

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MANUEL GALVEZ Y ESTANISLAO, ACCUSED-APPELLANT.

G.R. No. 136790. March 26, 2001

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is an appeal from the decision,[1] dated November 18, 1998, of the Regional Trial Court, Branch 127, Caloocan City, finding accused-appellant Manuel Galvez y Estanislao guilty beyond reasonable doubt of the crime of murder and sentencing him to suffer the penalty of reclusion perpetua and to pay the legal heirs of the victim P50,000.00 as indemnity, P30,000.00 as actual damages, P30,000.00 as moral damages, P30,000.00 as exemplary damages, and the costs.

The information against accused-appellant Galvez alleged --

That on or about the 9th day of May 1998 in Caloocan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, without any justifiable cause, with deliberate intent to kill, with treachery and evident premeditation, did then and there wilfully, unlawfully, and feloniously attack, assault, and stab with a bladed weapon on the back portion of his body one ROMEN CASTRO y BROQUISA, which injuries eventually caused his death.

CONTRARY TO LAW.[2]

As accused-appellant pleaded not guilty to the charge, the trial court proceeded with trial on the merits.[3]

The prosecution presented the following witnesses: Danilo Julia, Dr. Ludovico Lagat, Arturo Saligumba, Reynaldo Castro, Loreto Palad, Alvin Adolfo, SPO2 Vivencio Gamboa, and PO3 Feliciano Almojuela. On the other hand, the defense presented Elmer Aguilar, accused-appellant Galvez, Edwin Mangalabanan, SPO1 Alberto Lizarondo, Elena Javier, and Epida Galvez as its witnesses.

The prosecution evidence established the following facts:

At around 11:30 in the evening of May 9, 1998, Danilo Julia, Loreto Palad, and Alvin Adolfo were at a local fair inside the DM Compound in Heroes del 98, Caloocan City. Danilo Julia was playing bingo, while Loreto Palad, Alvin Adolfo, and the victim Romen Castro[4] were playing a game where they would throw 25 centavo coins in one of the stalls. Loreto Palad was on the left side facing the stall, while Romen Castro was on his left side. Danilo Julia was around three meters away. After a while, five men arrived, including accused-appellant Manuel Galvez. Two of the men approached Romen Castro, while the other two men served as lookouts. Accused-appellant Manuel Galvez then went up directly to Romen Castro and stabbed him at the back with a knife. Accused-appellant afterward threw the knife away and then fled with his companions. Loreto Palad saw Romen Castro fall to the ground, seriously wounded. With the help of Danilo Julia, Loreto Palad took the victim to the Ospital ng Caloocan, where he was declared dead on arrival. Danilo and Loreto then informed the relatives of the victim that the latter had died. Danilo Julia did not know Galvez's companions but he was able to recognize

accused-appellant because the place where the stabbing took place was well-lighted. The other prosecution witness, Alvin Adolfo, was around three arm lengths away from Castro and Galvez and saw the entire incident.[5]

On the other hand, PO3 Feliciano Almojuela testified that he was on duty on the night of May 9, 1998 when he received a report of the incident. He and another policeman, SPO1 Edgardo Mendoza, went to the Caloocan City General Hospital to view the body of the victim and later proceeded to the scene of the crime where they found bloodstains on the cemented pavement near the gate of the DM Compound. Upon investigation, they learned that the assailant of Romen Castro was accused-appellant Manuel Galvez. They were not able to arrest Galvez for lack of knowledge of his whereabouts.[6]

Reynaldo Castro, brother of the victim, testified that the day after his brother's death, two policemen arrived in his house with accused-appellant Galvez. Reynaldo Castro told them, however, that accused-appellant Galvez was not the one who stabbed his brother and should be released. The policemen, therefore, left and allowed Galvez to go. A few minutes after they had left, the people inside Reynaldo Castro's house began talking and told Reynaldo that accused-appellant Galvez was the one who had stabbed Romen Castro. Danilo Julia, Loreto Palad, Armando Rufo, and Alvin Adolfo, who were then in the house of Reynaldo Castro, pointed to accused-appellant Galvez as Romen's assailant. At the instance of Reynaldo, Arturo Saligumba, a barangay tanod, apprehended Manuel Galvez.

Arturo Saligumba admitted that Reynaldo did not have personal knowledge of Galvez's culpability but was only told by others about the stabbing. Saligumba explained that it was the policeman who actually arrested Galvez, and that he only took the latter to the headquarters.[7]

Saligumba's testimony was corroborated by SPO2 Vivencio Gamboa, investigator of the Station Investigation Division of the Caloocan City police, who testified that Barangay Tanod Saligumba turned over accused-appellant Galvez to him for investigation. Gamboa was the one who took the statements of Danilo Julia (Exh. A), Alvin Adolfo (Exh. H), Loreto Palad, Armando Rufo, Arturo Saligumba (Exh. F), and Maribel Oseña, sister of the victim (Exh. G). He also prepared the referral slip, dated May 10, 1998, for filing of the case for inquest proceedings (Exh. I).

On cross-examination, Gamboa explained that the statements of the witnesses were prepared only when accused-appellant Galvez was already in the custody of the police authorities. From the time he was brought to the police station, accused-appellant had been under detention, having been committed to the Caloocan City Jail during the inquest. Accused-appellant had not been released because no bail was recommended considering the charge against him. Gamboa stated that Saligumba did not tell him that Galvez was arrested on mere suspicion. Gamboa narrated that there were six suspects in the stabbing of Romen Castro, but they could not be found in their respective residences at the time of the initial investigation. Accused-appellant no longer had the opportunity to file his counter-affidavit as he was apprehended a day after the incident. During Gamboa's cross-examination, the prosecution stipulated that there was no warrant of arrest at the time Galvez was taken into custody by Saligumba. Gamboa also testified that there had been efforts to arrest the other suspects who were still at large. On re-direct examination, Gamboa explained that they inquired about the knife used by the assailant, but it could not be found because the incident occurred at nighttime. When questioned by the trial court, Gamboa also stated that he asked accused-appellant Galvez where the knife was, but the latter invoked his right to remain silent. During his investigation, Gamboa relied on the report of Almojuela and the affidavits executed by the witnesses.[8]

Dr. Ludovico Lagat, Medico-Legal Officer of the National Bureau of Investigation, conducted an autopsy on the body of Romen Castro. His report contained the following findings:

Postmortem rigidity, complete.

Pallor, generalized.

Livid, back.

Abrasions: 3.0 x 2.0 cm., forehead; 5.0 x 2.0 cm., left cheek; 3.0 x 3.0 cms., naso-labial area; 3.5 x 2.0 cm., left ante-cubital area; 4.0 x 1.5 cms., right scapular area; 1.0 x 0.3 cm., right lumbar area; 3.0 x 6.0 cms., left knee.

Stab wound: 3.0 cm., clean cut edges; with a sharp and blunt extremity; elliptical; located at the left lumbar area; 11.0 cm., from the posterior median line; directed forward downward and medially; involving the skin and underlying soft tissues; into the retroperitoneum; penetrating the left kidney (thru and thru); then entering the peritoneal cavity; and into the abdominal aorta; with a depth 10.0 cms.

Retroperitoneal hemorrhage, massive.

Visceral organs, pale.

Stomach, small amount of partially digested food particles.[9]

Dr. Lagat testified that only one stab wound was found on the body of the victim, although the latter also sustained several abrasions. The stab wound at the back was the fatal wound, as the kidney and the aorta were both damaged by it. According to Dr. Lagat, the stab wound was caused by a pointed sharp-bladed instrument, such as a knife. From the direction of the stab wound, which was from the back going forward, Dr. Lagat concluded that the assailant was at the back of the victim when the latter was stabbed. On cross-examination, Dr. Lagat stated that any injury found on the hands, such as the abrasions suffered by the victim in this case, could be considered defense wounds. Upon inquiry by the trial court, however, he explained further that the abrasions found on the victim could have been inflicted by the assailant or caused by the impact as the victim fell to the ground after he had been stabbed.[10]

It was stipulated during Reynaldo Castro's testimony that the family of the victim incurred P30,000.00 as actual damages for Romen Castro's wake and funeral expenses. Reynaldo likewise testified that Romen Castro was a construction worker earning a daily wage of P150.00 at the time of his death.[11]

Accused-appellant testified in his behalf, denying the allegations against him. He claimed that he was at his family's store in Monumento, Caloocan City on the night of May 9, 1998 and went home at around 11 o'clock in the evening to 1052 DM Compound, Caloocan City. He said that after eating supper he went out and had a talk with a neighbor until 12 midnight near their house. Their house was near the place where the fair was located, around a block away. He heard that a stone-throwing incident occurred that night but only learned that someone had been stabbed the following day. He said that at around 9 o'clock in the morning of that day, two policemen went to his house and told him that he was suspected of stabbing Romen Castro. They asked him to accompany them to Reynaldo Castro's house. To clear his name, accused-appellant agreed to do so but, upon arriving thereat, the people in the house told the policemen that he was not the one who killed Romen Castro because the one who did so was fair-complexioned and short. Although allegedly released, he was later forced by a barangay tanod to board a taxi and go to the police headquarters in Sangandaan, Caloocan City. There, he was told that he was a suspect in the killing of Romen Castro. He was not shown a warrant when he was arrested nor was he interviewed by the policemen at the headquarters.[12]

Elmer Aguilar, another witness for the defense, testified that he was at the fair at around 11:30 in the evening of May 9, 1998 when Romen Castro arrived. According to Aguilar, after Romen Castro's enemies arrived, a commotion ensued, with these people throwing stones and pieces of wood at the victim and the latter retaliating. Romen Castro tried to run, but his attackers, around five in all, were able to catch up with him, and he was stabbed by one of them on his left buttock. After stabbing their victim, the group ran away. Aguilar said that he did not see accused-appellant at the local fair that night and that the latter was not one of those who attacked and

killed Romen Castro.[13]

Corroborating accused-appellant's testimony are his neighbor Edwin Mangalabanan, his aunt Elena Javier, and his mother Epida Galvez. Edwin Mangalabanan claimed that he was in front of his house and exchanging stories with accused-appellant Manuel Galvez and another companion, Bensyo, from 11 o'clock in the evening to 12 midnight of May 9, 1998. They learned from passersby that someone was stabbed inside the DM Compound, but they did not know who the victim was.[14] Elena Javier recalled that at around 11:15 in the evening of May 9, 1998, she passed by a sari-sari store to buy something on her way home from a miting de avance. While walking towards the store, around 60 to 70 meters from the fair, she heard a person shouting that someone had been stabbed. At the store, she saw Manuel Galvez buying a cigarette. Accused-appellant was with someone named Dencio and a person whom Elena Javier did not know. Elena told Galvez not to go to the fair because something had happened there. She then proceeded home. When she looked back towards accused-appellant's direction, she saw the latter also on his way home. Elena Javier admitted that accused-appellant was her nephew.[15]

For her part, Epida Galvez, mother of accused-appellant, testified that she hurriedly left the miting de avance when she learned that some trouble occurred inside the DM Compound. She and her companion, Rosemarie Torres, had to pass by the fair on their way home. On the way, they saw someone boarding a tricycle, while another person, who was directing the traffic, was holding a knife. Epida Galvez identified the person who was directing the traffic as Saligumba, the barangay tanod. She then saw her son Manuel at the store, smoking a cigarette, and told him to go home. Accused-appellant was with Edwin Mangalabanan and someone named Dencio.[16]

SPO1 Alberto Lizarondo also testified for the defense. He testified that he and another policeman conducted a follow-up investigation of the stabbing incident on May 10, 1998. Inside the DM Compound, bystanders informed him that accused-appellant Galvez had stabbed Romen Castro. Lizarondo then fetched Galvez from the latter's house and told him to go with him to the house of the victim. Galvez agreed, but when they arrived, the people just looked at Galvez and did not point to him as the person responsible for the stabbing of Romen Castro. He therefore let Galvez go. Later that same day, Lizarondo said he saw Galvez in the police station. Lizarondo asked why Galvez was there, but the relatives of the victim and the other witnesses told him that the reason they said nothing when he asked them to identify Galvez was because of fear.[17]

Based on the evidence presented, the trial court rendered a decision, dated November 18, 1998, the dispositive portion of which states:

WHEREFORE premises considered and the prosecution having established to a moral certainty the guilty of Accused MANUEL GALVEZ Y ESTANISLAO of the crime of Murder as defined and penalized under Art. 248 of the Revised Penal Code as amended by RA 7659 and absent any generic aggravating or mitigating circumstances hereby sentences said accused to suffer the penalty of RECLUSION PERPETUA; to indemnify the legal heirs of the deceased the sum of P50,000.00 plus actual damages of P30,000.00 as well as moral and exemplary damages of P30,000.00 each and to pay the costs, without any subsidiary imprisonment in case of insolvency.

Accused's preventive imprisonment shall be credited in full in the service of his sentence in accordance with Art. 29 of the Revised Penal Code.

SO ORDERED.[18]

As his lone assignment of error, accused-appellant contends that the trial court erred in convicting him of murder despite the failure of the prosecution to establish his identity beyond reasonable doubt.[19]

First. Accused-appellant questions the legality of his arrest and alleges that it was based on hearsay evidence. He

maintains that he was arrested not because of the positive identification of the eyewitnesses but on the basis of the hearsay testimony of Reynaldo Castro.[20]

Accused-appellant's arrest was illegal. Arturo Saligumba admitted that he arrested Galvez on the basis solely of what Reynaldo Castro had told him and not because he saw accused-appellant commit the crime charged against him.[21] Indeed, the prosecution admitted that there was no warrant of arrest issued against accused-appellant when the latter was taken into custody.[22] Considering that accused-appellant was not committing a crime at the time he was arrested nor did the arresting officer have any personal knowledge of facts indicating that accused-appellant committed a crime, his arrest without a warrant cannot be justified.

By entering a plea of not guilty and participating actively in the trial, however, accused-appellant Galvez waived his right to raise the issue of the illegality of his arrest. It is now settled that objection to a warrant of arrest or the procedure by which a court acquires jurisdiction over the person of an accused must be made before he enters his plea, otherwise the objection is deemed waived.[23] The fact that the arrest was illegal does not render the subsequent proceedings void and deprive the State of its right to convict the guilty when all the facts point to the culpability of the accused.[24]

Second. Accused-appellant questions the credibility of eyewitnesses Danilo Julia, Alvin Adolfo, and Loreto Palad. He contends that they could not have seen the stabbing incident as the commotion took place only after the victim was stabbed. Accused-appellant makes much of their testimony that no commotion took place when the victim and the five malefactors arrived at the fair and that the commotion occurred only after Romen Castro was stabbed. Hence, he argues that they could not have observed the relative positions of the assailants and the victim since there was no reason for them to pay attention to these people. He further questions the testimonies of the eyewitnesses and asserts that Elmer Aguilar's testimony that a fight preceded the stabbing incident is more in accord with the finding of the autopsy that the victim suffered abrasion wounds.[25]

We find no merit in these contentions. Romen Castro was known to Danilo Julia, Loreto Palad, and Alvin Adolfo since they were all residents of DM Compound in Heroes del 96, Caloocan City, just like accused-appellant Galvez was. As such, the witnesses did not have to pay any particular interest to these people. It is but natural for them to recognize people whom they knew. Furthermore, Danilo Julia[26] and Loreto Palad[27] were only around three meters away from Romen Castro, while Alvin Adolfo was just three arm lengths away from the victim when the incident happened.[28] There was no need for any commotion before the eyewitnesses could notice the movements of the victim and his assailants. Considering their proximity, these eyewitnesses had every reason to notice the presence of Romen Castro and the arrival of the five men, one of whom was accused-appellant. Nor was it necessary for them to be alarmed by the five men since the latter were not doing anything illegal at that time. Only when they approached the victim and hemmed him in, while accused-appellant stabbed him did the eyewitnesses have reason to focus their attention on the assailants and notice the details of this startling event.

Where there is favorable lighting and the witnesses do not appear to be biased against the accused, their positive identification of the perpetrators should be accepted.[29] In the absence of evidence showing ill motive on the part of the prosecution witnesses, the logical conclusion is that no such improper motive exists and their testimonies are thus worthy of full faith and credit.[30]

It may be noted that while Danilo Julia[31] and Loreto Palad[32] testified that Romen Castro had been stabbed on the right side of his back, the autopsy report stated that the stab wound was located at the left lumbar area of the victim.[33] This single lapse on a minor detail cannot, however, undermine the credibility of these prosecution witnesses. Inconsistencies in the testimonies of prosecution witnesses are not an uncommon event, and acquittals have resulted in cases where the inconsistencies and self-contradictions dealt with material points as to altogether

erode the witnesses' credibility. But when such inconsistencies are minor in character, not only do they not detract from the credibility of the witnesses but they in fact enhance it for they erase any suggestion of a rehearsed testimony.[34]

In this case, the crime took place at a local fair, which was illuminated by fluorescent lights.[35] It was not shown that eyewitnesses Danilo Julia, Loreto Palad, and Alvin Adolfo, all of whom knew accused-appellant Galvez,[36] bore any grudge against the latter. They testified in a clear, categorical, and consistent manner that they saw accused-appellant stab the victim at the back. We further note that Alvin Adolfo testified that accused-appellant was at the left back side of Romen Castro when he stabbed the latter.[37] Their mistake concerning the location of the stab wound does not mean that they did not actually see the stabbing incident. Such mistake may be attributed more to the fickleness of human memory than to any attempt of the prosecution witnesses to perjure themselves.

Nor can the failure of the prosecution to present the murder weapon undermine the credibility of the prosecution witnesses. We have held that the failure of the prosecution to present as evidence the murder weapon is not fatal to its case because the positive identification of the eyewitnesses is sufficient to prove the culpability of the accused.[38] Considering the foregoing, we see no reason to disregard the testimonies of the prosecution witnesses and overturn the findings of the trial court.

Neither can we give credit to Edwin Aguilar's testimony. His testimony that a fight ensued prior to the stabbing of the victim cannot be given greater weight than the testimonies of the prosecution witnesses merely because of the presence of abrasions on the body of Romen Castro. While Dr. Lagat said the abrasions could have been caused by the victim's assailants, he also stated that these injuries also could have been due to the victim's fall after he had been stabbed.[39] To be sure, the abrasions found are consistent with the prosecution witnesses' testimony that the victim fell to the ground after being stabbed by accused-appellant Galvez.

Time and again we have held that the determination of the credibility of witnesses is a matter best to the trial court, since it is in the best position to observe the witnesses' demeanor, behavior, conduct, and attitude. Thus, unless the trial court overlooked facts of substance and value that, if considered, might change the outcome of the case, its findings command great weight and the utmost respect.[40] So it is in the case at bar.

Third. Accused-appellant sets great store on the testimony of SPO1 Alberto Lizarondo that the prosecution witnesses failed to identify accused-appellant as Romen Castro's assailant when he was presented before them in the house of Reynaldo Castro.[41]

Fear for one's life is a valid explanation for the witnesses' failure to immediately identify the perpetrator to the proper authorities. Such failure does not necessarily impair the credibility of the witnesses.[42] In the case at bar, the eyewitnesses, specifically Danilo Julia, Alvin Adolfo, Armando Rufo, and Loreto Palad, identified accused-appellant as the person who stabbed Romen Castro as soon as accused-appellant had left the house. Understandably, these witnesses, who had seen accused-appellant stab the victim, were afraid of accused-appellant and were hesitant to identify him face to face. But they lost no time in pointing to accused-appellant as Romen Castro's assailant as soon as accused-appellant had left. This only goes to show that their initial reluctance was due more to fear than to their inability to identify accused-appellant.

In contrast to the prosecution witnesses' positive identification, accused-appellant merely offers alibi as a defense. Alibi is an inherently weak defense and should be rejected when the identity of the accused has been sufficiently established by eyewitnesses.[43] For alibi to prosper, the defendant must prove not only that he was somewhere else when the crime was committed, but it must likewise be demonstrated that he could not have been physically present at the place where the crime was committed or its immediate vicinity at the time of its commission.[44] While accused-appellant in this case testified that he was at home at around 11:30 in the evening of May 9, 1998,

he admitted that his house was just a block away from where the fair was held.[45] Considering how near he was to the place where the crime was committed, accused-appellant's alibi cannot be given any value.

The same may be said of the corroborative testimonies of accused-appellant's aunt Elena Javier, his mother Epida Galvez, and his friend Edwin Mangalabanan. Corroborative testimony is not credible if tainted with bias, particularly in cases where the witnesses are so closely related to the accused as to be interested in his acquittal.[46] We realize that accused-appellant's witnesses consist of his friends and relatives. Considering that they are bound by friendship and family ties to accused-appellant, it is not inconceivable that they would be inclined to make excuses for him to help free him from culpability. In any event, Elena Javier[47] and Epida Galvez[48] both testified that they saw accused-appellant Galvez at the store after the stabbing incident. It is thus possible for accused-appellant to have committed the crime and go to the store near the place where the fair was located, to establish an alibi.

Fourth. Accused-appellant likewise insists that neither evident premeditation nor treachery attended the commission of the crime and that, at most, the crime committed was homicide.

We agree that evident premeditation cannot be taken against accused-appellant as there was no proof to show (1) the time when the offender determined to commit the crime; (2) an act manifestly indicating that the offender had clung to his determination; and (3) a sufficient lapse of time between the determination to commit the crime and the execution thereof to allow the offender time to reflect on the consequences of his act.[49] Where there is no evidence as to how and when the plan to kill was decided and what time had elapsed before it was carried out, evident premeditation cannot be considered as an aggravating circumstance.[50] Accused-appellant mistakenly thinks, however, that the trial court appreciated evident premeditation in the commission of the crime when the fact is that it did not.

We hold, however, that treachery attended the killing of Romen Castro. To prove treachery, the following must be established: (1) the employment of means of execution which gives the person attacked no opportunity to defend himself or to retaliate and (2) that said means of execution were deliberately or consciously adopted.[51] In this case, the victim, Romen Castro, had his back to his five assailants and was playing a game at the fair when these men suddenly approached him. Two of these men stayed within the vicinity to serve as lookouts, while two other assailants went to each side of the victim to restrain him. Then, accused-appellant went up to the victim, who was busy playing the game and thus was unaware of the arrival of the five men, and stabbed him at the back. The attack was thus sudden and unexpected. It was made without warning and without giving the victim an opportunity to defend himself or repel the initial assault.[52]

The qualifying circumstance of treachery having been proven, the trial court correctly found accused-appellant guilty of murder. Under Article 248 of the Revised Penal Code, as amended by R.A. No. 7659, the crime of murder is punishable by reclusion perpetua to death. There being no aggravating circumstance in this case, accused-appellant was correctly sentenced to suffer the penalty of reclusion perpetua.

As regards accused-appellant's civil liability, the trial court's award of P50,000.00 as indemnity to the heirs of the victim Romen Castro is in accord with our current rulings.[53] The award of actual damages in the amount of P30,000.00 should likewise be upheld. Although receipts should ordinarily support claims of actual damages, the defense in this case stipulated that Romen Castro's funeral and burial expenses amounted to P30,000.00. Hence, in view of the defense's admission as to the claim for actual damages, the award should be sustained.[54]

The award of exemplary damages should, however, be deleted. Exemplary damages are awarded in criminal offenses when the crime was committed with one or more aggravating circumstances.[55] Since no aggravating circumstance attended the commission of the crime in this case, no exemplary damages should be awarded to the

heirs of the victim. As regards the moral damages, the same should be increased to P50,000.00 pursuant to recent rulings.[56]

On the other hand, accused-appellant should also be held liable for loss of earning capacity. In determining the amount of lost income, the following must be taken into account: (1) the number of years for which the victim would otherwise have lived and (2) the rate of loss sustained by the heirs of the deceased. The second variable is computed by multiplying the life expectancy by the net earnings of the deceased, i.e., the total earnings less expenses necessary in the creation of such earnings or income less living and other incidental expenses. Net earnings is computed at fifty percent (50%) of the gross earnings.[57] In this case, we note that Reynaldo Castro, the victim's brother, testified that Romen Castro was 21 years old at the time of his death and was working as a construction worker five days a week earning P150.00 a day.[58] Applying this formula, the victim's lost income should be computed as follows:

$$\frac{2 \times [80-21 \text{ (age of the victim at time of death)}]}{3} = 39.33$$

$$P150 \text{ (daily wage)} \times 261 \text{ (number of working days in a year)} = P39,150.00$$

(gross annual salary)

$$P39,150.00 \times .50 \text{ (allocation for living expenses)} = P19,575.00$$

$$39.33 \times P19,575.00 = P769,884.75 \text{ (loss of earning capacity)}[59]$$

Hence, aside from the damages awarded by the trial court, accused-appellant should pay the legal heirs of the victim the amount of P769,884.75 representing unearned income of the victim.

WHEREFORE, the decision of the Regional Trial Court, Branch 127, Caloocan City, finding accused-appellant Manuel Galvez y Estanislao guilty of murder and sentencing him to the penalty of reclusion perpetua, is hereby **AFFIRMED**, with the **MODIFICATIONS** that the award of exemplary damages is deleted, the award of moral damages is increased to P50,000.00, and the further amount of P769,884.75 is further given to the heirs of the victim, Romen Castro, representing the latter's unearned income, in addition to the P50,000.00 civil indemnity and P30,000.00 actual damages awarded by the RTC.

SO ORDERED.

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

[1] Per Judge Myrna Dimaranan Vidal.

[2] Records, p. 2.

[3] Id., p. 10.

[4] Also referred to as Romin or Romel Castro or Tikboy in the transcript of stenographic notes.

[5] TSN (Danilo Julia), pp. 3-8, July 22, 1998; TSN (Loreto Palad), pp. 2-16, Aug. 10, 1998; TSN (Danilo Julia), pp. 2, 7, Aug. 12, 1998; TSN (Alvin Adolfo), pp. 2-5, Aug. 17, 1998; TSN (Alvin Adolfo), pp. 4-14, Aug. 24, 1998.

[6] TSN (PO3 Feliciano Almojuela), pp. 2-5, Aug. 31, 1998.

- [7] TSN (Arturo Saligumba), pp. 4-7, Aug. 4, 1998.
- [8] TSN (SPO2 Vivencio Gamboa), pp. 2-20, Aug. 18, 1998.
- [9] Exh. D; Folder of Exhibits, p. 4.
- [10] TSN (Dr. Ludovico Lagat), pp. 310, Aug. 3, 1998.
- [11] TSN (Reynaldo Castro), pp. 2-11, Aug. 5, 1998.
- [12] TSN, pp. 2-10, Sept. 8, 1998.
- [13] TSN, pp. 2-8, Sept. 7, 1998.
- [14] TSN, pp. 3-4, Sept. 14, 1998.
- [15] TSN, pp. 3-9, Sept. 16, 1998.
- [16] TSN, pp. 4-8, Sept. 17, 1998.
- [17] TSN, pp. 3-6, Sept. 15, 1998.
- [18] Decision, p 13; Records, p. 109.
- [19] Appellant's Brief, p. 1; Rollo, p. 54.
- [20] Id., p. 14; id., p. 67.
- [21] TSN, p. 5, Aug. 4, 1998.
- [22] TSN, p. 16, Aug. 18, 1998.
- [23] People v. Legaspi, G.R. No. 117802, April 27, 2000.
- [24] People v. Meris, G.R. Nos. 117145-50 & 117447, March 28, 2000.
- [25] Appellant's Brief, pp. 6-12; Rollo, pp. 59-65.
- [26] TSN, p. 4, July 22, 1998.
- [27] TSN, p. 11, Aug. 10, 1998.
- [28] TSN, p. 4, Aug. 17, 1998.
- [29] People v. Meris, *supra*.
- [30] People v. Rendoque, 322 SCRA 622 (2000).
- [31] TSN, p. 5, July 22, 1998.
- [32] TSN, p. 13, Aug. 10, 1998.
- [33] Exh. D; Folder of Exhibits, p. 4.
- [34] People v. Tañeza, G.R. No. 121668, June 20, 2000.
- [35] TSN, p. 7, July 22, 1998.
- [36] TSN (Loreto Palad), p. 8, Aug. 10, 1998; TSN (Danilo Julia), p. 3, Aug. 12, 1998; TSN (Alvin Adolfo), p. 2, Aug. 24, 1998.

- [37] TSN, p. 4, Aug. 17, 1998.
- [38] *People v. Dela Cruz*, G.R. No. 118967, July 14, 2000.
- [39] TSN, p. 10, Aug. 3, 1998.
- [40] *People v. Geral*, G.R. No. 122283, June 15, 2000; *People v. Flores*, G.R. No. 129284, March 17, 2000; *People v. Rendoque*, 322 SCRA 622 (2000).
- [41] Appellant's Brief, pp. 12-14; Rollo, pp. 65-67.
- [42] *People v. Dela Cruz*, *supra*.
- [43] *People v. Rendoque*, *supra*.
- [44] *People v. Orcula*, G.R. No. 132350, July 5, 2000.
- [45] TSN, p. 3, Aug. 8, 1998.
- [46] *People v. Gailo*, 316 SCRA 733 (1999).
- [47] TSN, p. 7, Sept. 16, 1998.
- [48] TSN, p. 7, Sept. 17, 1998.
- [49] *People v. Orcula*, *supra*.
- [50] *People v. Gadin*, G.R. No. 130658, May 4, 2000.
- [51] *People v. Geral*, *supra*.
- [52] *People v. Geral*, *supra*. See also *People v. Flores*, *supra*.
- [53] *People v. Go-od*, G.R. No. 134505, May 9, 2000; *People v. Flores*, *supra*.
- [54] *People v. Arellano*, G.R. No. 122477, June 30, 2000.
- [55] *People v. Tañeza*, G.R. No. 121668, June 20, 2000.
- [56] *People v. Lazarte*, G.R. No. 1130711, June 29, 2000; *People v. Cupino*, G.R. No. 125688, March 31, 2000.
- [57] *People v. Lazarte*, *supra*.
- [58] TSN, pp. 9-10, Aug. 5, 1998.
- [59] *People v. Lazarte*, *supra*. See also *People v. Arellano*, *supra*; *People v. Flores*, *supra*.

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