

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. BERLITO TUMANON, CARLO TUMANON, BARBARA TUMANON, JUNREL TUMANON, AND WINNIE TABIOLO, ACCUSED-APPELLANTS.*G.R. No. 135066. February 15, 2001*

Ponente: MENDOZA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-135066/>**MENDOZA, J.:**

This is an appeal from the decision[1] of the Regional Trial Court, Branch 2, Kalibo, Aklan, finding accused-appellants guilty beyond reasonable doubt of the murder of Rany Bautista on October 19, 1997 and sentencing accused-appellants Berlito Tumanon, Barbara Tumanon and Winnie Tabiolo to suffer the penalty of reclusion perpetua and accused-appellants Carlo Tumanon and Junrel Tumanon, minors at the time of the commission of the crime, to suffer the penalty of 12 years of prision mayor as minimum to 17 years and 4 months of reclusion temporal as maximum, and 6 years of prision correccional, as minimum, to 10 years of prision mayor, medium period, as maximum, respectively. The trial court further ordered accused-appellants jointly and severally to indemnify the heirs of the victim in the amount of P50,000.00 and to pay the amounts of P17,050.00 for the tomb and funeral expenses, and P50,000.00 as moral damages, all without subsidiary imprisonment in case of insolvency, and the costs of the suit. With respect to Carlo and Junrel Tumanon, the trial court suspended their sentences and ordered their commitment to the custody and care of the Department of Social Welfare and Development until they attained the legal age, or a shorter period as it sees fit after considering the report and recommendation of the said office.

The information against accused-appellants charges as follows:

That on or about the 19th day of October, 1997, in the early morning, in Barangay Tugas, Municipality of Makato, Province of Aklan, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, while armed with knives and bolo, with intent to kill and with treachery, evident premeditation and with abuse of superior strength, did then and there willfully, unlawfully and feloniously attack, assault, stab and bolo one RANY BAUTISTA, thereby inflicting upon the latter mortal wounds, to wit:

HEENT:

(+) hacking wound (5" in length x 2" in width x 3" in depth), temporo-occipital area, left

(+) hacking wound (5" in length x 2" in width x 3" in depth), mandibular area, left

(+) hacking wound (5" in length x 1" in width x 1" in depth), temporo-parietal area, left

CHEST:

(+) stab wound (1" in length x 1" in width x 5" in depth), 3rd intercostal space (ICS), parasternal line, left traversing the following: lungs, heart

(+) stab wound (1" in length x 1" in width x 6" in depth), 6th intercostal space, midclavicular line, left,

traversing the: stomach

(+) stab wound (1 1/2" in length x 1" in width x 5" in depth), 9th intercostal space, midclavicular line, right, traversing the liver

(+) stab wound (2" in length x 1" in width x 5" in depth), 5th intercostal space, parasternal line, right, traversing the: lungs, liver

(+) stab wound (1" in length x 1" in width x 5" in depth), 4th intercostal space, parasternal line, right, traversing the: lungs, heart

(+) stab wound (1" in length x 1" in width x 5" in depth), 3rd intercostal space, parasternal line, right, traversing the: lungs, heart

(+) stab wound (1" in length x 1" in width x 1" in depth), 2nd intercostal space, midclavicular line, left traversing the: lungs

(+) stab wound (1/2" in length x 1/2" in width x 2" in depth), 2nd intercostal space, parasternal line, left traversing the: lungs

(+) stab wound (1/2" in length x 1/2" in width x 2" in depth), 1st intercostal space, parasternal line, left

ABDOMEN:

(+) stab wound (1" in length x 1" in width x 6" in depth), epigastric area, traversing the: stomach and liver

(+) stab wound (1 1/2" in length x 1" in width x 4" in depth), periumbilical area, right with intestinal evisceration

BACK:

(+) hacking wound (5" in length x 2" in width x 2" in depth), scapular area, left

(+) hacking wound (5" in length x 2" in width x 2" in depth), infrascapular area, left

(+) stab wound (1" in length x 1" in width x 1" in depth), vertebral column (level of L2)

(+) stab wound (1" in length x 1" in width x 1" in depth), vertebral column (level of L3)

(+) hacking wound (3" in length x 1" in width x 2" in depth), lumbar area, left

EXTREMITIES:

(+) hacking wound (3' in length x 2" in width x 2" in depth), palmar aspect, hand, right

(+) stab wound (1" in length x 1" in width x 1" in depth), M/3 anterolateral aspect, arm, right

(+) stab wound (1" in length x 1" in width x 1/2" in depth), M/3, posterolateral aspect, forearm, left

(+) stab wound (1" in length x 1" in width x 3" in depth), M/3 posterolateral aspect, forearm, right

(+) stab wound (1" in length x 1" in width x 1" in depth), D/3, posterolateral aspect, thigh, right.

as per the Medical Certificate and Certificate of Death issued by Dr. Rane L. Tabañar, Municipal Health Officer, Makato, Aklan, hereto attached and forming integral parts of this information, which wounds directly caused the death of the said RANY BAUTISTA.

That as a result of the criminal acts of the accused, the heirs of the deceased suffered actual and compensatory damages in the amount of FIFTY THOUSAND PESOS (P50,000.00).

CONTRARY TO LAW.[2]

Accused-appellant Berlito Tumanon surrendered to the police authorities, bringing with him his bolo and the knife he allegedly got from the possession of the victim.[3] During the plea bargaining, Berlito offered to plead guilty only to the crime of homicide on the ground of incomplete self-defense with the condition that the charge against all of his co-accused be dropped.[4] The prosecution, however, did not agree, for which reason all of accused-appellants entered a plea of not guilty.[5] During the pre-trial conference, the prosecution stipulated with the defense that Berlito Tumanon voluntarily surrendered to the police authorities[6] and that Carlo and Junrel Tumanon were both minors, 17 and 14, respectively, at the time of the commission of the crime.[7] Thereafter, trial was held.

An eyewitness, Warren Tapao testified that on October 18, 1997, around 9 p.m., he and the victim Rany Bautista attended a dance at the Multi-Purpose Pavement at Barangay Tugas, Makato, Aklan. At around 2:10 a.m. of October 19, 1997, they went home passing by the provincial road. As they neared the house of Berlito's parents, Warren noticed accused-appellants who, with the exception of Barbara Tumanon, were all armed with bladed weapons. Berlito was holding a bolo and a knife, while Carlo and Junrel Tumanon and Winnie Tabiolo were each holding a knife. As Warren and Rany approached the group their way was blocked. Berlito attempted to stab Rany, but the latter fled towards the ricefield of Angeles Tinagan. He was chased by accused-appellants. Warren said he followed and hid near a chapel to see what accused-appellants would do. According to Warren, Winnie Tabiolo was the first one to catch up with Rany. Winnie stabbed Rany at the back. He was followed by Carlo Tumanon, who stabbed the victim on the breast. Then Barbara, Junrel, and Berlito Tumanon arrived. Junrel stabbed Rany while Berlito struck him with his bolo. As accused-appellants did this, Barbara looked on.[8]

Felix Custodio said the victim cried for help as accused-appellants assaulted him. Felix was then in the house of Reymundo Timonera. Felix said he went to the rice field and saw Rany being attacked by the four male accused-appellants.[9] He heard Barbara remark that Rany was already dead, and Berlito confirmed this. Accused-appellants then left. [10]

Warren went home and told his mother what he had witnessed. He was told not to go out and talk about the incident because accused-appellants might harm him.[11] On the other hand, Felix went back to the house of Reymundo Timonera and told the latter what he had seen and asked him to put out the wicklamp. At about 4 a.m., Felix went home and told his family about the incident.[12]

At around 5 a.m. of October 19, 1997, Warren and Felix returned to the crime scene and told the police investigator, PO2 Ferdinand Relayson, what they had witnessed.[13] Later that same morning, around 10 a.m., the two witnesses and Reymundo Timonera went to the police station and executed affidavits.[14] Meanwhile, an autopsy was conducted on the body of Rany Bautista. Dr. Rane Tabañar, Municipal Health Officer of Makato, Aklan found that Rany sustained 24 hack and stab wounds,[15] causing hemorrhage and cardio-respiratory arrest which resulted in Rany's death.

Testifying in their defense, accused-appellant Berlito Tumanon said that, on the night of October 18, 1997, at around 9:30 p.m., he was at a dance at the Multi-Purpose Pavement at Barangay Tugas, Makato, Aklan, where he met accused-appellant Winnie Tabiolo and the latter's brother Danilo. He claimed that they went home passing along a path. Berlito said that after arriving home at about 12:30 a.m., he changed clothes, ate supper, and went to sleep. After a while, he woke up because he had to let the water into the fishpond of his elder sister. He brought his bolo so that he could make pisak (a wooden contraption to prevent the water from leaking through the sluice gate of the fish pond). After filling the pond with water, he went to the house of his parents where his younger sister, accused-appellant Barbara Tumanon, his younger brother, accused-appellant Carlo Tumanon, and his son,

accused-appellant Junrel Tumanon, were staying. Berlito wanted his son Junrel to help him harvest the fish from the bakong (fish traps). On his way to his parents' house, Berlito said he met the victim Rany Bautista, who called out "Hoe-hoe!" (Stop!), drew a knife, and stabbed him. Rany missed. To defend himself, Berlito claimed he grappled with Rany for the possession of the knife, sustaining a cut in the back of his head and between his fingers in the process. In the end, Berlito succeeded in taking the knife and stabbing Rany with it. Berlito said he was about to leave, but he noticed Rany move. Berlito therefore struck Rany several times with his bolo until the latter was dead. Berlito took the knife and his bolo and went home. He woke up his wife and children and took them to the house of his brother-in-law in Barangay Dumga about a kilometer away for fear of retaliation. Berlito recounted to his family what had happened. He then went to the house of a councilwoman, Maria, and informed her about the incident and that he was surrendering to the authorities. The councilwoman accompanied Berlito to the barangay captain, who turned him over to the police. Berlito was later taken to the Dr. Rafael S. Tumbokon Memorial Hospital where he was treated by Dr. Querubin Iguban for his injuries.[16]

Dr. Iguban indicated in his medical report[17] that Berlito suffered multiple skin-deep incised wounds in his right upper hand and the left parietal side of his head and a stab wound at the right side of his head.[18]

Accused-appellant Winnie Tabiolo denied involvement in the killing of Rany Bautista. He testified that, from the dance, he went home with his brother Danilo and Berlito Tumanon around midnight of October 18, 1997. They parted ways near the house of Anthony Tapleras. Winnie claimed that after arriving home at around 12:30 a.m. he and Danilo went to sleep. Winnie claimed that when he woke up at 7 a.m. of the next day, he was drawn to a crowd on the national road. He saw a dead person being carried on a hammock and recognized the dead person to be Rany Bautista.[19]

Winnie's testimony was corroborated by his father. Winston claimed that his sons arrived home at 12:30 a.m. on October 19, 1997 and that they did not leave the house again.[20]

Accused-appellants Carlo and Junrel and Barbara Tumanon likewise denied participation in the killing of Rany Bautista. Carlo and Junrel claimed that they went to the dance on October 18, 1997 at around 8 p.m. and left at about 11 p.m. They reached the house of Berlito's parents, where they were both staying, at around midnight. Barbara claimed that she never left that night. She said she was awakened at 6 a.m. of October 19, 1997 by the noise of the people outside who were talking about Rany Bautista. She then woke Carlo and Junrel from their sleep. They were told of the killing at noontime by Crisanta Tabiolo.[21]

Accused-appellants' allegation that it was only Berlito Tumanon who was responsible for the victim's death was affirmed by Anthony Tapleras, who claimed to have witnessed the incident. Anthony testified that he was sleeping in his house on the night of October 18, 1997. He said he was awakened at about 2:30 a.m. on October 19, 1997 by Rany Bautista crying out, "Tong, Tong, Tong!" [22] Rany also said, "Tong, Tong, I will pay you P20,000.00! Tay Mondoy, help!" Anthony said he went to the terrace of his house to see what was happening outside. He went near the fence and saw two persons in combat. Later, he saw Berlito stand up from the ground. Anthony told his mother what he had seen. He was told not to talk about the incident.

Just the same, Anthony said, he went to the barangay captain, Rexes Custodio, at around 2:45 a.m. to 3 a.m. to report the matter. The barangay captain took him to the police station, where he gave a sworn statement. Anthony said he went to the crime scene at 5 a.m. but went home immediately. At 6 a.m. of that same day, he returned to the place where he heard Warren Tapao saying that he (Warren) had not seen anything unusual happen on that day.[23]

On May 25, 1998, the trial court rendered its decision, the dispositive portion of which reads:

WHEREFORE, this Court finds all the accused GUILTY beyond reasonable doubt of the crime of murder,

defined and penalized under Article 248 of the Revised Penal Code, as amended by R.A. 7659, and hereby sentences them as follows:

- Accused Berlito Tumanon, albeit the penalty prescribed by law for murder is reclusion perpetua to death, his voluntary surrender to the authorities having been proven with no aggravating circumstances to offset the same, is hereby appreciated in his favor and accordingly sentences him to the penalty of Reclusion Perpetua, in accordance with Art. 63, par. three (3), of the Revised Penal Code, which states:

"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:

"1. x x x x x

"2. x x x x x

"3. When the commission of the act is attended by some mitigating circumstance and there is no aggravating circumstance, the lesser penalty shall be applied."

Considering that 'Reclusion Perpetua to Death' are two indivisible penalties and there is no aggravating but one mitigating circumstance present in this case, the lesser penalty which is Reclusion Perpetua should be imposed on accused Berlito Tumanon;

- Accused Barbara Tumanon is hereby sentenced to the penalty of Reclusion Perpetua also applying Art. 248 in relation to Art. 63, par. two (2) of the same Code which states:

"1. x x x x x

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

- Accused Winnie Tabiolo is hereby sentenced to the penalty of Reclusion Perpetua based on the same rule applied to Barbara Tumanon;

- Accused Carlo Tumanon who, at the time of the commission of the crime on October 19, 1997 was only 17 years old as per the evidence on record, is hereby sentenced to the penalty applying the Indeterminate Sentence Law, from 12 years of Prison Mayor as the minimum to 17 years and 4 months of Reclusion Temporal as its maximum.

The law provides that if a convict is 15 years or over but under 18 years of age at the time of the commission of the crime, the penalty next lower than that prescribed by law shall be imposed, but always in the proper period (Art. 68 (2), Revised Penal Code).

The Court treats, applies and considers this in relation also to Art. 61, subpar. (2) of the Revised Penal Code which provides:

"When the penalty prescribed for the crime is composed of two indivisible penalties x x x, the penalty next lower in degree shall be that immediately following the lesser of the penalties prescribed in the respective graduated scale;"

- Accused Junrel Tumanon, who per the evidence on record was only 14 years old at the time of the commission of the crime on October 19, 1997, but he acted with discernment as this Court carefully observed him all throughout the hearings, is hereby sentenced to the penalty under the Indeterminate Sentence Law, from 6 years of Prison Correccional as the minimum to 10 years of Prison Mayor, medium period, as the maximum.

The above penalty is based on the offense he stands charged and convicted under Art. 248 of the Revised Penal

Code in relation to Art. 68, par. (1) of the same Code, which provides:

"Upon a person under 15 but over nine years of age, who is not exempted from liability by reason of the court having declared that he acted with discernment, a discretionary penalty shall be imposed, but always lower by two degrees at least than that prescribed by law for the crime he committed."

The penalty next lower by two degrees for the crime he committed is Prison Mayor.

Albeit the law says: "discretionary penalty as long as lower by two degrees", nevertheless, it is but just that the maximum be taken from Prison Mayor, medium period, since there was neither mitigating nor aggravating circumstances in this particular case.

Applying the Indeterminate Sentence Law (Act No. 4103, sec. 1) therefor, the minimum of the penalty should be taken from the penalty next lower in degree from where the maximum of the penalty was taken (Prison Mayor). Thus, the minimum should be taken from Prison Correccional. Hence, 6 years of Prison Correccional as the minimum penalty up to 10 years of Prison Mayor, medium, as the maximum penalty for minor Junrel Tumanon; and

- Ordering all the accused jointly and severally, to indemnify the heirs of Rany Bautista the amount of P50,000.00 as the minimum for the loss of human life; P17,050.00 for the tomb and funeral expenses of the deceased which are supported by receipts; P50,000.00 for moral damages, without subsidiary imprisonment in case of insolvency in view of the nature of the offense; and

- To pay the Costs.

This Court, however, in accordance with the provisions of P.D. 603, as amended, insofar as minors Carlo Tumanon and Junrel Tumanon are concerned, upon their application, finding the best interest of the public and theirs, will be served thereby, hereby suspends the sentence against them and orders their commitment to the custody and care of the Department of Social Services and Development until they shall have attained the legal age, or for a shorter period as the Court may deem proper after considering the report and recommendation of that office.

SO ORDERED.[24]

Assailing the trial court's decision, accused-appellants contend that-

- THE TRIAL COURT GRAVELY ERRED IN APPRECIATING THE QUALIFYING CIRCUMSTANCE OF 'SUPERIOR STRENGTH'.
- THE TRIAL COURT GRAVELY ERRED IN CONVICTING ALL OF THE ACCUSED OF THE CRIME OF MURDER BASED ON CONSPIRACY.
- THE TRIAL COURT GRAVELY ERRED IN DISREGARDING THE PLEA OF SELF-DEFENSE OF THE ACCUSED BERLITO TUMANON.[25]

We find the contentions of accused-appellants without merit.

First. Accused-appellants argue that the trial court erred in appreciating the aggravating circumstance of abuse of superior strength, qualifying the offense to murder, because Barbara Tumanon did not participate in the stabbing and hacking of Rany Bautista while the other accused-appellants acted independently in attacking the victim.

To take advantage of superior strength is to use force out of proportion to the means available to the person attacked to defend himself. In order to be appreciated, it must be clearly shown that there was deliberate intent on

the part of the malefactors to take advantage thereof.[26] In this case, as testified to by prosecution eyewitnesses Warren Tapao and Felix Custodio, accused-appellants, with the exception of Barbara Tumanon, were armed with bladed weapons which they used against an unarmed victim. Warren's declaration that when accused-appellants caught up with the victim in the ricefield they attacked him one after another does not negate the existence of this aggravating circumstance. To the contrary, it shows that accused-appellants took advantage of their superiority in number and arms in killing their victim, as shown by the number of wounds the latter suffered in different parts of his body. Indeed, the evidence shows that accused-appellants stopped striking their victim only when Barbara Tumanon said the victim was already dead.

Second. Accused-appellants contend that conspiracy was not proven considering that the attack on Rany Bautista was not done simultaneously, and it was not shown that accused-appellants, especially Barbara Tumanon who did not inflict any physical harm upon the victim, acted in concert.

Contrary to their claim, accused-appellants acted in concert in attacking their victim. When the victim Rany fled towards the rice fields to escape his assailants, accused-appellants pursued him and, when they caught up with him, they took turns in stabbing and hacking him until he was dead. While Barbara Tumanon did not strike a single blow, her presence nevertheless gave moral assistance to her companions. That Barbara coalesced with the other accused-appellants in their objective to kill Rany is shown by the fact that her companions stopped attacking Rany only after she told them the victim was already dead. Where the acts of the accused collectively and individually demonstrate the existence of a common design towards the accomplishment of the same unlawful purpose, conspiracy is evident.[27] It is not necessary that there be a previous plan or agreement to commit the assault; it is sufficient that, at the time of the aggression, all the accused, by their acts, gave evidence of common intent to kill the victim, so that the act of one becomes the act of all and all of them will thus be liable as principals.[28]

Third. Accused-appellants contend that the weight of evidence is in their favor. They raise a question of credibility of the witnesses.

To begin with, this Court has ruled that the trial court's assessment of the credibility of witnesses is accorded great weight and even deemed conclusive and binding, unless tainted with arbitrariness or oversight of some fact or circumstance of weight or substance.[29] This is so because the trial judge has the unique opportunity to observe the witnesses firsthand and note their demeanor, conduct, and attitude under grueling examination.[30]

In the case at bar, the trial court correctly upheld the testimonies of the two eyewitness, Warren Tapao and Felix Custodio. Both positively identified accused-appellants as the culprits in the killing of Rany Bautista. Their narration of the events leading to the victim's death corroborated each other. Both remained steadfast even in the face of rigorous cross-examination. There was no evidence of ill motive for them to testify falsely against accused-appellants. In fact, accused-appellants Barbara Tumanon and Winnie Tabiolo admitted that they did not know of any reason or motive for the said eyewitnesses to implicate them as responsible for the death of Rany Bautista.[31] Where there is no evidence showing devious reasons or improper motives why the prosecution witnesses would falsely testify against accused-appellants or implicate them in a heinous crime, their testimonies are worthy of full faith and credit.[32] Furthermore, it is unlikely that these witnesses could relate all the details of the crime with clarity and lucidity if they had not really witnessed the killing of Rany Bautista.[33]

On the other hand, the trial court correctly rejected Berlito Tumanon's claim of self-defense. For self-defense to be appreciated, there must be (1) unlawful aggression on the part of the victim; (2) reasonable necessity of the means employed to prevent or repel it; and (3) lack of sufficient provocation on the part of the person defending himself.[34] On the basis of the attending circumstances of this case, none of the said requisites were present.

The fact that Rany Bautista sustained 24 wounds in various parts of his body belie Berlito Tumanon's claim of self-defense. The nature and number of wounds are constantly and unremittingly considered important incidents which disprove a plea of self defense.[35] Also, for one who is younger, taller, and stronger than Berlito Tumanon, it boggles the mind why Rany Bautista should be overpowered in an alleged struggle for the possession of a knife. If indeed Berlito Tumanon was unaided by the other accused-appellants, it is unbelievable that he suffered only skin-deep incised wounds. As correctly pointed out by the trial court, Berlito's assertion that he was able to overcome Rany because the latter was drunk is not corroborated by the autopsy findings. Even assuming that Rany did attack him, Berlito had no reason to kill the victim after successfully taking the knife from Rany. Basic is the rule that when unlawful aggression ceases, the defender no longer has the right to kill or even wound the former aggressor.[36]

In addition, the denials and alibis of the other accused-appellants cannot be sustained in the light of their positive identification by the two prosecution eyewitnesses.[37] For alibi to prosper, it is not enough for accused-appellants to prove that they were somewhere else when the crime occurred but they must also demonstrate that it was physically impossible for them to have been at the scene of the crime.[38] In this case, it was established that the place where accused-appellants claimed they were and the place where Rany Bautista was killed are in the same barangay and the distances between the two places may even be negotiated on foot.

Contrary to the accused-appellant's claim, Berlito Tumanon is not entitled to the mitigating circumstance of plea of guilt. As the records show, Berlito pleaded not guilty to the offense of murder because the prosecution refused his offer to plead guilty only to the crime of homicide with the condition that the charge against the rest of accused-appellants be dropped.

Nor is there basis for accused-appellants' claim that they should be credited for surrendering. For the fact is that the trial court did credit them with this mitigating circumstance. They have simply overlooked that the assailed decision of the trial court states that the same has already been appreciated.[39]

Considering the facts of this case, we find that the trial court imposed the correct penalties. Since the penalty imposable for murder is reclusion perpetua to death, both of which are indivisible penalties, and Berlito Tumanon was entitled to the mitigating circumstance of voluntary surrender, the trial court correctly sentenced him to the penalty of reclusion perpetua pursuant to Art. 63, paragraph 3 of the Revised Penal Code. With respect to Barbara Tumanon and Winnie Tabiolo, the trial court likewise correctly sentenced them, respectively, to suffer the penalty of reclusion perpetua, applying Art. 248, in relation to Art. 63, paragraph 2, of the Revised Penal Code as there was neither mitigating nor aggravating circumstance attendant in their commission of the crime. Carlo Tumanon, who was 17 years old at the time of the commission of the crime, is entitled to the privilege mitigating circumstance of minority under Article 68, paragraph 2 of the Revised Penal Code, thus lowering his penalty by one degree. Applying the Indeterminate Sentence Law, the trial court properly sentenced him to suffer the penalty of 12 years of prision mayor, as minimum, to 17 years and 4 months of reclusion temporal, as maximum. Finally, Junrel Tumanon, who was 14 years old at the time of the commission of the crime but was also found to have acted with discernment, is entitled to the privilege mitigating circumstance of minority under Art. 68, paragraph 1 of the Revised Penal Code. He is entitled to a penalty two degrees lower than his co-conspirators. Applying the Indeterminate Sentence Law, Junrel Tumanon was properly sentenced to suffer the penalty of 6 years of prision correccional, as minimum, to 10 years of prision mayor, as maximum.

Anent the award of damages, the trial court correctly held accused-appellants jointly and severally liable to pay the heirs of Rany Bautista the amount of P17,050.00 as actual damages, this amount being supported by receipts.[40] The award of P50,000.00 as civil indemnity for murder is in consonance with our current rulings.[41] The award of P50,000.00 for as moral damages is based on the fact of death and needs no further

proof.[42]

WHEREFORE, the decision of the Regional Trial Court, Branch 2, Kalibo, Aklan, finding accused-appellants Berlito Tumanon, Carlo Tumanon, Barbara Tumanon, Junrel Tumanon and Winnie Tabiolo guilty of murder, is hereby AFFIRMED.

SO ORDERED.

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

[1] Per Judge Tomas R. Romaquin.

[2] Rollo, pp. 9-11.

[3] Exh. 5.

[4] TSN, p. 9, Feb. 24, 1998.

[5] Certificates of Arraignment; Records, pp. 63-67.

[6] TSN, pp. 11-12, Feb. 24, 1998.

[7] TSN, pp. 6-7, Feb. 27, 1998.

[8] TSN (Warren Tapao), pp. 10-20, Mar. 5, 1998.

[9] TSN (Felix Custodio), pp. 11-13, Mar. 4, 1998.

[10] Id., pp. 13-15; TSN (Warren Tapao), pp. 17-18, Mar. 5, 1998.

[11] TSN (Warren Tapao), pp. 20-21, Mar. 5, 1998.

[12] TSN (Felix Custodio), pp. 17-18, Mar. 4, 1998.

[13] Id., pp. 18-19; TSN (Warren Tapao), p. 22, Mar. 5, 1998.

[14] Exhs. D, E, and F.

[15] Said wounds were specifically enumerated in the information.

[16] TSN (Berlito Tumanon), pp. 6-28, May 5, 1998.

[17] Exh. 3.

[18] TSN (Dr. Querubin Iguban), pp. 5-8, Mar. 25, 1998.

[19] Id., pp. 14-21.

[20] TSN (Winston Tabiolo), pp. 3-6, Mar. 19, 1998.

[21] Id., pp. 15-19; TSN (Junrel Tumanon), pp. 3-8, Mar. 20, 1998; TSN (Barbara Tumanon), pp. 5-19, Mar. 24, 1998.

[22] According to the witness, Berlito Tumanon was fondly called "Tong" in the neighborhood.

[23] TSN (Anthony Tapleras), pp. 3-26, Mar. 17, 1998.

[24] Rollo, pp. 41-43.

- [25] *Id.*, p. 61.
- [26] *People v. Agsunod, Jr.*, 306 SCRA 612 (1999).
- [27] *People v. Bitoon, Sr.*, 309 SCRA 209 (1999).
- [28] *People v. Sanchez*, 313 SCRA 254 (1999).
- [29] *People v. Perez*, 313 SCRA 544 (1999).
- [30] *People v. De los Santos*, 315 SCRA 579 (1999).
- [31] TSN (Barbara Tumanon), pp. 32-33, Mar. 24, 1998; TSN (Winnie Tabiolo), pp. 30-32, Mar. 25, 1998.
- [32] *People v. Gayomma*, 315 SCRA 639 (1999).
- [33] *People v. Francisco*, 315 SCRA 114 (1999).
- [34] *People v. Timblor*, 285 SCRA 64 (1998).
- [35] *People v. Cañete*, 287 SCRA 490 (1998).
- [36] *People v. Cawaling*, 293 SCRA 267 (1998).
- [37] *People v. Francisco*, 315 SCRA 114 (1999).
- [38] *People v. Rabang, Jr.*, 315 SCRA 451 (1999).
- [39] Rollo, p. 41.
- [40] Exhs. Q, R, S, T, and T-1 to T-14.
- [41] E.g., *People v. Cupino, et al.*, G.R. No. 125688, Apr. 3, 2000.
- [42] *People v. Atrejenio*, 310 SCRA 229 (1999).

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