PEOPLE OF THE PHILIPPINES, APPELLEE, VS. PEDRO DELIMA, JR., APPELLANT.

G.R. NO. 169869. July 12, 2007

Ponente: AUSTRIA-MARTINEZ, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-169869/

AUSTRIA-MARTINEZ, J.:

For automatic review is the Decision[1] of the Court of Appeals (CA) dated August 16, 2005 in CA-G.R. CR-H.C. No. 00464, affirming the conviction of accused Pedro Delima, Jr. (appellant) of the crime of Parricide, imposing upon him the penalty of death, and ordering him to pay P50,000.00 as civil indemnity, P50,000.00 as moral damages, and P15,000.00 as temperate damages.

The Information filed with the Regional Trial Court, Branch 81, Quezon City reads:

> The undersigned accuses PEDRO DELIMA, JR. of the crime of PARRICIDE, committed as follows:
>
> That on or about the 13[th] day of September, 2000 in Quezon City, Philippines, the above-named accused, with intent to kill did, then and there wilfully, unlawfully and feloniously, with treachery and taking advantage of superior strength, attack, assault and employ personal violence upon the person of one LOURDES MERINO, his wife, by then and there stabbing her with a bladed weapon hitting her on the body, thereby inflicting upon her serious and grave wounds which were the direct and immediate cause of her untimely death, to the damage and prejudice of the heirs of the said LOURDES MERINO, herein represented by ISABEL L. MAKABENTA.
>
> CONTRARY TO LAW.[2]

Upon arraignment, appellant, with the assistance of counsel, pleaded not guilty to the crime charged. Trial ensued.

The bodies of evidence for the prosecution and the defense are aptly summarized in the Decision of the CA as follows:

> The accused-appellant Pedro Delima, Jr. and the victim Lourdes Merino were married in 1999 in the province of Surigao del Sur. They stayed at No. 823 Riverside Street, Barangay Commonwealth, Quezon City with the victim's sister Isabel L. Makabenta, Isabel's husband and their two children.
>
> Six-year old Melissa Makabenta testified that after her mother (Isabel) left their house to sell sampaguita in the early morning of September 13, 2000, she saw the accused-appellant get a knife from his bag, kneel down beside his wife Lourdes who was asleep, and then stab and hit her in the hands. Lourdes awoke as she was stabbed; the accused-appellant repeatedly stabbed her until she died. The accused-appellant then covered his wife with linen cloth, placed the knife inside his bag and washed his hands. Before leaving the house, the accused-appellant instructed Melissa to close the door and not to leave the house.
>
> Another prosecution witness Isabel Makabenta – Melissa's mother and sister of the victim – claimed that she left the house at 5:30 in the morning of September 13, 2000 to sell sampaguita at Don Antonio Heights, leaving her two children behind with her sister Lourdes and her husband [herein accused-appellant]. When she

> returned before noon of that same day, her neighbors informed her that her sister Lourdes was dead, killed by her husband Pedro (the accused-appellant), and that the police had taken the remains to Camp Karingal in Quezon City. She later found out that her sister's body was transferred to the Prudential Funeral Home at Maceda St., Sampaloc, Manila. Isabel went to the funeral parlor and took the victim's body to her place.
>
> Isabel thereafter saw her daughter Melissa give a statement at the police station. She (Melissa) later informed her that the accused-appellant killed her aunt.
>
> Police Senior Inspector Michael Maunahan, a medico-legal officer of the Central Police District Crime Laboratory of Camp Crame, conducted a post-mortem examination on the victim. He testified that the stab wound on the left chest pierced the left lung and the heart of the victim. The necropsy examination report states:
>
> "POST-MORTEM FINDINGS:
> Fairly developed, fairly nourished female cadaver in rigor mortis with post-mortem lividity on posterior portion of the body. Conjunctivae are pale. Nailbeds and lips are cyanotic.

HEAD AND NECK:

> - Stab wound, right zygomatic region, measuring 1 x 0.2 cm, 8.2 cm anterior midline, 2 cm deep, directed posteriorwards, downwards, medialwards, piercing the underlying soft tissues and nicking the zygomatic bone
>
> - Incised wound, right mental region, measuring 5 x 0.5 cm., 1.5 cm

CONCLUSION:

> Cause of death: Hemorrhagic shock secondary to a stab wound on the trunk."

The accused-appellant raised the defenses of alibi and denial. He testified that he and his wife Lourdes were married in 1999 in Surigao del Sur and stayed at Beslig, Surigao del Sur after their marriage. He alleged that it was his first time to go to Manila on June 19, 2000 and he stayed for only 2 ½ months, or until the middle of August 2000. At the time of the commission of the crime, he was at the farm with a certain Antonio Sauro in Toktok, Leyte. He stayed in Leyte for ten months or until June of 2001. He added that he arrived in Caloocan City on June 11, 2001 and stayed with his daughter Emma Delima from whose place the police served and implemented the warrant for his arrest.

On direct examination, he admitted that he killed his wife. He claimed on cross-examination, however, that the police threatened him into admitting the crime. He further stated that Melissa, his wife's niece, had no grudge against him and that she had no reason to falsely testify against him.[3]

The trial court found appellant guilty beyond reasonable doubt of the crime of Parricide penalized under Article 246 of the Revised Penal Code, sentencing him to reclusion perpetua and ordered him to pay P25,000.00 as actual damages and P50,000.00 as civil indemnity.

Appellant filed a Notice of Appeal to this Court but per Resolution dated September 22, 2004, the case was transferred to the CA in accordance with this Court's Decision in People v. Mateo.[4]

On August 16, 2005, the CA promulgated its Decision, the dispositive portion of which reads:

> WHEREFORE, the appealed decision of the Regional Trial Court of Quezon City, Branch 81 convicting Pedro Delima, Jr. of the crime of Parricide under Article 246 of the Revised Penal Code is hereby AFFIRMED with MODIFICATION with respect to the penalty and the awarded damages. The accused-appellant is sentenced to suffer the supreme penalty of DEATH and to pay the amount of P50,000.00 as CIVIL INDEMNITY, MORAL DAMAGES in the amount of P50,000.00 and P15,000.00 as TEMPERATE DAMAGES.[5]

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

The CA ruled that (1) the element of relationship between the appellant and the victim had been admitted by appellant and set forth in the stipulation of facts in the Pre-Trial Order[6] dated September 4, 2001; (2) six-year old Melissa, who categorically and positively identified appellant as the killer, is a credible witness; and (3) treachery attended this case and the same should be considered as an aggravating circumstance, calling for the imposition of the graver penalty of death.

The case was elevated to this Court for automatic review pursuant to Section 13, Rule 124 of the Revised Rules of Criminal Procedure, as amended.

On November 22, 2005, this Court required the parties to submit their respective Supplemental Briefs, but both parties manifested that they will no longer file such pleadings as they opt to replead and adopt the arguments submitted in their respective Briefs.

Appellant assigned the following as errors of the trial court:

> I
>
> THE COURT A QUO GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF PARRICIDE DESPITE THE PROSECUTION'S FAILURE TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.
>
> II
>
> THE COURT A QUO GRAVELY ERRED IN ORDERING THE ACCCUSED-APPELLANT TO PAY ACTUAL DAMAGES IN THE AMOUNT OF P25,000.00 IN SPITE OF THE ABSENCE OF EVIDENCE.[7]

Mainly, appellant argues that there are inconsistencies in the testimonies of the prosecution witnesses which undermine their credibility, i.e., (1) Melissa categorically stated that her uncle left when her aunt woke up after the hands of the latter were injured; then, she later stated that her uncle stabbed her aunt many times which resulted in the latter's death;[8] (2) Melissa could not remember issuing a statement to the authorities but her mother, Isabel, testified that she saw Melissa affix her thumbmark on the sworn statement given to authorities;[9] (3) Isabel was already suspicious of appellant before the incident happened because "tahimik siya at pailalim ang tingin," but she also testified that before she left at 5:30 in the morning on the day the victim was killed, appellant was merely lying in bed;[10] and (4) Isabel first said that the only information given to her by her neighbors was that the body of her sister was brought to Camp Karingal, but later, she added that the neighbors also said it was appellant who killed her sister.[11] Appellant also pointed out that Melissa admitted that her mother, Isabel, had been talking to her about the case and what she would say in court.[12]

The other argument raised by appellant is that he should not be made to pay actual damages, as prosecution witness Isabel admitted that she did not spend for the victim's burial as they were given financial aid.

After a judicious review of the record, the Court agrees with the CA that the prosecution evidence has established appellant's guilt beyond reasonable doubt.

A thorough examination of the transcripts of stenographic notes reveals that there are no real inconsistencies in the testimonies of the prosecution witnesses.

Melissa's testimony is not necessarily contradictory. The prosecutor only had to question her further to ferret out and clarify some of the details of the horrifying event. This is completely understandable, considering that she was merely six years old at the time that she was put on the witness stand. She testified thus:

> Q -

Now you said that your Tita Lourdes was sleeping when she was stabbed by your Tito Pedro, after your Tita woke-up, what did Tito Pedro do?

A -

She was injured at the hands.

Q -

Who was injured in the hand?

A -

The hands of my Tita Lourdes was injured by my Tito Pedro.

Q:

What did your Tita do after she woke-up after (sic) and after she was stabbed by Pedro?

A:

When my Tita Lourdes woke up, my Tito Pedro left.

Q:

Where did your Tito Pedro go?

A:

He left but he did not tell us.

Q:

How many times did your Tito Pedro stab your Tita Lourdes?

A:

Many times, sir.

Q:

And what happened to your Tita Lourdes after she was stabbed many times by Tito Pedro ?

A:

When Pedro left, he told me to close the door and do not leave the house.

COURT:

Ang tanong ng Fiscal ang sagutin mo .

A:

She died.

Q:

So, after your Tito [sic] Lourdes died, what did your Tito Pedro do ?

A:

He left the house, sir.

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

> x x x x [13]
> (Emphasis and underscoring supplied)

It is a hornbook doctrine that the testimony of a witness must be considered in its entirety and not by truncated portions or isolated passages thereof.[14] Evidently, the totality of Melissa's testimony positively and convincingly shows that there is no real inconsistency.

Moreover, in People v. Lorenzo,[15] the Court held that it is quite understandable for a very young witness to make errors or make inconsistent statements when they are testifying. The Court explained thus:

> Apparently, Lea erred when on redirect examination, she failed to mention that the appellant inserted his penis into her vagina. However, such circumstance should not discredit her and her testimony. It must be stressed that Lea was barely four years old when she was raped and when she testified. She could not be expected to understand every question asked of her in the course of examination. Ample margin of error and understanding should be accorded to Lea who, much more than adults, would be gripped with tension due to the novelty of the experience of testifying before a court.
>
> Error-free testimony cannot be expected, most especially when a witness is recounting vivid details of a harrowing experience, one which even an adult would like to bury in oblivion. x x x Also, the Court cannot impose the burden of exactness in the victim's recollection of her harrowing experience, more so in this case where the victim was barely four years old.[16]

In the present case, six-year old Melissa also had a very harrowing and shocking experience when she witnessed the violent act of her uncle stabbing her aunt. Thus, the same leniency and consideration given to the young witness in People v. Lorenzo should also be granted to Melissa. Her seemingly inconsistent statements should be calibrated in their entirety so as to extract the facts established by the testimony of such child witness. The lower court committed no error in relying on the testimony of Melissa.

As to the fact that Melissa could not remember issuing a statement to the authorities but that her mother, Isabel, testified that she saw Melissa affix her thumbmark to the sworn statement given to authorities, Melissa's failure to recall can again be easily attributable to her tender age. Thus, there is a great possibility that she was not able to fully comprehend the question when she was asked whether "she gave a statement to the police," and if she was "invited by the policeman."[17] Human experience would tell us that such a young child, who has never experienced dealing with police matters, would have great difficulty understanding just exactly what "giving a statement or a salaysay," or being "invited by policemen" means. The Court finds no inconsistency between Isabel's statement that when she left her house early in the morning, appellant was still lying in bed; and her observation that at that time, appellant was "tahimik" and "pailalim tumingin."[18] As correctly observed by the CA, "[s]ince the accused-appellant was already awake at the time, it was not impossible for Isabel to have observed his behavior before she left the house to sell sampaguita."[19]

There is likewise no reason to uphold appellant's asseveration that Isabel's statement had discrepancies. Isabel supposedly said that the only information given to her by her neighbors was that the body of the victim, her sister, was brought to Camp Karingal, but later, she added that the neighbors also said it was appellant who killed her sister. What Isabel actually said on the witness stand was that when she first got home after selling sampaguita, her neighbors told her that her sister had been taken to Camp Karingal. She then went to said place to look for her sister but it was at a funeral parlor where she eventually found her sister's body. It was only when she got back home from the funeral parlor that one of her neighbors informed her that it was accused-appellant who killed her sister.[20] Verily, there is no contradiction in Isabel's statement.

If at all, Isabel's testimony refers only to collateral matters. Discrepancies referring only to minor details and

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

collateral matters – not to the central fact of the crime – do not affect the veracity or detract from the essential credibility of a witness as long as it is coherent and intrinsically believable on the whole.[21]

With regard to the issue that Melissa admitted that her mother talked to her regarding the case and on what she would say in court, the CA is right when it held that "communication between mother and child are not unusual, nor is the communication between witness and counsel prior to trial. In our view, these communications, even if they did transpire, cannot amount to objectionable 'coaching' in the absence of details of what had been communicated."[22] On cross-examination, the defense only asked the following questions regarding the alleged "coaching":

> Q: Now, before you sat there, who was your companion in coming to this Court?
>
> A: My mama (mother).
>
> Q: Have you been talking with your mother about this case?
>
> A: Yes, sir.
>
> Q: Regarding this case?
>
> A: Yes, sir.
>
> Q: Have your mother been telling you what to say in this court?
>
> A: Yes, sir. [23]

Unfortunately, counsel failed to ask further questions to find out what Melissaï¿½s mother told her to say in court. Hence, it cannot be concluded that the child's entire testimony is merely a product of what her mother told her to say in court.

Moreover, a reading of the transcript of stenographic notes shows that Melissa testified in a spontaneous, straightforward, unwavering manner even during cross-examination, which gives the Court no reason to overturn the trial court's finding as to her credibility.

Appellant's weak defense of alibi cannot stand a chance against the declaration of Melissa identifying him as the killer and describing the manner in which he perpetrated the crime. Appellant himself admitted that Melissa, his niece, bore no grudge against him, nor had he offended her.[24] As held in People v. Mangitngit,[25] to wit:

> x x x The settled jurisprudence is that categorical and consistent positive identification, absent any showing of ill motive on the part of the eyewitness testifying thereon, prevails over the defenses of denial and alibi which, if not substantiated by clear and convincing proof, as in the case at bar, constitute self-serving evidence undeserving of weight in law.[26]

Appellant's uncorroborated claim that he was in Leyte at the time of the killing cannot inspire belief in the face of Melissa's positive testimony.

The crime of parricide is punishable by the penalty of reclusion perpetua to death under Article 246 of the Revised Penal Code. To determine the proper penalty to be imposed, Article 63 of the Revised Penal Code provides that when in the commission of the deed there is present only one aggravating circumstance, the greater penalty shall be applied.

Undoubtedly, the aggravating circumstance of treachery attended the commission of the crime. In Andrada v. People,[27] the Court held that there is treachery where the attack is so sudden and unexpected that the victim had no opportunity either to avert the attack or to defend himself. Verily, nothing can be more sudden and unexpected

as when a husband starts stabbing his wife while she is asleep, and then repeatedly stabbing her when she has awakened, as what happened in this case. Therefore, in accordance with Article 63 of the Revised Penal Code, the CA, when it rendered its Decision on August 16, 2005, correctly held that appellant should be sentenced to death.

However, on June 30, 2006, Republic Act No. 9346 (R.A. 9346), entitled An Act Prohibiting the Imposition of Death Penalty in the Philippines, took effect.[28] Pertinent provisions thereof provide as follows:

> Section 1. The imposition of the penalty of death is hereby prohibited. Accordingly, Republic Act No. Eight Thousand One Hundred Seventy-Seven (R.A. No. 8177), otherwise known as the Act Designating Death by Lethal Injection is hereby repealed. Republic Act No. Seven Thousand Six Hundred Fifty-Nine (R.A.No. 7659) otherwise known as the Death Penalty Law and all other laws, executive orders and decrees insofar as they impose the death penalty are hereby repealed or amended accordingly.
>
> Section 2. In lieu of the death penalty, the following shall be imposed:
> (a) the penalty of reclusion perpetua, when the law violated makes use of the nomenclature of the penalties of the Revised Penal Code; or

x x x x

SECTION 3. Persons convicted of offenses punished with reclusion perpetua, or whose sentences will be reduced to reclusion perpetua, by reason of this Act, shall not be eligible for parole under Act No. 4103, otherwise known as the Indeterminate Sentence Law, as amended.

Accordingly, the penalty of death imposed on appellant should be reduced to reclusion perpetua without eligibility for parole.

As to the damages awarded, the Court finds that the CA correctly deleted the trial court's award of actual damages but erred in awarding temperate damages. It should be noted that Article 2224 of the Civil Code provides that temperate or moderate damages may be awarded 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. In this case, Isabel testified thus:

> FISCAL AGCAOILI: (To Witness)
>
> Q:
>
> Now, did you incur expenses in connection with the wake and funeral of your sister Lourdes?
>
> A:
>
> Yes sir.
>
> Q:
>
> How much did you spend?
>
> A:
>
> P25,000.00, sir.
>
> Q:
>
> Do you have receipt to prove that indeed you incurred that expenses for the wake and funeral of your sister Lourdes?
>
> A:
>
> I do not have my receipts sir because somebody helped me in shouldering the expenses for the intern (sic) of

my sister.

x x x x

CROSS EXAMINATION OF WIT. ISABEL MAKABENTA

ATTY. AMDENGAN: (To Witness)

x x x x

Q:

About this P25,000.00 you mentioned, you said this amount has no receipt, is that correct?

A:

None sir.

Q:

In other words when you said that somebody helped you in the burial of your sister, is that correct?

A:

Yes sir.

x x x x

Q:

You mentioned about the P25,000.00 for the funeral services but you did not give any amount of that P25,000.00, is that correct ?

A:

I did not give any amount, sir. [29] (Emphasis supplied)

With Isabel's own admission that she did not give any amount, it is quite clear that no expenses were incurred by the victim's family for the burial and wake. Thus, there is no basis for the award of temperate damages.

IN VIEW OF THE FOREGOING, the Decision of the Court of Appeals dated August 16, 2005 in CA-G.R. CR-H.C. No. 00464 is hereby AFFIRMED with the MODIFICATIONS that the penalty of death imposed on appellant is REDUCED to reclusion perpetua without possibility of parole in accordance with Republic Act No. 9346, and the award of temperate damages is DELETED.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Corona, Carpio-Morales, Azcuna, Tinga, Chico-Nazario, Garcia, Velasco, Jr., and Nachura, JJ., concur.

---

[1]Penned by former Associate Justice Arturo D. Brion (now Secretary of the Department of Labor and Employment) and concurred in by Associate Justices Eugenio S. Labitoria (now retired) and Eliezer R. de Los Santos (now deceased); rollo, pp. 3-22.

[2] Records, p. 1.

[3] CA rollo, pp. 104-107.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

[4] G.R. Nos. 147678-87, July 7, 2004, 433 SCRA 640.

[5]Rollo, pp. 21-22.

[6]Records, p. 33.

[7]Brief for the Accused-Appellant, CA rollo, p. 39.

[8]Id. at 43.

[9]Id. at 44.

[10]Id.

[11]Id.

[12] Id. at 43-44.

[13]TSN, October 15, 2001, pp. 4-5.

[14] People v. Mahinay, 462 Phil. 53, 69 (2003); People v. Gusmo, 467 Phil. 199, 212 (2004).

[15]460 Phil. 37 (2003).

[16] Id. at 53.

[17]TSN, October 15, 2001, p. 6.

[18] TSN, November 5, 2001 p. 14.

[19] CA Decision, rollo, p. 14.

[20] TSN, November 5, 2001, pp. 5-8.

[21]People v. Suarez, G.R. Nos. 153573-76, April 15, 2005, 456 SCRA 333, 345.

[22] Supra note 19.

[23]TSN, October 15, 2001, p. 7.

[24]TSN, February 4, 2002, p. 7.

[25] G.R. No. 171270, September 20, 2006, 502 SCRA 560.

[26] Id. at 576.

[27]G.R. No. 135222, March 4, 2005, 452 SCRA 685, 695.

[28] People v. Tubongbanua, G.R. No. 171271, August 31, 2006, 500 SCRA 727, 741.

[29] TSN, November 5, 2001, pp. 11-12, 20.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.