

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. CIRILO MAGALONA Y ONOON ALIAS “WILLIAM,” APPELLANT.*G.R. No. 143294. July 17, 2003*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-143294/>**PER CURIAM:**

Before us, for automatic review, is the Decision[1] of the Regional Trial Court of Nueva Ecija, Branch 29, Cabanatuan City, in Criminal Case No. 5899-AF, finding appellant Cirilo Magalona guilty of the complex crime of Murder with Multiple Frustrated Murder and Multiple Attempted Murder and sentencing him to suffer the death penalty.

The Information[2] filed against appellant reads:

That on or about the 25th day of May, 1994, around 3:30 o' clock in the morning, at Sitio Ablang, Brgy. Sta Lucia Old, Municipality of Zaragoza, Province of Nueva Ecija, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, evident premeditation, treachery, taking advantage of night time and with the use of a hand grenade, did then and there willfully, unlawfully and feloniously throw the said hand grenade under the hut of one ROSENDO ARIMBUYUTAN, SR. which exploded, thereby hitting five (5) persons then sleeping in the said hut, namely: ROSARIO TORRES ARIMBUYUTAN, ROSALYN ARIMBUYUTAN, ROSEMARIE ARIMBUYUTAN, ROLDAN ARIMBUYUTAN AND RESTY ARIMBUYUTAN, which caused the instantaneous death of the latter and multiple blasting injuries to the first four-named persons, thus, with respect to them, the accused had performed all the acts of execution which could produce the crime of MURDER, but nevertheless did not produce it by reason of some causes independent of the will of the perpetrator, that is, the timely medical attendance extended to them which prevented their death, to the damage and prejudice of the herein victims.

CONTRARY TO LAW.

When arraigned on August 5, 1994, appellant pleaded not guilty.[3] Trial ensued.

The Prosecution's Evidence

On May 25, 1994, the spouses Rosendo and Rosario Arimbuyutan and their children resided at Sitio Ablang, Barangay Sta. Lucia Old, Zaragoza, Nueva Ecija. Their hut, including the floor, was made of bamboo, while the roof was made of "talahib." The floor of their hut was three feet above the ground.[4]

At around 3:30 a.m. of said date, while the spouses Arimbuyutan and their children, namely, Rommel, Rosendo, Jr., Rosalie, Rosemarie, Regina, Ruby, Roldan and Resty, were sleeping in their hut, there was an explosion beneath the floor. Said explosion killed Resty and injured Rosario, Roldan, Rosemarie and Rosalie.[5] It also caused a small crater on the ground and damage to the hut up to the roof.[6]

The victims were first brought to the medical center of the neighboring town of La Paz, Tarlac, and then to the Tarlac Provincial Hospital.[7] On the way to the hospital, Resty Arimbuyutan died[8] of hemorrhage secondary to "multiple blasting injury." [9]

Rosario Arimbuyutan sustained "blastin[g] injury multiple with perforation of the uterus." [10] Rosario

Arimbuyutan testified that she sustained injuries from her waist to her knees and underwent a surgical operation.[11]

Rosalyn Arimbuyutan sustained a fracture over the left kneecap.[12]

Rosemarie Arimbuyutan sustained a "blasting injury left gluteal area (left buttocks),"[13] and was immediately given medicine for anti-tetanus.[14] Dr. Renato Ang, who attended to Rosemarie, testified that without said prompt medical treatment, she could have died of complications that could have arisen from the wound she sustained.[15]

Roldan Arimbuyutan sustained "blasting injury multiple posterior chest left." [16] He was given emergency treatment called "tube thoracostomy" to prevent his lungs from collapsing.[17] Dr. Renato Ang, who attended to Roldan, testified that without said medical treatment, the patient would have died.[18]

Rosario Arimbuyutan testified that they spent P21,400[19] for hospitalization, medical expenses, as well as, the funeral and burial expenses of her son, Resty Arimbuyutan.[20]

At around 8 a.m. of May 25, 1994, Police Officer Rodolfo Gutierrez of the Philippine National Police of Zaragoza, together with two police officers and a photographer, investigated the grenade-throwing incident at Sitio Ablang, Barangay Sta. Lucia Old, Zaragoza, Nueva Ecija. Gutierrez found a safety lever pin (Exhibit "E") and some grenade shrapnels (Exhibit "F") near the post of the hut of Rosendo Arimbuyutan, Sr. He was informed that the victims of the explosion were already brought to the hospital. He made an investigation report[21] of said incident.[22] He also entered the incident in the police blotter.[23]

According to Gutierrez, based on the sworn statements of Rosendo Arimbuyutan, Sr., Bienvenido Sabater and Adelina Mendoza, the suspect was appellant Cirilo Magalona alias William. They did not search for appellant anymore because Barangay Captain Florentino Almeda[24] of Sta. Lucia, Zaragoza, Nueva Ecija, brought him to the police station in the morning of May 25, 1994. Almeda told Gutierrez that since appellant became a suspect of a rape case, appellant had already been in his (Almeda) custody up to the time he was surrendered to the police authorities. The rape incident was reported to the police authorities on May 24, 1994 at 2 p.m.[25]

Bienvenido Sabater,[26] 40 years old, a farmer and a resident of Barangay Patola, Talugtug, Nueva Ecija, testified that on May 25, 1994, he was residing at Sitio Ablang, Sta. Lucia Old, Zaragoza, Nueva Ecija. His immediate neighbor then was Rosendo "Sendong" Arimbuyutan, Sr., whose hut was about five (5) to six (6) meters away from his hut. Their huts were fronting each other.[27]

Sabater narrated that at around 3:30 a.m. of May 25, 1994, he was inside his hut sitting on a bamboo bed. He was pacifying his six-month-old child and, at the same time, drinking coffee, while his wife was boiling water for his child's milk. His child was lying on his side while he was gently tapping him to stop him from crying. Sabater demonstrated that he was seated on the bed, which was beside the window on his left, while he was facing the open door. His door and window had no shutters and were just open. The hut was not their permanent residence and they just stayed there during the farming season.[28]

While he was taking coffee, Sabater saw a person, named William, pass by in front of his hut and the hut of Rosendo Arimbuyutan, Sr. He also saw William hiding behind the acacia tree in front of his hut, which was about five (5) to six (6) meters away. Said acacia tree was between his hut and the hut of Arimbuyutan. Then he saw an explosion under the floor of the hut of Arimbuyutan and saw William running towards the direction of the "flood control." [29]

Upon hearing the explosion, Sabater immediately took his child and lay face down on the floor in front of the

open door for four to five seconds. He was facing their open door; hence, he saw William run away, and when he noticed that William was not with somebody, he stood up. He heard the family of Rosendo Arimbuyutan, Sr. crying.[30]

Sabater testified that he recognized the person who passed by his hut and who hid behind the acacia tree to be someone named William, because the latter frequently went to their place in Sitio Ablang. He stated that he also recognized William at 3:30 a.m., because the moon was bright and he had a lighted kerosene lamp hanging by the post. Since the door of his hut was open, the light from the kerosene lamp illuminated William who was hiding behind the acacia tree near his hut. In the courtroom, he pointed to the person whom he called "William," who, when asked, identified himself as Cirilo Magalona.[31]

Sabater testified that appellant was a farm worker of one Corazon Ramos on a commission basis at Sitio Ablang.[32]

Sabater admitted that he did not actually see who threw the grenade under the hut of Rosendo Arimbuyutan, Sr.[33]

Adelina Mendoza, 71 years old, a housekeeper, testified that she knew appellant because he was her neighbor. At midnight of May 22, 1994, while she was drinking coffee in her house at Sitio Ablang, appellant knocked at her door and conversed with her. He told her that he was very angry at Rosendo Arimbuyutan, Sr. and that he would return and kill him.[34]

On cross-examination, Mendoza testified that she knew appellant for less than a year. She had seen appellant many times but talked to him only once before the grenade explosion. She admitted that Rosendo Arimbuyutan, Sr. was her nephew.[35]

On December 2, 1996, Rosendo Arimbuyutan, Sr. executed an Affidavit of Desistance.[36] The Court disregarded said affidavit since the prosecution had already rested its case and it was the turn of the defense to present its evidence.[37]

Appellant's Escape Deemed Waiver of His Right to Present Evidence

In the hearing scheduled on July 18, 1997, appellant did not appear in court. The trial court ordered the Provincial Warden of Nueva Ecija to explain why he should not be held in contempt for the non-appearance of appellant during the said hearing. In his letter,[38] the Provincial Warden explained that pursuant to a COMELEC Resolution,[39] the Provincial Jail was under the control of the Philippine National Police (PNP) starting April 23, 1995. He stated that the policemen assigned to the Provincial Jail ordered appellant to guard a co-detainee who was confined in the hospital and who died on July 8, 1997. After the detainee's death, appellant did not return to the Provincial Jail.

The Court issued an Order dated August 21, 1997 directing the PNP Provincial Director of Nueva Ecija to investigate the escape of appellant, which was reiterated in another Order[40] dated February 16, 1998. In the latter Order, the Court, as prayed for by the Assistant Provincial Prosecutor, deemed the appellant to have waived his right to present evidence. Consequently, the case was considered submitted for decision.

The Trial Court's Ruling

The trial court held that the testimony of Avelina Mendoza showed that appellant had a motive to harm complainant Rosendo Arimbuyutan, Sr.[41] It also ruled that the testimony of Bienvenido Sabater established that appellant was responsible for the explosion which killed Resty Arimbuyutan and injured Rosario, Rosemarie, Rosalyn and Roldan, all surnamed Arimbuyutan.[42] Moreover, the trial court considered appellant's escape from

prison as persuasive evidence of his guilt.[43]

On July 30, 1998, the trial court pronounced judgment, thus:

WHEREFORE, this court finds the accused CIRILO MAGALONA y ONOON guilty of the crime of MURDER with Multiple Frustrated Murder and Multiple Attempted Murder, and hereby sentences him to suffer the maximum penalty of DEATH, and to pay the Spouses Rosendo Arimbuyutan, Sr. and Rosario Arimbuyutan FIFTY THOUSAND PESOS (P50,000.00) as indemnity for the death of their son Resty Arimbuyutan, moral damages of ONE HUNDRED THOUSAND PESOS (P100,000.00) and actual damages of TWENTY ONE THOUSAND FOUR HUNDRED PESOS (P21,400.00).

INASMUCH as the accused Cirilo Magalona who has been sentenced to death penalty in absencia because he escaped from the custody of members of the PNP who were then in charge of the Provincial Jail of Nueva Ecija by assigning him to guard a co-detainee in a hospital on or about July 8, 1997, furnish a copy of this Decision to the Chief of the Philippine National Police, Camp Crame, Quezon City for a proper investigation of the anomalous escape of said accused.

SO ORDERED.[44]

On May 21, 1999, the Provincial Warden of the Provincial Jail of Nueva Ecija informed the trial court that appellant had been arrested and was detained at the Provincial Jail.[45]

Appellant contends that the trial court erred, thus:

I

THE TRIAL COURT ERRED IN GIVING CREDIT TO THE TESTIMONIES OF WITNESSES AVELINA MENDOZA AND BIENVENIDO SABATER;[46]

II

THE TRIAL COURT ERRED IN CONVICTING THE ACCUSED CIRILO MAGALONA.[47]

The Court's Ruling

Appellant contends that the trial court erred in giving credence to the testimonies of prosecution witnesses Avelina Mendoza and Bienvenido Sabater.

Appellant asserts that the trial court should not have given any probative value to Avelina Mendoza's testimony in determining the motive behind the incident for two reasons: First, the witness and appellant are not long-time acquaintances, having talked to each other only once. The alleged revelation to kill Rosendo Arimbuyutan, Sr. to a stranger during a visit at midnight is contrary to ordinary human experience. Second, Mendoza is the aunt of complainant Rosendo Arimbuyutan, Sr.[48]

We disagree.

Appellant cannot consider Avelina Mendoza a stranger as Mendoza testified that she knew appellant since he was her neighbor.[49] Being neighbors, it is not contrary to human experience for appellant to have visited Mendoza at midnight of May 22, 1994. It was incumbent on appellant to disprove said visit. Having failed to do so, the positive testimony of Mendoza prevails.

Moreover, although Avelina Mendoza is the aunt of complainant Rosendo Arimbuyutan, Sr., such relationship does not, by itself, impair Mendoza's credibility as a witness.[50] On the contrary, her relationship to Arimbuyutan would deter her from implicating innocent persons as her natural interest would be to secure the conviction of the real culprit."[51]

The testimony of Avelina Mendoza established appellant's motive to kill Rosendo Arimbuyutan, Sr., thus:

Fiscal Beltran:

Q Mrs. Witness, do you know Cirilo Magalona alias William?

A Yes, sir.

Q

Why do you know him?

A He is my neighbor, sir.

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Q On May 22, 1994 at around 12:00 midnight, do you remember where were you?

A Yes, sir.

Q Where were you at that time?

A In our house, sir.

Q Where is that house of yours located?

A At Sitio Ablang, sir.

Q What were you doing in your house at that time?

A I was drinking coffee, sir.

Q While you were drinking coffee on that date and time, what happened?

A Somebody knocked at our door and had a conversation with me, sir.

Q Who is that somebody who knocked at your door and had a conversation with you?

A

That man, sir. (Witness pointed to the accused who when asked his name and [sic] he answered as Cirilo Magalona).

Q Was Cirilo Magalona alone when he knocked at your door and had a short conversation with you?

A Yes, sir.

Q What did you talk about?

A He told me that he is angry at Sendo (Rosendo Arimbuyutan, Sr.)

Q Did you ask him why he is angry at Sendo (Rosendo Arimbuyutan, Sr.)?

A

Yes, I asked him and he told me that he is very angry with Rosendo Arimbuyutan and that he will come back and kill Rosendo Arimbuyutan, sir.

Q Did you ask him what xxx they talked about with Rosendo Arimbuyutan, Sr.?

A

No more, sir. He just told me that he is very angry with Rosendo Arimbuyutan, Sr., sir.[52]

On cross-examination, Avelina Mendoza further testified, thus:

Atty. R. Bansale-

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Q Can you repeat again what was the exact words uttered by Cirilo Magalona on that night of May 22, 1994?

A

I remember some of the words uttered, that if "Sendong" will report the matter he will return and there will be something happened against to [sic] Sendong "you son of a bitch."

Q

You said that Cirilo Magalona only had a [talk] with you on the night of May 22, 1994, why do you think that he will tell those remarks against [that] person to you?

A

It has something to do with the one that he had raped and he said that if Sendong will [complain] he will do something against him, sir.

Q

On that night of May 22, 1994 when Cirilo Magalona went to your house, how long did he stay in your house?

A

For a short period after he uttered those [remarks] he already left, sir.[53]

Appellant also asserts that prosecution witness Bienvenido Sabater admitted that he did not actually see who threw the hand grenade under the hut of Rosendo Arimbuyutan, Sr.[54] He argues that Sabater only established that he saw him (appellant) hiding behind an acacia tree and then running away from the place of the explosion,[55] which are insufficient to prove his guilt beyond reasonable doubt. Hence, appellant prays for his acquittal.

The contention is without merit.

The trial court convicted appellant based on circumstantial evidence. Direct evidence of the commission of the crime is not indispensable for convicting an accused when circumstantial evidence can sufficiently establish his guilt.[56] There can be a judgment of conviction when the circumstances proved constitute an unbroken chain of events that leads to a fair and reasonable conclusion pinpointing the accused, to the exclusion of all others, as the perpetrator of the crime.[57] Under Rule 133, Section 4 of the Rules of Court, circumstantial evidence is sufficient for conviction if: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

In this case, although prosecution witness Bienvenido Sabater did not see appellant holding a hand grenade or throwing it under the hut of Rosendo Arimbuyutan, Sr., the following chain of events points to appellant as the perpetrator of the crime:

First, on May 22, 1994, appellant told Avelina Mendoza that he was very angry at Rosendo Arimbuyutan, Sr. and would return and kill him.[58]

Second, on May 25, 1994, at about 3:30 a.m., Bienvenido Sabater saw appellant pass by his hut and the hut of Rosendo Arimbuyutan.[59]

Third, Sabater saw appellant acting suspiciously as he went back and forth between his hut and the hut of Rosendo Arimbuyutan, Sr., which were fronting each other.[60]

Fourth, Sabater saw appellant hiding behind the acacia tree in front of his hut.[61]

Fifth, Sabater thereafter saw an explosion under the hut of Rosendo Arimbuyutan, Sr. and saw appellant fleeing from the place of the incident as he was running towards the direction of the "flood control" at the river.[62]

Sixth, appellant was the only person seen near the hut of Rosendo Arimbuyutan, Sr. before and after the explosion.

Sabater testified that he recognized appellant because he frequently visited their place.[63] He knew appellant for about two years since he began farming at Sitio Ablang.[64] Sabater also testified that at the time of the incident, the moon shone brightly,[65] and the light from the kerosene lamp near his open door illuminated appellant who was hiding behind the acacia tree, which was about five (5) to six (6) meters away from his hut.[66]

The culpability of appellant is strengthened by his flight from the site of the explosion. The Court has ruled that flight of an accused from the scene of the crime removes any remaining shred of doubt on his guilt.[67] If appellant were not guilty, he would not have fled but would have gone to the hut of Rosendo Arimbuyutan, Sr. after the explosion and rendered assistance to the victims. Moreover, the testimony of Avelina Mendoza established that appellant had a motive to harm Rosendo Arimbuyutan, Sr., which is a key element in the web of circumstantial evidence.[68]

Further, there is no evidence showing that Sabater was impelled by improper motive in testifying against appellant; hence, his testimony deserves full faith and credence.[69] It is well settled that the positive testimony of a credible witness is sufficient to support a judgment of conviction because truth is established by the quality, not the quantity, of the evidence.[70]

It is also a well-entrenched rule that when it comes to the issue of credibility of witnesses, the appellate court generally will not overturn the findings of the trial court since the trial judge is in a better position to determine the issue of credibility, having observed the deportment of witnesses during the trial.[71] Thus, the trial court's findings will not be disturbed on appeal unless the trial court overlooked, misunderstood or misapplied some fact or circumstance of weight and substance which will alter the assailed decision or affect the result of the case.[72] We have carefully reviewed the records of this case and found no reason to disturb the findings of the trial court.

In addition, we agree with the trial court that the flight of appellant after the death of the co-detainee he was guarding at the hospital is taken to signify a strong sense of guilt and an awareness that he has no tenable defense.[73]

Based on the foregoing, the trial court correctly found appellant guilty beyond reasonable doubt of the crime charged.

Nature of the Offense

Even if appellant, in detonating a hand grenade under the hut of Rosendo Arimbuyutan, Sr., intended to kill Rosendo, but instead killed his son, Resty, and seriously injured other family members, appellant is liable for all the consequences of his unlawful act. Where such unlawful act is wilfully done, a mistake in the identity of the intended victim cannot be considered as reckless imprudence.[74] Where malice or intention to cause injury exists, the act should be qualified by the felony it has produced.[75]

The trial court correctly held that the death of Resty Arimbuyutan and the injuries sustained by Rosario, Rosemarie, Rosalyn and Roldan, all surnamed Arimbuyutan, were caused by an explosion, which qualified the killing to murder under Article 248 of the Revised Penal Code, thus:

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, 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.

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

The trial court, however, incorrectly stated that the killing was also attended by the qualifying circumstance of treachery. Absent any particulars on the manner in which the aggression was commenced, treachery cannot be appreciated to qualify the killing to murder.[76] Treachery cannot be presumed, but must be proved with the same quantum of evidence as the crime itself.[77] Nevertheless, the presence of the qualifying circumstance of explosion, which was alleged in the Information, is sufficient to qualify the killing to murder.

As stated by the trial court, the injuries of Rosario and Rosemarie Arimbuyutan appeared to be fatal based on their medical certificates and the fact that Rosario underwent an operation at the Tarlac Provincial Hospital. The prosecutor, however, failed to ask Dr. Arnold Castro, who attended to Rosario and Rosemarie, if their injuries would have caused their death without prompt medical treatment. With respect to Roldan and Rosalyn Arimbuyutan, Dr. Renato Ang testified that their wounds would have caused their death without his prompt medical treatment.[78]

Considering that the offenses committed against the victims were caused by a single act of detonating a hand grenade, the trial court found appellant guilty of the complex crime of murder with multiple frustrated murder and multiple attempted murder under Article 48 of the Revised Penal Code. To be precise, appellant committed the complex crime of murder with double frustrated murder and double attempted murder.

The Penalty

Under Article 48 (Penalty for complex crimes) of the Revised Penal Code, when a single act constitutes two or more grave or less grave felonies, as in this case, the penalty for the most serious crime shall be imposed, the same to be applied in its maximum period.

Applying the aforesaid provision of law in this case, the penalty for the most serious crime (murder), which is reclusion perpetua to death, should be imposed in the maximum period. The trial court, therefore, correctly imposed the death penalty.

Three Justices of the Court maintain their position that Republic Act No. 7659 is unconstitutional insofar as it prescribes the death penalty; nevertheless, they submit to the ruling of the majority that the law is constitutional, and that the death penalty can be lawfully imposed in the case at bar.

Damages

The actual damages awarded by the trial court in the amount of P21,400 for the funeral, burial and other expenses incurred by the Arimbuyutans due to the death of Resty Arimubuyutan is deleted. Actual damages cannot be awarded based merely on a list of expenses[79] presented by the prosecution, as such claim must be adequately

supported by receipts.[80] However, in lieu thereof, temperate damages under Article 2224[81] of the Civil Code may be recovered as it has been shown that the family of the deceased suffered some pecuniary loss, but the amount thereof cannot be proved with certainty.[82] An award of P15,000 should suffice.[83]

In addition, we award actual damages to the spouses Rosendo and Rosario Arimbuyutan in the amount of P6,900.05 for the medical expenses of Rosario Arimbuyutan and her children, Rosemarie, Rosalyn and Roldan, which were duly supported by receipts.[84]

The trial court correctly awarded civil indemnity to the heirs of the victim, Resty Arimbuyutan, in the amount of P50,000, without need of proof other than the fact that a crime was committed resulting in the death of the victim and that the accused was responsible therefor.[85]

The trial court also correctly awarded moral damages to the heirs of the victim, Resty Arimbuyutan. However, the amount of P100,000 should be reduced to P50,000 in accordance with prevailing jurisprudence.[86] Moral damages is awarded without need of proof other than the death of the victim.[87]

WHEREFORE, the decision of the Regional Trial Court, Branch 29, of Cabanatuan City, in Criminal Case No. 5899-AF, finding appellant Cirilo Magalona GUILTY beyond reasonable doubt of the complex crime of murder with double frustrated murder and double attempted murder and sentencing him to suffer the penalty of death is hereby AFFIRMED with modification. Appellant is ordered to pay the heirs of the victim, Resty Arimbuyutan, civil indemnity in the amount of Fifty Thousand Pesos (P50,000); temperate damages in the amount of Fifteen Thousand Pesos (p15,000) and moral damages in the amount of Fifty Thousand Pesos (p50,000). Appellant is also ordered to pay the spouses Rosendo and Rosario Arimhuyutan actual damages in the amount of Six Thousand Nine Hundred Pesos and Five Centavos (P6,900.05).

In accordance with Section 25 of Republic Act No. 7659 amending Article 83 of the Revised Penal Code, upon finality of this Decision, let the records of this case be forwarded to the Office of the President for possible exercise of the pardoning power.

Costs de officio.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Panganiban, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.
Quisumbing, and Sandoval-Gutierrez, JJ., on official leave.

[1] Rollo, pp. 16-22.

[2] Records, p. 1.

[3] Records, p. 27.

[4] TSN, October 12, 1994, pp. 5-6.

[5] TSN, October 12, 1994, p. 7.

[6] Trial Court Decision, Rollo, p. 18.

[7] TSN, October 12, 1994, p. 8.

[8] TSN, July 28, 1995, p. 3.

- [9] TSN, February 17, 1995, p. 3; Exhibit "N," Records, p. 12.
- [10] Exhibit "J," Records, p. 13.
- [11] TSN, October 12, 1994, pp. 7-8.
- [12] TSN, November 25, 1994, p. 8; Exhibit "K-2," Records, p. 14.
- [13] Exhibit "L," Records, p. 15.
- [14] TSN, December 1, 1994, p. 5.
- [15] TSN, December 1, 1994, p. 6.
- [16] Exhibit "M," Records, p. 16.
- [17] TSN, December 1, 1994, p. 7.
- [18] TSN, December 1, 1994, p. 7.
- [19] Exhibits "B," "B-1," Records, p. 171.
- [20] TSN, October 26, 1994, pp. 2-4.
- [21] Exhibit "H," Records, p. 172.
- [22] TSN, October 26, 1994, pp. 6, 9.
- [23] Exhibit "I," Records, p. 174; TSN, October 26, 1994, pp. 3-4, 6, 9.
- [24] Also spelled "Almayda" and "Almaida."
- [25] TSN, November 14, 1994, pp. 5-10.
- [26] Referred to as "Sabatin" in the Decision of the Trial Court.
- [27] TSN, December 1, 1994, pp. 2-3.
- [28] TSN, December 1, 1994, pp. 4, 9-10.
- [29] TSN, December 1, 1994, pp. 4-6.
- [30] TSN, December 1, 1994, pp. 6, 12-13.
- [31] TSN, December 1, 1994, pp. 5-6.
- [32] TSN, December 1, 1994, pp. 6-7.
- [33] TSN, December 1, 1994, p. 13.
- [34] TSN, July 28, 1995, pp. 4-6.
- [35] TSN, October 26, 1995, pp. 3-4.
- [36] Records, p. 214.
- [37] Records, p. 239.
- [38] Records, P. 263.
- [39] Records, pp. 264-265.

- [40] Records, p. 272.
- [41] Rollo, p. 19.
- [42] Rollo, pp. 19-20.
- [43] Rollo, p. 21.
- [44] Rollo, p. 22.
- [45] Records, p. 283.
- [46] Rollo, p. 40.
- [47] Rollo, P. 44.
- [48] TSN, October 26, 1995, pp. 3-4.
- [49] TSN, July 28, 1995, p. 5.
- [50] *People v. Ansowas*, G.R. No. 140647, December 18, 2002; *People v. Galapin*, 293 SCRA 474, 487 (1998).
- [51] *People v. Candare, et al.*, 333 SCRA 338, 351 (2000), citing *People v. Macuha*, 310 SCRA 14, 21 (1999).
- [52] TSN, July 28, 1995, pp. 5-6.
- [53] TSN, October 26, 1995, p. 3.
- [54] TSN, December 1, 1994, p. 13.
- [55] TSN, December 1, 1994, p. 6.
- [56] *People v. Diaz*, G.R. No. 133737, January 13, 2003, citing *People v. De Mesa*, 354 SCRA 397, 401 (2001).
- [57] *Ibid.*
- [58] TSN, July 28, 1995, pp. 5-6.
- [59] TSN, December 1, 1994, p. 4.
- [60] Exhibit "B," Records, p. 8.
- [61] TSN, December 1, 1994, p. 5.
- [62] TSN, December 1, 1994, p.5; Exhibit "B-2," Records, p. 9.
- [63] TSN, December 1, 1994, p. 5.
- [64] TSN, December 1, 1994, p. 6.
- [65] TSN, December 1, 1994,5.
- [66] TSN, December 1, 1994, p. 5; Exhibit "B-2," Records, p. 9.
- [67] *People v. Flores*, 328 SCRA 461, 470 (2000), citing *People v. Cahindo*, 266 SCRA 554, 559 (1997).
- [68] *People v. Flores*, *supra*, at 472.
- [69] *People v. Patoc*, G.R. No. 140217, February 21, 2003.
- [70] *People v. Acosta, et al.*, G.R. No. 140402, January 28, 2003; *People v. Caloza, Jr.*, G.R. No. 138404, January

28, 2003; *People v. Silvestre*, 307 SCRA 68, 83 (1999).

[71] *People v. Diaz*, *supra*, note 56.

[72] *People v. Aliben*, G.R. No. 140404, February 27, 2003; *People v. Bamela*, 301 SCRA 84, 90-91 (1999).

[73] *People v. Mercado*, 190 SCRA 452, 459 (1990).

[74] *People v. Guillen*, 85 Phil. 307, 317 (1950).

[75] *Ibid.*

[76] *People v. Santiago*, G.R. No. 133445, February 27, 2003; *People v. Solis*, 291 SCRA 529 (1998).

[77] *People v. Santiago*, *supra*.

[78] TSN, December 1, 1994, pp. 6-7.

[79] Exhibit "B," Records, p. 171.

[80] *People v. Rafael*, G.R. Nos. 146235-36, May 29, 2002.

[81] Civil Code, Art. 2224. Temperate or moderate damages, which are more than nominal but less than compensatory damages, may be recovered when the court finds that some pecuniary loss has been suffered but its amount cannot, from the nature of the case, be proved with certainty.

[82] *People v. Caloza*, *supra*, note 70, citing *People v. Sumibcay*, G.R. Nos. 132130-31, May 29, 2002; *People v. Del Valle*, G.R. No. 119616, December 14, 2001.

[83] *Ibid.*

[84] Exhibits "A" to "A-16," Records, pp. 167-171.

[85] *People v. Diaz*, *supra*, note 56, citing *People v. Dawaton*, G.R. No. 146247, Sept. 17, 2002.

[86] *People v. Loreto*, G.R. No. 137411-13, February 28, 2003.

[87] *People v. Loreto*, *supra*; *People v. Ortiz*, 361 SCRA 274, 299-301 (2001); *People v. Cortez, et al.*, 348 SCRA 663, 690-691 (2000).

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