

## MANUEL O. ORIENTE, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

*G.R. NO. 155094. January 30, 2007*

Ponente: AUSTRIA-MARTINEZ, J.

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### AUSTRIA-MARTINEZ, J.:

For review before the Court are the Decision[1] dated February 14, 2002 of the Court of Appeals (CA) which affirmed the Decision of the Regional Trial Court of Quezon City, Branch 103 (RTC), dated November 15, 1999, in Criminal Case No. 96-65313, finding Manuel Oriente (petitioner) guilty of the crime of Homicide; and the CA Resolution[2] dated September 9, 2002 which denied petitioner's Motion for Reconsideration.

An Information dated March 18, 1996 was filed with the RTC charging the petitioner with the crime of Murder, committed as follows:

That on or about the 16[th] day of March 1996, in Quezon City, Philippines, the said accused conspiring, confederating with three other persons whose true names and whereabouts have not as yet been ascertained and mutually helping one another, with intent to kill, qualified by evident premeditation and treachery, taking advantage of superior strength, did then and there willfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of one ROMULO CARIÑO Y VALLO by then and there hitting him with a lead pipe on the different parts of his body thereby inflicting upon him serious and mortal wounds which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of the victim.

CONTRARY TO LAW.[3]

Upon arraignment, petitioner pleaded not guilty to the crime charged. Thereafter, trial on the merits ensued.

The evidence presented by the parties, as summarized by the CA, are as follows:

The prosecution's version of the case is as follows:

On 16 March 1996, at around 10:00 o'clock in the evening, Arnel Tanael was on his way to the house of Romulo Cariño y Vallo at No. 40 Lukban Street, Area 9, Luzon Avenue, Brgy. Pasong Tamo, Tandang Sora, Quezon City. He passed in front of the house of [petitioner] Manuel Oriente and saw the latter and his companions having a drinking spree at the terrace of the [petitioner's] house. He arrived at Romulo's house where the latter was drinking beer alone. Thereafter, Romulo went out of the house to buy cigarette. While watching television in the house of Romulo, Arnel Tanael heard two gunshots. Hence, he rushed outside the house to check on what the gunshots were all about.

Peeping through potted plants (about 3 feet high) perched on top of a neighbor's fence (about 2 feet high), and at a distance of more or less eight (8) meters, he saw Romulo Cariño, [petitioner] Manuel Oriente, the latter's daughter Marilou Lopez and the latter's husband, Paul Lopez and one Rogelio Gascon arguing along the alley beside the concrete fence in front of Manuel Oriente's house where there was a lighted fluorescent light. He heard Paul Lopez telling Romulo Cariño, "Ikaw Cariño, and liit-liit mo, and yabang mo!" Then Arnel Tanael saw Marilou coming out from their house with a lead pipe and handed it over to Paul. Paul then hit Romulo

with a lead pipe at his right arm. Accused-appellant got the lead pipe from Paul and hit Romulo on his left eyebrow. Romulo reeled and fell down. Upon seeing Romulo fall down, Arnel got confused, hence, he went back inside the house and switched off the light and turned the television off. He went outside again and saw Romulo moaning. At this point, Paul Lopez was already poking a gun at Romulo, then pulled the trigger twice but the gun did not fire. Arnel then shouted, "Putang ina ninyo, bakit niyo ginagawa iyan sa bayaw ko, bakit ninyo ginaganito siya, ano ba ang kasalanan niya sa inyo." Oriente and his company did not say anything. Arnel carried Romulo and brought the latter inside the house. He called up Mario at the Panabuilt Transport office to get a cab. When the cab arrived, Romulo Cariño was brought by Arnel to the East Avenue Medical Center where Romulo, two hours after, passed away.

Dr. Roberto Garcia, the NBI Medico-Legal Officer who conducted the post-mortem examination on the victim's cadaver declared that the cause of death of Romulo Cariño was traumatic head injury. He opined that even with immediate and adequate medical attendance, the victim would not have survived due to the extensive nature of hemorrhage suffered by Romulo.

In an attempt to exculpate [the petitioner], the defense gave the following version:

On the night of the commission of the crime, [petitioner] Manuel Oriente was fetched by Tanod members in their area to attend a wake. It was already the Tanods' off-duty. While he was on his way out of the house, he saw spouses Paul and Malou and his granddaughter inside the car going out of the garage. The three went to visit Malou's in-laws.

At the gate of his house, while having a conversation with the Tanod members who fetched him, they heard two gunshots coming from downhill. They noticed that the person who fired the shots was walking towards them. They waited for him to pass by. This person was Romulo Cariño. When the latter reached a store, which is a fence away from Oriente's house, the latter asked Romulo what was his problem. Suddenly, Cariño extended his arms and poked [his] gun to Oriente and his companions. Romulo told them not to get near him or he will shoot and kill all of them. Surprised by the victim's response and for fear of being shot, [petitioner] Oriente stepped back towards his yard and was able to take hold of a piece of wood and hit Romulo. [Petitioner] Oriente mentioned that he does not know if he hit Cariño's hands, eyebrow and other parts of his body with that single blow but he saw Romulo Cariño lose his balance, fall and hit his head on the ground. The victim was still holding the gun. After five seconds, Romulo Cariño stood up and ran (pasuray-suray) towards the direction of his house. Fearing that Cariño will shoot them if they would go after him, [petitioner] Oriente told the Tanods that they will just attend to him the following day. [Petitioner] Oriente further testified that he had no intention of killing Cariño and that his purpose was only to disarm him.[4]

The RTC rendered a Decision dated November 4, 1999 convicting the petitioner of the crime of Homicide. The dispositive portion of the Decision states:

ACCORDINGLY, the court renders judgment finding the accused MANUEL ORIENTE Y ORILLO GUILTY beyond reasonable doubt as Principal of the crime of HOMICIDE as defined and penalized by the Revised Penal Code with two (2) mitigating circumstances of lack of intent to commit so grave a wrong and sufficient provocation and so he is hereby sentenced to suffer a jail term of Six (6) Months of Arresto Mayor as minimum and Four Years and One (1) Day of Prision Correccional as maximum.

On the civil aspect, the accused Manuel Oriente y Orillo is ordered to pay the lawful heirs of the victim Romulo Carino y Orillo the sum of P41,500.00 as actual damages and P50,000.00 as indemnification damages.

Costs against the accused.

SO ORDERED.[5]

However, on November 12, 1999, before the foregoing judgment became final and executory, the RTC issued an

Order motu proprio setting aside the said judgment because of a mistake in the “judgment proper” and requiring both petitioner and his counsel to appear before the court on November 17, 1999.[6]

On the latter date, the RTC promulgated its second Decision dated November 15, 1999, the dispositive portion of which states:

ACCORDINGLY, the court renders judgment finding the accused MANUEL ORIENTE y Orillo GUILTY beyond reasonable doubt as Principal of the crime of HOMICIDE as defined and penalized by the Revised Penal Code with two (2) mitigating circumstances of lack of intent to commit so grave a wrong and sufficient provocation and so, applying Article 64, paragraph 5, of the Revised Penal Code and also the Indeterminate Sentence Law, [the] accused is hereby sentenced to suffer an indeterminate jail term of Four (4) Years, Two (2) Months and One (1) Day of Prison Correccional as minimum and Eight (8) Years and One (1) Day of Prison Mayor as maximum.

On the civil aspect, the accused Manuel Oriente y Orillo is ordered to pay the lawful heirs of the victim Romulo Cariño y Vallo the sum of P41,500.00 as actual damages and P50,000.00 as indemnification damages.

Costs against the accused.

SO ORDERED.[7] (Emphasis supplied)

The RTC found that the testimonies of the defense witnesses, including the petitioner, are incredible; that the victim suffered extensive head injuries; that the defense failed to show any imminent threat or danger to the life of the accused; that the accused has in his favor the mitigating circumstance of lack of intent to commit so grave a wrong under Article 4 of the Revised Penal Code; that there was sufficient provocation on the part of the victim since the incident was preceded by an intense argument, and, therefore, the provocation qualifies as another mitigating circumstance in favor of the petitioner; that treachery is not present since there was an altercation immediately preceding the incident; that the prosecution failed to prove the elements of evident premeditation; that there is no clear showing that the accused took advantage of superior strength; and, finally, that the prosecution duly proved actual damages amounting to P38,500.00 for the funeral services and P3,000.00 for the cemetery lot and religious services, while the other expenses were not supported by evidence.

The petitioner appealed to the CA. On February 14, 2002, the CA rendered its Decision, the dispositive portion of which states:

WHEREFORE, in view of the foregoing, the decision dated 4 November 1999 rendered by the trial court is hereby AFFIRMED with MODIFICATION that the penalty imposed is an indeterminate prison term of six (6) years and one (1) day of prison mayor as minimum to twelve (12) years and one (1) day of reclusion temporal as maximum, and to indemnify the heirs of the deceased Romulo Cariño y Vallo in the amount of Fifty Thousand (P50,000.00) Pesos.

SO ORDERED.[8] (Emphasis supplied)

The CA held that there is no cogent reason to depart from the findings of the RTC convicting the petitioner; that, at most, the inconsistencies of prosecution witness Arnel Tanael refer to minor details only, which tend to strengthen, rather than weaken, his credibility, and, moreover, prove that his testimony was unrehearsed; that, all in all, the testimonies of the prosecution witnesses are highly credible; that the evaluation of the testimonies of the eyewitnesses by the RTC should be accorded great weight and respect; that the testimony of Tanael on the injuries inflicted on the victim is supported by the findings of the NBI medico-legal officer as stated in the post mortem report; that the detailed testimony of a witness in homicide cases acquires greater weight and credibility if it corresponds with the autopsy report; that the mere fact that the judge who penned the decision was not the same judge who heard the testimonies of the witnesses does not ipso facto render the decision erroneous, more so when

the judgment appears to be fully supported by the evidence on record; that the alleged act of the victim poking the gun at the petitioner and his companions does not constitute unlawful aggression, an essential requirement for self-defense, since the mere aiming of the gun and threat to kill merely constitute a threat or intimidating attitude which does not amount to an actual and unexpected attack or imminent danger thereof; and that the accused did not resist but went peacefully with the police authorities when the latter invited the petitioner to the station does not amount to voluntary surrender.

Finding that the RTC erred in finding that two mitigating circumstances were present, namely, lack of intent to commit so grave a wrong and sufficient provocation or threat on the part of the offended party immediately preceding the act, the CA modified the penalty imposed by the RTC. According to the CA, the extensive nature of the injuries as stated in the post-mortem findings negates the contention of the petitioner that he had no intention of killing the victim because his purpose was only to disarm him; and the provocation, if any, done by the victim was not immediate to the act of petitioner's beating the victim, since a certain Paul Lopez had already previously assaulted the victim, and, moreover, there was a sufficient interval of time between the provocation of the offended party and the commission of the crime by the petitioner.

Hence, herein petition for review raising the following assignment of errors:

A.

THE HON. COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE DECISION OF THE LOWER COURT THAT THE ACCUSED IS GUILTY OF HOMICIDE ALTHOUGH IT WAS OBVIOUS THAT THE LOWER COURT FOUND OUT THAT THERE WAS NO INTENT ON THE PART OF THE PETITIONER TO COMMIT SAID CRIME AND THERE WAS NO PROVOCATION AT ALL ON HIS PART;

B.

THE HON. COURT OF APPEALS AND THE REGIONAL TRIAL COURT BELOW ERRED IN NOT APPRECIATING THAT THERE WAS AN UNLAWFUL AGGRESSION ON THE PART OF THE VICTIM, AND THE MEANS EMPLOYED BY PETITIONER TO PREVENT THE SAME WAS REASONABLE AND FALLS UNDER THE JUSTIFYING CIRCUMSTANCES OR SELF-DEFENSE;

C.

THE HON. COURT OF APPEALS AND THE LOWER COURT GRAVELY ERRED IN GIVING CREDENCE TO THE TESTIMONY OF THE LONE ALLEGED EYE WITNESS, WHEN SAID TESTIMONY HAS FULL OF INCONSISTENCIES; AND

D.

THE HON. COURT OF APPEALS HAS COMMITTED GRAVE ABUSE OF DISCRETION TANTAMOUNT TO LACK OF JURISDICTION WHEN IT MODIFIED THE DECISION OF THE REGIONAL TRIAL COURT, INCREASING THE PENALTY THEREOF WITHOUT ANY DISCUSSION OR EXPLANATION IN THE DECISION ITSELF WHY SAID MODIFICATION OF PENALTY IS NECESSARY AND IN ACCORDANCE WITH LAW.

The Court affirms the conviction of the petitioner except as to damages and the penalty imposed.

The petitioner emphasizes that the victim, allegedly a troublemaker in the vicinity, was drunk, fired his gun twice, and then proceeded towards the petitioner and his companions. Petitioner argues that the victim's act of poking the gun at him constitutes unlawful aggression sufficient to warrant his claim of self-defense.

The Court is not convinced.

When self-defense is invoked, the burden of evidence shifts to the accused to show that the killing was legally justified. Having owned the killing of the victim, the accused should be able to prove to the satisfaction of the Court the elements of self-defense in order to avail of this extenuating circumstance. He must discharge this burden by clear and convincing evidence. When successful, an otherwise felonious deed would be excused, mainly predicated on the lack of criminal intent of the accused.

Self-defense requires that there be (1) an unlawful aggression by the person injured or killed by the offender, (2) reasonable necessity of the means employed to prevent or repel that unlawful aggression, and (3) lack of sufficient provocation on the part of the person defending himself. All these conditions must concur.[9] There can be no self-defense, whether complete or incomplete, unless the victim had committed unlawful aggression against the person who resorted to self-defense.[10]

Unlawful aggression, a primordial element of self-defense, would presuppose an actual, sudden and unexpected attack or imminent danger on the life and limb of a person – not a mere threatening or intimidating attitude – but most importantly, at the time the defensive action was taken against the aggressor.[11] To invoke self-defense successfully, there must have been an unlawful and unprovoked attack that endangered the life of the accused, who was then forced to inflict severe wounds upon the assailant by employing reasonable means to resist the attack.[12]

The petitioner's plea of self-defense contradicts common knowledge and experience. No better test has yet been found to measure the value of a witness' testimony than its conformity to the knowledge of mankind.[13]

The Court agrees with the findings of the RTC which are supported by the evidence on record:

The testimonies of the defense witnesses, including the accused, that Cariño threatened the persons gathered in front of Oriente's house with a gun is quite difficult to believe in view of the admissions of the same defense witnesses, including the accused, that Cariño was able to get up from the ground after being hit and ran away with gun in hand. A person who was already threatening to kill with a gun and who was then hit with a piece of wood in a serious manner, can be reasonably expected to make use thereof. Here, the defense makes a rather unusual claim that Cariño simply ran away and did not use the gun he was holding while running.

The testimony of Arnel Tanael that Cariño did not run away but he got him at the place where he fell in the alley beside Oriente's house appears more credible and reasonable than that of the defense.

Moreover, considering the extensive injuries suffered by Cariño – several contusions on the face and head fractures – it is doubtful that a person in that condition, aggravated by what the defense claimed to be Cariño's state of stupor (drunk and "pasuray-suray"), could still run, much less hold a handgun while running.

In his testimony, the accused stated that Cariño walked towards him and his companions saying: "Don't come near me. I will shoot all of you. I will kill all of you." In the first place, why will Cariño utter such statements when there was no evidence by the defense that the accused and/or any of his companions at that time – 10:00 in the evening of March 16, 1996 – and place – in front of the house of the accused at Brgy. Pasong Tamo, Q.C. – were in the act of arresting Cariño. In the second place, the alleged statement of Cariño: "Don't come near me," shows that there were then persons in the act of going near him. In the third place, if indeed as claimed, Cariño was poking his gun with both arms extended at Oriente and his Tanod-companions, it is quite difficult to appreciate how he could not have seen the person in the act of hitting him right across his face and, as he allegedly threatened, how he could not have shot that person too[,] instinctive self-defense[,] instead of running away with gun in hand.[14]

Not that the RTC is alone. The CA, too, aptly observed:

x x x We find the testimony of [defense] witnesses highly incredible. Their version is that Cariño, after he was

hit with the lead pipe, fell on the ground still holding a gun. Thereafter, he just stood up and ran away. It is surprising, however, why these Tanod members including accused-appellant did not wrestle for the gun when they had all the opportunities to do so when Cariño fell down, if there was indeed a threat to their life and limb. And letting an armed man go would not be the normal reaction of persons in charge of peace and order in the community, especially if the armed man had previously threatened to shoot them. The only logical conclusion is that Cariño was not a threat to them and to their community, for as accused-appellant testified, “they will just deal with him the following day.”[15]

Noteworthy is the testimony of NBI Medico-Legal Officer, Dr. Roberto Garcia, on his findings from his post-mortem examination of the cadaver of the victim that the cause of death was traumatic head injury, viz:

- abrasion, right forearm;
- contused-abrasion, left temple;
- lacerated wounds above the left eyebrow; over the left eyebrow;
- hematomas orbital, left. Scalp frontal region, left side;
- fractures, skull
- hemorrhages: extensive
- visceral organs, congested.[16]

On cross-examination, Dr. Garcia opined that even with immediate and adequate medical attendance, the victim would not have survived considering the extensive nature of the hemorrhages found.[17] As the RTC held:

[C]onsidering the extensive injuries suffered by the victim – several contusions on the face and head fractures – it is doubtful that a person in that condition, aggravated by what the defense claimed to be Cariño’s state of stupor (drunk and “pasuray-suray”), could still run, much less hold a handgun while running.[18]

Thus, the defense failed to establish the existence of the gun being pointed at petitioner to constitute unlawful aggression on the part of the victim.

While petitioner avers that the testimony of Arnel Tanael is burdened with improbabilities and inconsistencies, after having owned the crime, however, the burden of proof is reversed and, therefore, he cannot simply protest that the evidence of the prosecution is weak. It then becomes incumbent upon petitioner to rely on the strength of his own evidence and not on the weakness of the evidence of the prosecution, for even if the latter were weak, it could not be disbelieved after he had admitted the killing. Hence, if the accused fails to discharge the burden of proof, his conviction must ensue as a matter of consequence.[19]

The petitioner insists that the CA erred in modifying the RTC’s decision by increasing the penalty imposed upon him. It is settled that in a criminal case, an appeal throws the whole case

open for review, and it becomes the duty of the appellate court to correct such errors as may be found in the judgment appealed from, whether they are made the subject of assignment of errors or not,[20] including the propriety of the imposable penalty.[21]

There is also no point in considering petitioner’s argument that the RTC promulgated two decisions and, by doing so, he was placed in double jeopardy.

Courts have the inherent power to amend their decisions to make them conformable to law and justice. This prerogative, however, is not absolute. The rules do not contemplate amendments that are substantial in nature.[22]

They merely cover formal changes or such that will not affect the crux of the decision, like the correction of typographical or clerical errors. Courts will violate due process if they make substantial amendments in their decisions without affording the other party the right to contest the new evidence presented in a motion for reconsideration.[23] The Court finds that the change in the penalty by the RTC in the instant case did not involve the consideration of any new evidence but a mere “correction” of the penalty imposed to conform with the Revised Penal Code and The Indeterminate Sentence Law.

And as the Solicitor General correctly noted, the trial court modified the penalty in its Decision dated November 15, 1999 before the petitioner could perfect his appeal from the first Decision dated November 4, 1999 which was promulgated on November 10, 1999. Noteworthy is that it was the RTC’s second Decision dated November 15, 1999 which the petitioner elevated on appeal to the CA. It is well settled that when an accused appeals from the sentence of the trial court, he waives the constitutional safeguard against double jeopardy, and, as discussed above, throws the whole case open to the review of the appellate court, which is then called to render judgment as the law and justice dictate, whether favorable or unfavorable, and whether they are made the subject of assigned errors or not. This precept should be borne in mind by every lawyer of an accused who unwittingly takes the risk involved when he decides to appeal his sentence.[24]

As to the mitigating circumstances, the CA is correct in finding that the RTC erred in appreciating in favor of the petitioner the mitigating circumstances of lack of intent to commit so grave a wrong and sufficient provocation on the part of the victim, Romulo Cariño.

On the first circumstance, the RTC held:

According to the accused, he did not intend to kill Cariño. In turn, Cariño did not die immediately from his wounds as he still lived for around two (2) hours after his body was taken to the hospital. This fact and the fact that Cariño was hit by a hard, blunt object, convince [sic] this court that the intent of the accused to kill Cariño appears to be reasonably doubtful. . . .[25]

However, the CA correctly took into consideration the post-mortem findings of the NBI medico-legal expert and his testimony that even with immediate and adequate medical attendance, the victim would not have survived due to the extensive nature of the hemorrhage suffered by the victim. The brute force employed by the petitioner contradicts the claim that he had no intention to kill the victim. The mitigating circumstance of lack of intent to commit so grave a wrong as that actually perpetrated cannot be appreciated where the acts employed by the accused were reasonably sufficient to produce and did actually produce the death of the victim.[26]

On the second circumstance, the RTC pointed to the fact that the incident was preceded by an intense argument between the victim and the accused so as to qualify the situation as a mitigating circumstance of sufficient provocation or threat on the part of the offended party which immediately preceded the act.[27]

Provocation is defined to be any unjust or improper conduct or act of the offended party, capable of exciting, inciting, or irritating anyone. In order to be mitigating, provocation must be sufficient and should immediately precede the act. Provocation is sufficient if it is adequate to excite a person to commit the wrong, which must accordingly be proportionate in gravity. That the provocation must immediately precede the act means that there should not be any interval of time between the provocation by the offended party and the commission of the crime by the person provoked.[28]

The fact that a heated or intense argument preceded the incident is not by itself the sufficient provocation on the part of the offended party as contemplated by law. Moreover, petitioner failed to establish by competent evidence that the victim had a gun and used it to threaten petitioner.

With respect to the other aggravating circumstances of treachery, evident premeditation, and grave abuse of superior strength, the Court likewise agrees with the findings of the RTC, as affirmed by the CA, that none of these circumstances are present for lack of evidence.

Thus, the CA is partly correct in modifying the penalty imposed by the RTC. The RTC imposed an indeterminate prison term of four (4) years, two (2) months and one (1) day of prision correccional as minimum to eight (8) years and one (1) day of prision mayor as maximum, while the CA adjusted the sentence upwards since no mitigating circumstances attended the crime, and imposed an indeterminate prison term of six (6) years and one (1) day of prision mayor as minimum to twelve (12) years and one (1) day of reclusion temporal as maximum. Article 249 of the Revised Penal Code provides that any person found guilty of homicide shall be punished by reclusion temporal, i.e., twelve (12) years and one (1) day to twenty (20) years. Applying Section 1 of the Indeterminate Sentence Law, the minimum term of the sentence shall be within the range of the penalty next lower, which is prision mayor, i.e., anywhere between six (6) years and one (1) day to eight (8) years. The CA appropriately exercised its discretion when it imposed six (6) years and one (1) day of prision mayor as the minimum term.

However, the CA erred in imposing twelve (12) years and one (1) day of reclusion temporal as the maximum term of the indeterminate sentence. In the computation of the maximum term, the law prescribes that the attending circumstances should be considered. There being no aggravating or mitigating circumstance in this case, the penalty that should be imposed is the medium period of the penalty prescribed by law,[29] that is, reclusion temporal in its medium period, or, anywhere between fourteen (14) years, eight (8) months and one (1) day to seventeen (17) years and four (4) months.

And last, the CA, without reason, omitted a portion of the award of damages by the RTC in the civil aspect of the case, namely, the amount of actual damages which comprised the expenses for the cemetery lot and religious services. In particular, the RTC held that the prosecution was able to prove actual damages amounting to P41,500.00 based on supporting evidence,[30] in addition to the death indemnity of P50,000.00 as required by current jurisprudence.[31] On the other hand, the dispositive portion of the CA judgment merely ordered petitioner to indemnify the heirs of the deceased victim in the amount of P50,000.00.

The Court restores the full amount of actual damages originally awarded by the RTC.

Moral damages are not awarded for lack of basis in fact and law.[32] No witnesses testified to prove the existence of the factual

basis therefor.

Pursuant to Article 2230 of the Civil Code, in criminal offenses, exemplary damages may be imposed when the crime is committed with one or more aggravating circumstances. Considering that no aggravating circumstance is present in this case, the lower courts are correct in not awarding exemplary damages.

WHEREFORE, the petition is DENIED. The assailed Decision and Resolution of the Court of Appeals are AFFIRMED with MODIFICATION. The petitioner is found GUILTY beyond reasonable doubt of Homicide and is sentenced to suffer the penalty of an indeterminate sentence of six (6) years and one (1) day of prision mayor as minimum to fourteen (14) years, eight (8) months, and one (1) day, as maximum. The petitioner is further ordered to pay the heirs of the victim the amounts of P50,000.00 as death indemnity and P41,500.00 as actual damages.

**SO ORDERED.**

Ynares-Santiago, (Chairperson), Callejo, Sr., and Chico-Nazario JJ., concur.

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[1] Penned by Associate Justice Perlita J. Tria Tirona, with Associate Justices Eubulo G. Verzola and Bernardo P. Abesamis, concurring.

[2] Rollo, p. 9.

[3] Records, Vol. I, p. 1.

[4] CA Rollo, pp. 207-208.

[5] Records, Vol. II, p. 394.

[6] Id. at 395.

[7] Id. at 407.

[8] Rollo, p. 20.

[9] *People v. Dagani*, G.R. No. 153875, August 16, 2006.

[10] *People v. Catbagan*, G.R. Nos. 149430-32, February 23, 2004, 423 SCRA 535, 556.

[11] *People v. Dagani*, supra; *People v. Dela Cruz*, 400 Phil. 872, 878 (2000).

[12] *People v. Dagani*, supra note 9; *People v. Escarlos*, 457 Phil. 580, 596 (2003).

[13] *People v. Venerable*, 352 Phil. 623, 632 (1998).

[14] Rollo, p. 72.

[15] Id. at 18.

[16] Id. at 66-67.

[17] Id. at 67.

[18] Id. at 72.

[19] *People v. Paulino*, G.R. No. 148810, November 18, 2003, 416 SCRA 122, 127.

[20] *People v. Flores, Jr.*, 442 Phil. 561, 569 (2002).

[21] See *Cadua v. Court of Appeals*, 371 Phil. 627, 648 (1999).

[22] *Cansino v. Court of Appeals*, 456 Phil. 686, 692 (2003); *Unidad v. Court of Appeals*, 447 Phil. 96, 109 (2003).

[23] *Cansino v. Court of Appeals*, id. at 692.

[24] *People v. Rondero*, 378 Phil. 123, 143 (1999).

[25] Rollo, p. 72.

[26] *People v. Isleta*, 332 Phil. 410, 427-428 (1996). See *People v. Francisco*, 388 Phil. 94, 126 (2000); *People v. Gonzales, Jr.*, 411 Phil. 893, 925 (2001).

[27] REVISED PENAL CODE, Art. 13, par. 14.

[28] *Navarro v. Court of Appeals*, 372 Phil. 21, 36 (1999).

[29] REVISED PENAL CODE, Art. 64, par. 1.

[30] Exhibits “L,” “M-1” and “M-2”; Records, Vol. I, pp. 94, 109-110.

[31] See *People v. Dagani*, *supra* note 9.

[32] See CIVIL CODE, Arts. 2217-2220, 2229-2235.

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