasons cited by appellant cannot convince us otherwise.

First, there is no genuine conflict between Norma's testimony that she saw and heard appellant shoot the victim three (3) times and the medical findings[15] of Dr. Gonzales. The autopsy report disclosed that the victim sustained eight (8) gunshot wounds and not nine (9) as alleged by appellant. Appellant relies on this alleged discrepancy between the number of gunshots Norma heard and the number of gunshot wounds sustained by the victim to discredit Norma. However, Dr. Gonzales clarified on the witness stand that four (4) of the gunshot wounds appearing on the autopsy report, namely, gunshot wound nos. 1, 4 and 8 were points of entry, while the rest were points of exit. He testified thus:

"ATTY. DE GUZMAN:

Q:

Am I correct Doctor that in your external findings wherein you stated eight (8) gunshot wounds on the dead body of Claro Bernardino, Claro Bernardino might sustained (sic) also more than five (5) point of entries, am I correct?

A:

We are basing on the shape of the wounds, sir, I based on gunshot wound nos. 1, 4 and 6 as point of entries, sir.

Q:

You did not state in your other external findings that they are rounded and irregular wounds, why do you say that they are point of entries?

A:

Irregular shape wounds are usually point of exits, sir, while rounded shape are usually point of entries, sir.

Q:

I will point to you external findings no. 8, you did not state that it is a rounded or irregular, so you cannot say if it is a point of entry or point of exit?

A:

Yes, sir.

Q:

So, it is a point of entry?

A:

Yes, sir.[16]

The foregoing testimony of Dr. Gonzales narrows down the discrepancy to one gunshot wound. Clearly, a variance of one (1) gunshot between the testimony of Norma and the medical findings does not constitute a serious inconsistency so as to cast doubt on her credibility. A witness to a killing is not expected at that very moment to keep an accurate count of the number of gunshots heard, and recall the same once called to the witness stand. Eyewitnesses to a horrifying event cannot be expected, nor be faulted if they are unable, to be completely accurate in recounting to the court all that has transpired, and every detail of what they have seen or heard.[17] Verily, in a startling event like a killing, it is difficult for a witness to keep tab of the exact number of gunshots the killer fired. It has been held that it is enough that a witness gives a fair estimate.[18] Norma has given more than a fair estimate of the gunshots she heard. If at all, this slight inaccuracy in Norma's testimony strengthens her sincerity and proves she was not rehearsed.[19]

Second, contrary to appellant's claim, Norma did not confuse important sequences of events on the night in question when she testified. It is not true that Norma declared during direct examination that her husband was shot three (3) times while urinating before they brought the motorcycle inside their house, and then contradicted herself during cross-examination when she declared that her husband went out of the house to urinate after they had brought the motorcycle inside their house. Rather, she was consistent in her narration that after parking the motorcycle in front of their house, the couple went inside their house and Norma prepared coffee. At about ten minutes past midnight, after drinking coffee, her husband stepped outside and called her to help him bring the motorcycle inside their house. Norma followed him and went out of the house. She saw her husband, about two meters away from the motorcycle, urinating at the left side of the front portion of the house which was illuminated by a 100-watt bulb. Thereafter, she saw appellant emerge from the wall at the right side of the house, approach her husband on his right side, approximately three meters away, and shoot her husband three (3) times with a firearm. This is borne out by her testimony in open court as quoted above.

Third, it is not improbable for appellant to carry out his evil deed in the presence of Norma. Appellant asks why the assailant did not see Norma at the time the assailant shot her husband considering that "her husband urinated only about 2 meters away from her and the accused-appellant shot her husband at a close range of about 2 meters". Appellant, without categorically stating so, appears to be suggesting that it was illogical for the assailant to shoot the victim in the presence of the wife. There is nothing in the records to indicate whether or not appellant saw Norma Padilla at the time of the shooting. In any case, either of the two scenarios will not change the outcome of the case. While a criminal may opt to commit his dastardly deed in a secluded place, it has been held that it is not at all impossible that a shooting be undertaken in a public place,[20] or as in this case, in the presence of other people. It has also been observed that crimes are now committed in the most unexpected places and even in brazen disregard of our authorities.[21]

Fourth, the fact that Norma did not shout nor warn her husband of the impending danger from the assailant deserves scant consideration. From her narration, everything happened so fast that she had no time to react or conclude that the person who emerged was going to fire his gun at her husband. In any event, suffice it to state that this Court has consistently ruled that there is no standard form of human behavioral response when one is confronted with a strange, startling or frightful experience.[22]

Moreover, Norma Padilla is the common-law wife of the victim. Her relationship, as such, adds to the weight of her testimony since she would then be interested in seeing the real killer brought to justice rather than falsely implicate an innocent person. The Court has held that it is not to be lightly supposed that people close to the victim would callously violate their conscience to avenge the death of a dear one by blaming it on someone they believe is innocent.[23] It has been correctly observed that the natural interest of witnesses, who are relatives of the victims, in securing the conviction of the guilty would deter them from implicating persons other than the culprits, for otherwise, the culprits would gain immunity.[24]

Appellant's alibi, inherently weak as a defense, remains unconvincing. The defense of alibi will prosper only if it can be shown that it was physically impossible for the accused to be at the locus criminis at the time of its commission.[25] Here, appellant tried to establish that he spent the evening of June 19, 1997 until the morning of June 20, 1997 at Manuel Garcia's house in the company of Manuel and Sergio Tuliao. However, the distance between the house of Claro Bernardino in Barangay Nancamaliran East, Urdaneta where he was slain, and Manuel Garcia's house in Barangay Mabanogbog, Urdaneta where appellant supposedly spent the night, did not render it impossible for the appellant to be at the scene of the crime. Appellant himself testified that the two barangays are accessible by tricycle in ten to fifteen minutes when there is traffic and in five to seven minutes when there is no traffic.[26] This is fatal to appellant's defense of alibi. For this reason, it is unnecessary to delve into the lapses in the testimonies of Manuel Garcia and Sergio Tuliao which appear to have been overlooked by the prosecution, the defense and even the trial court. Both witnesses testified that they were with appellant in the evening of June 20, 1997 until dawn of June 21, 1997 instead of from June 19, 1997 to June 20, 1997 as claimed by appellant. We shall no longer determine whether the said lapse was an innocent mistake on the part of the witnesses or an indication that the alibi of appellant was a self-serving assertion sans credible corroborative evidence.

With regard to the second assignment of error, appellant contends that the trial court erred in appreciating treachery as a qualifying circumstance for the following reasons: (1) there was no showing that he consciously and deliberately adopted the means, method or form of his attack; (2) the trial court merely speculated that the victim was defenseless because "a person urinating must be holding his thing"; (3) the victim was duly forewarned as Norma Padilla testified that "in the month of May, 1997, Celso Reynes warned Claro that he will shoot him"; and (4) Norma Padilla may not have seen the commencement of the assault, as not a single slug was recovered from the crime scene.

The arguments fail to convince us. The trial court correctly appreciated treachery to qualify the killing to murder. Two conditions must concur to constitute treachery, to wit: (1) the employment of means of execution that gives the person attacked no opportunity to defend himself or to retaliate; and (2) deliberate or conscious adoption of the means of execution.[27] The characteristic and unmistakable manifestation of treachery is the deliberate, sudden and unexpected attack on the victim, without warning and without giving him an opportunity to defend himself or repel the initial assault.[28]

The attack on the victim Claro Bernardino was undoubtedly sudden and unexpected and prevented the unsuspecting victim, who was then unarmed and urinating outside his home in the middle of the night, from defending himself. Appellant's act of showing up in the middle of the night outside the house of the victim with a loaded firearm and firing the same without warning, clearly indicates that appellant consciously and deliberately adopted his mode of attack. The warning that appellant allegedly gave the victim a month before the actual shooting does not count. It was established that at the time of the shooting, the victim was totally unprepared for the attack and had no weapon to resist the attack.

We are similarly unimpressed by appellant's claim that Norma could not have seen the initial assault since no

slugs were recovered from the crime scene. We have already evaluated Norma's testimony and find the same credible. Moreover, it is axiomatic that between the positive assertions of the prosecution witness and the negative averments of the appellant, the former indisputably deserve more credence and are entitled to greater evidentiary weight.[29]

While the guilt of appellant for the crime of murder has been established beyond reasonable doubt, we share the view of the Solicitor General that appellant should not be meted the supreme penalty of death. Murder exists when one of the circumstances described in Article 248 of the Revised Penal Code,[30] as amended by RA 7659, is present. When more than one of said circumstances is proven, the others must be considered as generic aggravating.[31] However, when the other circumstances are absorbed or included in one qualifying circumstance, they can not be considered as generic aggravating.[32] Certainly, once a circumstance is used to qualify a crime, the same could no longer be considered as generic aggravating.

Here, the Information alleged treachery, evident premeditation and the use of an unlicensed firearm in the commission of the crime. There was no attempt on the part of the prosecution to prove the presence of evident premeditation nor the use of an unlicensed firearm. Since treachery qualified the commission of the crime to murder, this circumstance could no longer be appreciated anew as a generic aggravating circumstance to warrant the imposition of the supreme penalty of death. The trial court seriously erred in considering treachery twice.

The penalty for the crime of murder is reclusion perpetua to death.[33] The two penalties being both indivisible, and there being neither mitigating nor aggravating circumstances in the commission of the deed, the lesser of the two penalties should be applied pursuant to the second paragraph of Article 63 of the Revised Penal Code.[34]

We grant civil indemnity in the amount of P50,000.00. This is automatically awarded without need of further evidence other than the fact of the victim's death.[35] We reduce the actual damages awarded by the trial court from P100,000.00 to P35,120.00, which reduced amount is duly supported by receipts.[36] It is settled that the Court can only give credence to expenses supported by receipts and which appear to have been genuinely incurred in connection with the death, wake and burial of the victim.[37] Moral damages in the amount of P50,000.00 is upheld in accordance with recent jurisprudence.[38] The victim's common-law wife stated that she was hurt by her husband's death and that the children lost their father.[39] The exemplary damages awarded by the trial court is eliminated considering that these can only be recovered in criminal cases when the crime is committed with one or more aggravating circumstances.[40] There is no aggravating circumstance in this case.

WHEREFORE, the July 13, 1998 Decision of the RTC of Urdaneta City, Pangasinan, Branch 46, is MODIFIED. Appellant Celso Reynes alias "Boy Baga" is found guilty beyond reasonable doubt of Murder and sentenced to reclusion perpetua instead of death. He is also ordered to pay the legal heirs of Claro Bernardino the amount of P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P35,120.00 as reimbursement for funeral expenses. The award for exemplary damages is DELETED.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Ynares-Santiago, De Leon, Jr., and Sandoval-Gutierrez, JJ., concur.
Puno, and Buena, JJ., abroad on official business.

[1] Penned by Judge Modesto C. Juanson.

[2] Records of Criminal Case No. U-9390, p. 4.

[3] Ibid, p. 46.

[4] Should be at a little past midnight of June 19, 1997 or in the early morning of June 20, 1997.

[5] Rollo, pp. 106-108.

[6] TSN, June 2, 1998, pp. 3-7.

[7] TSN, May 26, 1998, pp. 2-8.

[8] TSN, July 7, 1998, pp. 2-7.

[9] Rollo, pp. 28-29.

[10] Rollo, p. 31.

[11] Rollo, p. 66.

[12] RPC, Art. 248, as amended by RA 7659:

ART. 248. Murder. - Any person who, not falling within the provisions of Article 246, shall kill another, shall be guilty of murder and shall be punished by reclusion perpetua to death if committed with any of the following attendant circumstances:

- With treachery, by taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense, or of means or persons to insure or afford impunity;

- In consideration of a price, reward, or promise;

- By means of inundation, fire, poison, explosion, shipwreck, stranding of a vessel, derailment of or assault upon a railroad, fall of an airship, by means of motor vehicles, or with the use of any other means involving great waste and ruin;

- On occasion of any of the calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic, or other public calamity;

- With evident premeditation;

- With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse.

[13] TSN, April 13, 1998, pp. 4-7.

[14] TSN, April 15, 1998, pp. 4-7.

[15] Records of Criminal Case No. U-9390, Exh. "E", p. 87.

[16] TSN, April 28, 1998, pp. 16-17.

[17] People vs. Bihison, 308 SCRA 510 (1999).

[18] People vs. Salazar, 277 SCRA 67 (1997).

[19] People vs. Reyes, 309 SCRA 622 (1999).

[20] People vs. Bergonia, 273 SCRA 79 (1997).

[21] People vs. Sahagun, 274 SCRA 208 (1997).

[22] People vs. Tahop, 315 SCRA 465 (1999).

[23] People vs. Cario, 288 SCRA 404 (1998).

[24] People vs. Gondora, 265 SCRA 408 (1996).

[25] People vs. Baydo, 273 SCRA 526 (1997).

[26] TSN, June 3, 1998, p. 6.

[27] People vs. Serzo, Jr., 274 SCRA 553 (1997).

[28] People vs. Isleta, 264 SCRA 374 (1996).

[29] People vs. Chavez, 278 SCRA 230 (1997).

[30] Supra, see note 11.

[31] People vs. Danico, 208 SCRA 472 (1992).

[32] Luis B. Reyes, The Revised Penal Code, 14[TH] Ed., 1998, pp.473-474.

[33] Supra, see note 29.

[34] RPC, Art. 63:

ART. 63. Rules for the application of indivisible penalties. - In all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.

In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

- x x x

- When there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

- x x x

- x x x

[35] People vs. Salcedo, 273 SCRA 473 (1997).

[36] Records of Criminal Case No. U-9390; Exhs. B-3, p. 83; B-4, p. 84; and B-5, p. 85.

[37] People vs. Rosario, 246 SCRA 658 (1995).

[38] People vs. Tambis, 311 SCRA 430 (1999).

[39] TSN, April 13, 1998, p. 8.

[40] People vs. Sagaysay, 308 SCRA 455 (1999); People vs. Bermudez, 309 SCRA 124 (1999).

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