

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EDNA MALNGAN Y MAYO, APPELLANT.*G.R. NO. 170470. September 26, 2006*

Ponente: CHICO-NAZARIO, J.

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For review is the Decision[1] of the Court of Appeals in CA- G.R. CR HC No. 01139 promulgated on 2 September 2005, affirming with modification the Judgment[2] of the Regional Trial Court (RTC) of Manila, Branch 41, in Criminal Case No. 01-188424 promulgated on 13 October 2003, finding appellant Edna Malngan y Mayo (Edna) guilty beyond reasonable doubt of the crime of "Arson with Multiple Homicide or Arson resulting to the death of six (6) people," and sentencing her to suffer the penalty of death.

The Facts

As summarized[3] by the Court of Appeals, the antecedent facts are as follows:

From the personal account of Remigio Bernardo, the Barangay Chairman in the area, as well as the personal account of the pedicab driver named Rolando Gruta, it was at around 4:45 a.m. on January 2, 2001 when Remigio Bernardo and his tanods saw the accused-appellant EDNA, one hired as a housemaid by Roberto Separa, Sr., with her head turning in different directions, hurriedly leaving the house of her employer at No. 172 Moderna Street, Balut, Tondo, Manila. She was seen to have boarded a pedicab which was driven by a person later identified as Rolando Gruta. She was heard by the pedicab driver to have instructed that she be brought to Nipa Street, but upon her arrival there, she changed her mind and asked that she be brought instead to Balasan Street where she finally alighted, after paying for her fare.

Thirty minutes later, at around 5:15 a.m. Barangay Chairman Bernardo's group later discovered that a fire gutted the house of the employer of the housemaid. Barangay Chairman Bernardo and his tanods responded to the fire upon hearing shouts from the residents and thereafter, firemen from the Fire District 1-NCR arrived at the fire scene to contain the fire.

When Barangay Chairman Bernardo returned to the Barangay Hall, he received a report from pedicab driver Rolando Gruta, who was also a tanod, that shortly before the occurrence of the fire, he saw a woman (the housemaid) coming out of the house at No. 172 Moderna Street, Balut, Tondo, Manila and he received a call from his wife telling him of a woman (the same housemaid) who was acting strangely and suspiciously on Balasan Street. Barangay Chairman Bernardo, Rolando Gruta and the other tanods proceeded to Balasan Street and found the woman who was later identified as the accused-appellant. After Rolando Gruta positively identified the woman as the same person who left No. 172 Moderna Street, Balut, Tondo, Manila, Barangay Chairman Bernardo and his tanods apprehended her and brought her to the Barangay Hall for investigation. At the Barangay Hall, Mercedita Mendoza, neighbor of Roberto Separa, Sr. and whose house was also burned, identified the woman as accused-appellant EDNA who was the housemaid of Roberto Separa, Sr. Upon inspection, a disposable lighter was found inside accused- appellant EDNA's bag. Thereafter,

accused-appellant EDNA confessed to Barangay Chairman Bernardo in the presence of multitudes of angry residents outside the Barangay Hall that she set her employer's house on fire because she had not been paid her salary for about a year and that she wanted to go home to her province but her employer told her to just ride a broomstick in going home.

Accused-appellant EDNA was then turned over to arson investigators headed by S[F]O4 Danilo Talusan, who brought her to the San Lazaro Fire Station in Sta. Cruz, Manila where she was further investigated and then detained.

When Mercedita Mendoza went to the San Lazaro Fire Station to give her sworn statement, she had the opportunity to ask accused-appellant EDNA at the latter's detention cell why she did the burning of her employer's house and accused-appellant EDNA replied that she set the house on fire because when she asked permission to go home to her province, the wife of her employer Roberto Separa, Sr., named Virginia Separa (sic) shouted at her: "Sige umuwi ka, pagdating mo maputi ka na. Sumakay ka sa walis, pagdating mo maputi ka na" (TSN, January 22, 2002, p.6) ("Go ahead, when you arrive your color would be fair already. Ride a broomstick, when you arrive your color would be fair already.") And when Mercedita Mendoza asked accused-appellant EDNA how she burned the house, accused-appellant EDNA told her: "Naglukot ako ng maraming diyaryo, sinindihan ko ng disposable lighter at hinagis ko sa ibabaw ng lamesa sa loob ng bahay" (TSN, January 22, 2002, p. 7.) ("I crumpled newspapers, lighted them with a disposable lighter and threw them on top of the table inside the house.")

When interviewed by Carmelita Valdez, a reporter of ABS-CBN Network, accused-appellant EDNA while under detention (sic) was heard by SFO4 (sic) Danilo Talusan as having admitted the crime and even narrated the manner how she accomplished it. SFO4 (sic) Danilo Talusan was able to hear the same confession, this time at his home, while watching the television program "True Crime" hosted by Gus Abelgas also of ABS-CBN Network.

The fire resulted in [the] destruction of the house of Roberto Separa, Sr. and other adjoining houses and the death of Roberto Separa, Sr. and Virginia Separa together with their four (4) children, namely: Michael, Daphne, Priscilla and Roberto, Jr.

On 9 January 2001, an Information[4] was filed before the RTC of Manila, Branch 41, charging accused-appellant with the crime of Arson with Multiple Homicide. The case was docketed as Criminal Case No. 01-188424. The accusatory portion of said Information provides:

That on or about January 2, 2001, in the City of Manila, Philippines, the said accused, with intent to cause damage, did then and there willfully, unlawfully, feloniously and deliberately set fire upon the two-storey residential house of ROBERTO SEPARA and family mostly made of wooden materials located at No. 172 Moderna St., Balut, Tondo, this city, by lighting crumpled newspaper with the use of disposable lighter inside said house knowing the same to be an inhabited house and situated in a thickly populated place and as a consequence thereof a conflagration ensued and the said building, together with some seven (7) adjoining residential houses, were razed by fire; that by reason and on the occasion of the said fire, the following, namely,

- Roberto Separa, Sr., 45 years of age
- Virginia Separa y Mendoza, 40 years of age
- Michael Separa, 24 years of age
- Daphne Separa, 18 years of age
- Priscilla Separa, 14 years of age

- Roberto Separa, Jr., 11 years of age

sustained burn injuries which were the direct cause of their death immediately thereafter.[5]

When arraigned, accused-appellant with assistance of counsel de officio, pleaded[6] "Not Guilty" to the crime charged. Thereafter, trial ensued.[7]

The prosecution presented five (5) witnesses, namely, SPO4[8] Danilo Talusan, Rolando Gruta, Remigio Bernardo, Mercedita Mendoza and Rodolfo Movilla to establish its charge that accused-appellant Edna committed the crime of arson with multiple homicide.

SPO4 Danilo Talusan, arson investigator, testified that he was one of those who responded to the fire that occurred on 2 January 2001 and which started at No. 172 Moderna St., Balut, Tondo, Manila. He stated that the fire killed Roberto Separa, Sr. and all the other members of his family, namely his wife, Virginia, and his children, Michael, Daphne, Priscilla and Roberto, Jr.; the fire also destroyed their abode as well as six neighboring houses. He likewise testified that he twice heard accused- appellant - once while the latter was being interviewed by Carmelita Valdez, a reporter of ABS-CBN, and the other time when it was shown on channel 2 on television during the airing of the television program entitled "True Crime" hosted by Gus Abelgas - confess to having committed the crime charged, to wit:

Pros. Rebagay:

Based on your investigation, was there any occasion when the accused Edna Malngan admitted to the burning of the house of the Separa Family?

x x x x

Witness:

Yes, sir.

Pros. Rebagay:

When was that?

A: On January 2 she was interviewed by the media, sir. The one who took the coverage was Carmelita Valdez of Channel 2, ABS-CBN. They have a footage that Edna admitted before them, sir.

Q: And where were you when Edna Malngan made that statement or admission to Carmelita Valdez of ABS-CBN?

A: I was at our office, sir.

Q: Was there any other occasion wherein the accused made another confession relative to the admission of the crime?

A: Yes, sir.

Q: When was that?

A: Last Friday, sir. It was shown in True Crime of Gus Abelgas. She was interviewed at the City Jail and she admitted that she was the one who authored the crime, sir.

Pros. Rebagay:

And where were you when that admission to Gus Abelgas was made?

A: I was in the house and I just saw it on tv, sir.

Q: What was that admission that you heard personally, when you were present, when the accused made the

confession to Carmelita Valdez?

A: "Naglukot po siya ng papel, sinidihan niya ng lighter at inilagay niya sa ibabaw ng mesa 'yung mga diyaryo at sinunog niya."

x x x x

Q: Aside from that statement, was there any other statement made by the accused Edna Malngan?

A: Yes, sir. "Kaya po niya nagawa 'yon galit po siya sa kanyang amo na si Virginia, hindi siya pinasuweldo at gusto na po niyang umuwi na (sic) ayaw siyang payagan. Nagsalita pa po sa kanya na, "Sumakay ka na lang sa walis. Pagbalik mo dito maputi ka na". (sic) "Yon po ang sinabi ng kanyang amo."

Atty. Masweng:

That was a statement of an alleged dead person, your Honor.

Court:

"Sabi ni Valdes, ha?"

Pros. Rebagay:

"Sabi ni Edna Malngan kay Carmelita Valdez," Your Honor.

Court:

"Double hearsay na 'yon."

Pros. Rebagay:

No, Your Honor, the witness was present, Your Honor, when that confession was made by the accused to Carmelita Valdez.[9]

Rolando Gruta, the pedicab driver and one of the barangay tanods in the area, testified:

Pros. Rebagay:

Mr. Witness, what is your profession?

A: Sidecar driver, sir.

Q: On January 2, 2001 at around 4:45 in the morning, do you recall where were (sic) you?

A: I was at the corner of Moderna Street, sir.

Pros. Rebagay:

And while you were at the corner of Moderna St., what happened if any, Mr. Witness?

A: I saw Edna coming out from the door of the house of Roberto Separa, sir.

Q: Do you know the number of the house of the Separa Family?

A: 172 Moderna St., Balut, Tondo, Manila, sir.

x x x x

Q: And you said you saw Edna coming out from the house of the Separa Family. How far is that house from the place where you were waiting at the corner of Moderna and Paulino Streets?

A: About three meters from Moderna and Paulino Streets where my pedicab was placed. My distance was about three meters, sir.

x x x x

Q: And how did you know that the house where Edna came out is that of the house of the Separa Family?

A: "Mismong nakita po ng dalawang mata ko na doon siya galing sa bahay ng Separa Family."

Q: How long have you known the Separa Family, if you know them?

A: About two years, sir.

Q: How about this Edna, the one you just pointed (to) awhile ago? Do you know her prior to January 2, 2001?

A: Yes, sir. I knew(sic) her for two years.

Court:

Why?

Witness:

"Madalas ko po siyang maging pasahero ng aking pedicab."

Pros. Rebagay:

How about the Separa family? Why do you know them?

A: They were the employers of Edna, sir.

Q: You said you saw Edna coming out from the house of the Separa Family. What happened when you saw Edna coming out from the house of the Separa Family?

A: "Wala pa pong ano 'yan naisakay ko na siya sa sidecar."

Q: And what did you observe from Edna when you saw her coming out from the house of the Separa family?

A: "Nagmamadali po siyang lumakad at palinga-linga."

x x x x

Q: After she boarded your pedicab, what happened, if any?

A: "Nagpahatid po siya sa akin."

Q: Where?

A: To Nipa Street, sir.

Q: Did you bring her to Nipa Street as she requested?

A: Yes, sir.

x x x x

Q: You said that you brought her to Nipa Street. What happened when you go (sic) there at Nipa Street, if any?

A: "Nagpahinto po siya doon ng saglit, mga tatlong minuto po."

Q: What did she do when she asked (you) to stop there for three minutes?

A: After three minutes she requested me to bring her directly to Balasan Street, sir.

x x x x

Q: What happened after that?

A: When we arrived there, she alighted and pay (sic) P5.00, sir.

Q And then what transpired after she alighted from your pedicab?

Witness:

I went home and I looked for another passenger, sir.

Pros. Rebagay:

After that, what happened when you were on your way to your house to look for passengers?

A "Nakita ko na nga po na pagdating ko sa Moderna, naglalagablab na apoy."

Q: From what place was that fire coming out?

A: From the house of Roberto Separa Family, sir.

x x x x

Pros. Rebagay:

After you noticed that there was a fire from the house of Roberto Separa Family, what did you do if any?

A: "Siyempre po, isang Barangay Tanod po ako, nagresponde na po kami sa sunog. Binuksan na po ng Chairman naming 'yung tangke, binomba na po naming 'yung apoy ng tubig."

Q: After that incident, Mr. Witness, have you seen Edna Again (sic)."

A: No, sir.

Pros. Rebagay:

And after that incident, did you come to know if Edna was apprehended or not?

x x x x

A: I was called by our Barangay Chairman in order to identify Edna, sir.

x x x x[10]

Remigio Bernardo, Barangay Chairman of the area where the fire occurred, stated:

Pros. Rebagay:

On January 2, 2001, do you recall if there is a fire that occurred somewhere in your area of jurisdiction, particularly Moderna Street?

A: Yes, sir.

Q: Now, where were you when this incident happened?

A: "Kasi ugali ko na po tuwing umagang-umaga po ako na pupunta sa barangay Hall mga siguro 6:00 or 5:00 o'clock, me sumigaw ng sunog nirespondehan namin iyong sunog eh me dala kaming fire."

Court:

You just answer the question. Where were you when this incident happened?

Witness:

I was at the Barangay Hall, Your Honor.

Pros. Rebagay:

And you said that there was a fire that occurred, what did you do?

Witness:

"Iyon nga nagresponde kami doon sa sunog eh nakita ko iyong sunog mukha talagang arson dahil napakalaki kaagad, meron pong mga tipong ... Iyong namatay po contractor po iyon eh kaya siguro napakaraming kalat ng mga pintura, mga container, kaya hindi po namin naapula kaagad iyong apoy, nasunog ultimo iyong fire tank namin sa lakas," sir.

Pros. Rebagay:

Now, will you please tell us where this fire occurred?

A: At the house of the six victims, sir.

Q: Whose house is that?

A: The house of the victims, sir.

x x x x

Pros. Rebagay:

You said that you responded to the place, what transpired after you responded to the place?

A: "Iyon nga po ang nagsabi may lumabas na isang babae po noon sa bahay na nagmamadali habang may sunog, me isang barangay tanod po akong nagsabi may humahangos na isang babae na may dalang bag papunta po roon palabas ng sasakyan," sir.

Q: And so what happened?

A: "Siyempre hindi naman ako nagtanong kung sino ngayon may dumating galing na sa bahay naming, may tumawag, tumawag po si Konsehala Alfonso na may isang babae na hindi mapakali doon sa Calle Pedro Alfonso, ke konsehal na baka ito sabi niya iyong ganito ganoon nirespondehan ko po," sir.

Q: Where did you respond?

A: At Balasan, sir, but it's not the area of my jurisdiction.

x x x x

Q: What happened when you reached that place?

A: "Siya po ang nahuli ko doon," sir.

Court:

Witness pointing to accused Edna Malngan.

Pros. Rebagay:

And what happened?

A: I brought her to the barangay hall, sir.

Q: And what happened at the barangay hall?

A: "Inembestigahan ko, kinuha naming iyong bag niya, me lighter siya eh. Inamin niya po sa amin na kaya niya sinunog hindi siya pinasasahod ng more or less isang taon na eh. Ngayon sabi ko bakit eh gusto ko ng umuwi ng probinsya ang sabi sa akin ng amo ko sumakay na lang daw po ako ng walis tingting para makauwi," sir.

Atty. Herman:

We would like to object, Your Honor on the ground that that is hearsay.

Pros. Rebagay:

That is not a hearsay statement, Your Honor, straight from the mouth of the accused.

Atty. Herman:

It's not under the exemption under the Rules of Court, Your Honor. He is testifying according to what he has heard.

Court:

That's part of the narration. Whether it is true or not, that's another matter. Let it remain.

Pros. Rebagay:

Now, who were present when the accused are telling you this?

A: "Iyon nga iyong mga tanod ko, mamamayan doon nakapaligid, siyempre may sunog nagkakagulo, gusto nga siyang kunin ng mga mamamayan para saktan hindi ko maibigay papatayin siya gawa ng may namatay eh anim na tao and namatay, kaya iyong mga tao kinokontrol siya madidisgrasya siya dahil pin-pointed po siya, Your Honor, iyong dami na iyon libo iyong nakapaligid doon sa barangay hall napakahirap awatin. Gustong-gusto siyang kunin ng mga taong-bayan, nagalit dahil ang daming bahay hong nasunog."[11]

For her part, Mercedita Mendoza, one of the neighbors of the Separa Family and whose house was one of those destroyed by the fire, recounted:

Pros. Rebagay:

Madam Witness, on January 2, 2001, do you recall where were you residing then?

A: Yes, sir.

Q: Where were you residing at?

A: At No. 170 Moderna St., Balut, Tondo, Manila, sir.

Q: Why did you transfer your residence? Awhile ago you testified that you are now residing at 147 Moderna St., Balut, Tondo, Manila?

A: Because our house was burned, sir.

Q: More or less, how much did the loss incurred on the burning of your house (sic)?

A: More or less, P100,000.00, sir

Q: Do you know the accused in this case Edna Malngan?

A: Yes, sir.

Q: Why do you know her?

A: She is the house helper of the family who were (sic) burned, sir.

Q: What family?

A: Cifara (sic) family, sir.

Q: Who in particular do you know among Cifara (sic) family?

A: The woman, sir.

Q: What is the name?

A: Virginia Mendoza Cifara (sic), sir.

Q: Are you related to Virginia Mendoza Cifara (sic)?

A: My husband, sir.

Q: What is the relationship of your husband to the late Virginia Mendoza Cifara (sic)?

A: They were first cousins, sir.

Q: How far is your house from the house of the Cifara (sic) family?

A: "Magkadikit lang po. Pader lang ang pagitan."

Q: You said that Edna Malngan was working with the Cifara (sic) family. What is the work of Edna Malngan?

A: "Nangangamuhan po." House helper, sir.

Q: How long do you know Edna Malngan as house helper of the Cifara (sic) family?

A: I cannot estimate but she stayed there for three to four years, sir.

Q: Do you know who caused the burning of the house of the Cifara (sic) family?

Witness:

Edna Malngan, sir.

Pros. Rebagay:

Why do you know that it was Edna Malngan who burned the house of the Cifara (sic) family?

A: When the fire incident happened, sir, on January 3, we went to San Lazaro Fire Station and I saw Edna Malngan detained there, sir.

Q: And so what is your basis in pointing to Edna Malngan as the culprit or the one who burned the house of the Cifara (sic) family?

A: I talked to her when we went there at that day, sir.

Q: What transpired then?

A: I talked to her and I told her, "Edna, bakit mo naman ginawa 'yung ganun?'"

Q: And what was the answer of Edna?

A: She answered, "Kasi pag nagpapaalam ako sa kanyang umuwi ng probinsya, nagpapaalam po siyang umuwi ng probinsya ang sinasabi daw po sa kanya ni Baby Cifara (sic) na, (sic)"Sige umuwi ka, pagdating mo maputi ka na. Sumakay ka sa walis pagdating mo maputi ka na."

Pros. Rebagay:

What is the basis there that she was the one who burned the house of the Cifara (sic) family?

A: I also asked her, "Paano mo ginawa 'yung sunog?" She told me, "Naglukot ako ng maraming diyaryo, sinindiha ko ng disposable lighter at hinagis niya sa ibabaw ng lamesa sa loob ng bahay". (sic)[12]

Lastly, the prosecution presented Rodolfo Movilla, owner of the house situated beside that of the Separa family. He testified that his house was also gutted by the fire that killed the Separa family and that he tried to help said victims but to no avail.

The prosecution presented other documentary evidence[13] and thereafter rested its case.

When it came time for the defense to present exculpatory evidence, instead of doing so, accused-appellant filed a Motion to Admit Demurrer to Evidence[14] and the corresponding Demurrer to Evidence[15] with the former expressly stating that said Demurrer to Evidence was being filed "x x x without express leave of court x x x." [16]

In her Demurrer to Evidence, accused-appellant asserts that the prosecution's evidence was insufficient to prove her guilt beyond reasonable doubt for the following reasons:[17] (a) that she is charged with crime not defined and penalized by law; (b) that circumstantial evidence was insufficient to prove her guilt beyond reasonable doubt; and (c) that the testimonies given by the witnesses of the prosecution were hearsay, thus, inadmissible in evidence against her.

The prosecution filed its Comment/Opposition to accused-appellant's Demurrer to Evidence.

On 13 October 2003, acting on the Demurrer to Evidence, the RTC promulgated its Judgment[18] wherein it proceeded to resolve the subject case based on the evidence of the prosecution. The RTC considered accused-appellant to have waived her right to present evidence, having filed the Demurrer to Evidence without leave of court.

In finding accused-appellant Edna guilty beyond reasonable doubt of the crime of Arson with Multiple Homicide, the RTC ruled that:

The first argument of the accused that she is charged with an act not defined and penalized by law is without merit. x x x the caption which charges the accused with the crime of Arson with Multiple Homicide is merely descriptive of the charge of Arson that resulted to Multiple Homicide. The fact is that the accused is charged with Arson which resulted to Multiple Homicide (death of victims) and that charge is embodied and stated in the body of the information. What is controlling is the allegation in the body of the Information and not the title or caption thereof. x x x.

x x x x

The second and third arguments will be discussed jointly as they are interrelated with each other. x x x.

x x x x

[W]hile there is no direct evidence that points to the accused in the act of burning the house or actually starting the subject fire, the following circumstances that show that the accused intentionally caused or was responsible for the subject fire have been duly established:

- that immediately before the burning of the house, the accused hurriedly and with head turning in different directions (palinga-linga) went out of the said house and rode a pedicab apparently not knowing where to go x x x;
- that immediately after the fire, upon a report that there was a woman in Balasan St. who appears confused and apprehensive (balisa), the Barangay Chairman and his tanods went there, found the accused and apprehended her and brought her to the barangay hall as shown by the testimony of Barangay Chairman Remigio Bernardo; and
- that when she was apprehended and investigated by the barangay officials and when her bag was opened, the same contained a disposable lighter as likewise shown by the testimony of the Barangay Chairman.

[T]he timing of her hurried departure and nervous demeanor immediately before the fire when she left the house and rode a pedicab and her same demeanor, physical and mental condition when found and apprehended at the same place where she alighted from the pedicab and the discovery of the lighter in her bag thereafter when investigated indisputably show her guilt as charged.

If there is any doubt of her guilt that remains with the circumstantial evidence against her, the same is removed or obliterated with the confessions/admissions of the commission of the offense and the manner thereof that she made to the prosecution witnesses Barangay Chairman Remigio Bernardo, Mercedita Mendoza and to the media, respectively.

x x x x

[H]er confessions/admissions are positive acknowledgment of guilt of the crime and appear to have been voluntarily and intelligently given. These confessions/admissions, especially the one given to her neighbor Mercedita Mendoza and the media, albeit uncounselled and made while she was already under the custody of authorities, it is believed, are not violative of her right under the Constitution.

The decretal part of the RTC's Judgment reads:

WHEREFORE, the Demurrer to Evidence is hereby denied and judgment is hereby rendered finding the accused EDNA MALNGAN Y MAYO guilty beyond reasonable doubt of the crime of Arson with Multiple Homicide or Arson resulting to the death of six (6) people and sentencing her to suffer the mandatory penalty of death, and ordering her to pay the heirs of the victims Roberto Separa, Sr. and Virginia Separa and children Michael, Daphne, Priscilla and Roberto, Jr., the amount of Fifty Thousand (P50,000.00) Pesos for each victim and the amount of One Hundred Thousand (P100,000.00) Pesos as temperate damages for their burned house or a total of Four Hundred Thousand (P400,000.00) Pesos and to Rodolfo Movilla the amount of One Hundred [Thousand] (P100,000.00) Pesos.

Due to the death penalty imposed by the RTC, the case was directly elevated to this Court for automatic review. Conformably with our decision in *People v. Efren Mateo y Garcia*,^[19] however, we referred the case and its records to the CA for appropriate action and disposition.

On 2 September 2005, the Court of Appeals affirmed with modification the decision of the RTC, the fallo of which reads:

WHEREFORE, premises considered, the assailed October 13, 2003 Judgment of the Regional Trial Court of Manila, Branch 41, finding accused-appellant Edna Malngan y Mayo guilty beyond reasonable doubt of Arson with multiple homicide and sentencing her to suffer the DEATH PENALTY is hereby AFFIRMED with MODIFICATION in that she is further ordered to pay P50,000.00 as moral damages and another P50,000.00 as exemplary damages for each of the victims who perished in the fire, to be paid to their heirs. She is ordered to pay Rodolfo Movilla, one whose house was also burned, the sum of P50,000.00 as exemplary damage.

Pursuant to Section 13 (a), Rule 124 of the 2000 Rules of Criminal Procedure as amended by A.M. No. 00-5-03-SC dated September 28, 2004, which became effective on October 15, 2004, the Court of Appeals, after rendering judgment, hereby refrains from making an entry of judgment and forthwith certifies the case and elevates the entire record of this case to the Supreme Court for review.^[20]

It is the contention of accused-appellant that the evidence presented by the prosecution is not sufficient to establish her guilt beyond reasonable doubt as the perpetrator of the crime charged. In support of said exculpatory proposition, she assigns the following errors^[21]:

I.

THE HONORABLE COURT ERRED IN RULING THAT THE CIRCUMSTANTIAL EVIDENCE PRESENTED BY THE PROSECUTION IS SUFFICIENT TO CONVICT THE ACCUSED; and

II.

THE HONORABLE COURT ERRED IN ALLOWING AND GIVING CREDENCE TO THE HEARSAY EVIDENCE AND UNCOUNSELLED ADMISSIONS ALLEGEDLY GIVEN BY THE ACCUSED TO THE WITNESSES BARANGAY CHAIRMAN REMIGIO BERNARDO, MERCEDITA MENDOZA AND THE

MEDIA.

THERE IS NO COMPLEX CRIME OF ARSON WITH (MULTIPLE) HOMECIDE.

The Information in this case erroneously charged accused-appellant with a complex crime, i.e., Arson with Multiple Homicide. Presently, there are two (2) laws that govern the crime of arson where death results therefrom- Article 320 of the Revised Penal Code (RPC), as amended by Republic Act (RA) No. 7659,[22] and Section 5 of Presidential Decree (PD) No. 1613[23], quoted hereunder, to wit:

Revised Penal Code:

ART. 320. Destructive Arson. - x x x x

If as a consequence of the commission of any of the acts penalized under this Article, death results, the mandatory penalty of death shall be imposed. [Emphasis supplied.]

Presidential Decree No. 1613:

SEC. 5. Where Death Results from Arson. - If by reason of or on the occasion of the arson death results, the penalty of reclusion perpetua to death shall be imposed. [Emphasis supplied.]

Art. 320 of the RPC, as amended, with respect to destructive arson, and the provisions of PD No. 1613 respecting other cases of arson provide only one penalty for the commission of arson, whether considered destructive or otherwise, where death results therefrom. The *raison d'être* is that arson is itself the end and death is simply the consequence.[24]

Whether the crime of arson will absorb the resultant death or will have to be a separate crime altogether, the joint discussion[25] of the late Mr. Chief Justice Ramon C. Aquino and Mme. Justice Carolina C. Griño-Aquino, on the subject of the crimes of arson and murder/homicide, is highly instructive:

Groizard says that when fire is used with the intent to kill a particular person who may be in a house and that objective is attained by burning the house, the crime is murder only. When the Penal Code declares that killing committed by means of fire is murder, it intends that fire should be purposely adopted as a means to that end. There can be no murder without a design to take life.[26] In other words, if the main object of the offender is to kill by means of fire, the offense is murder. But if the main objective is the burning of the building, the resulting homicide may be absorbed by the crime of arson.[27]

x x x x

If the house was set on fire after the victims therein were killed, fire would not be a qualifying circumstance. The accused would be liable for the separate offenses of murder or homicide, as the case may be, and arson.[28]

Accordingly, in cases where both burning and death occur, in order to determine what crime/crimes was/were perpetrated - whether arson, murder or arson and homicide/murder, it is de rigueur to ascertain the main objective of the malefactor: (a) if the main objective is the burning of the building or edifice, but death results by reason or on the occasion of arson, the crime is simply arson, and the resulting homicide is absorbed; (b) if, on the other hand, the main objective is to kill a particular person who may be in a building or edifice, when fire is resorted to as the means to accomplish such goal the crime committed is murder only; lastly, (c) if the objective is, likewise, to kill a particular person, and in fact the offender has already done so, but fire is resorted to as a means to cover up the killing, then there are two separate and distinct crimes committed - homicide/murder and arson.

Where then does this case fall under?

From a reading of the body of the Information:

That on or about January 2, 2001, in the City of Manila, Philippines, the said accused, with intent to cause damage, did then and there willfully, unlawfully, feloniously and deliberately set fire upon the two-storey residential house of ROBERTO SEPARA and family mostly made of wooden materials located at No. 172 Moderna St., Balut, Tondo, this city, by lighting crumpled newspaper with the use of disposable lighter inside said house knowing the same to be an inhabited house and situated in a thickly populated place and as a consequence thereof a conflagration ensued and the said building, together with some seven (7) adjoining residential houses, were razed by fire; that by reason and on the occasion of the said fire, the following, namely,

- Roberto Separa, Sr., 45 years of age
- Virginia Separa y Mendoza, 40 years of age
- Michael Separa, 24 years of age
- Daphne Separa, 18 years of age
- Priscilla Separa, 14 years of age
- Roberto Separa, Jr., 11 years of age

sustained burn injuries which were the direct cause of their death immediately thereafter.[29] [Emphasis supplied.]

accused-appellant is being charged with the crime of arson. It is clear from the foregoing that her intent was merely to destroy her employer's house through the use of fire.

We now go to the issues raised. Under the first assignment of error, in asserting the insufficiency of the prosecution's evidence to establish her guilt beyond reasonable doubt, accused-appellant argues that the prosecution was only able to adduce circumstantial evidence - hardly enough to prove her guilt beyond reasonable doubt. She ratiocinates that the following circumstances:

- That immediately before the burning of the house, the accused hurriedly and with head turning in different directions (palinga-linga) went out of the said house and rode a pedicab apparently not knowing where to go for she first requested to be brought to Nipa St. but upon reaching there requested again to be brought to Balasan St. as shown by the testimony of prosecution witness Rolando Gruta;
- That immediately after the fire, upon a report that there was a woman in Balasan St. who appears confused and apprehensive (balisa), the Barangay Chairman and his tanods went there, found the accused and apprehended her and brought her to the barangay hall as shown by the testimony of Barangay Chairman Remigio Bernardo; and
- That when she was apprehended and investigated by the barangay officials and when her bag was opened, the same contained a disposable lighter as likewise shown by the testimony of the Barangay Chairman.[30]

fall short of proving that she had any involvement in setting her employer's house on fire, much less show guilt beyond reasonable doubt, given that "it is a fact that housemaids are the first persons in the house to wake up early to perform routine chores for their employers,"[31] one of which is preparing and cooking the morning meal for the members of the household; and necessity requires her to go out early to look for open stores or even nearby marketplaces to buy things that will complete the early meal for the day.[32] She then concludes that it was normal for her to have been seen going out of her employer's house in a hurry at that time of the day and "to look at all directions to insure that the house is secure and that there are no other persons in the vicinity." [33]

We are far from persuaded.

True, by the nature of their jobs, housemaids are required to start the day early; however, contrary to said assertion, the actuations and the demeanor of accused-appellant on that fateful early morning as observed firsthand by Rolando Gruta, one of the witnesses of the prosecution, belie her claim of normalcy, to wit:

Q: You said you saw Edna coming out from the house of the Separa Family. What happened when you saw Edna coming out from the house of the Separa Family?

A: "Wala pa pong ano 'yan naisakay ko na siya sa sidecar."

Q: And what did you observe from Edna when you saw her coming out from the house of the Separa family?

A: "Nagmamadali po siyang lumakad at palinga-linga."

x x x x

Q: After she boarded your pedicab, what happened, if any?

A: "Nagpahatid po siya sa akin."

Q: Where?

A: To Nipa Street, sir.

Q: Did you bring her to Nipa Street as she requested?

A: Yes, sir.

x x x x

Q: You said that you brought her to Nipa Street. What happened when you go (sic) there at Nipa Street, if any?

A: "Nagpahinto po siya doon ng saglit, mga tatlong minuto po."

Q: What did she do when she asked (you) to stop there for three minutes?

A: After three minutes she requested me to bring her directly to Balasan Street, sir.

x x x x

We quote with approval the pronouncement of the RTC in discrediting accused-appellant's aforementioned rationale:

[O]bviously it is never normal, common or ordinary to leave the house in such a disturbed, nervous and agitated manner, demeanor and condition. The timing of her hurried departure and nervous demeanor immediately before the fire when she left the house and rode a pedicab and her same demeanor, physical and mental condition when found and apprehended at the same place where she alighted from the pedicab and the discovery of the lighter in her bag thereafter when investigated indisputably show her guilt as charged.[34]

All the witnesses are in accord that accused-appellant's agitated appearance was out of the ordinary. Remarkably, she has never denied this observation.

We give great weight to the findings of the RTC and so accord credence to the testimonies of the prosecution witnesses as it had the opportunity to observe them directly. The credibility given by trial courts to prosecution witnesses is an important aspect of evidence which appellate courts can rely on because of its unique opportunity to observe them, particularly their demeanor, conduct, and attitude, during the direct and cross-examination by

counsels. Here, Remigio Bernardo, Rolando Gruta and Mercedita Mendoza are disinterested witnesses and there is not an iota of evidence in the records to indicate that they are suborned witnesses. The records of the RTC even show that Remigio Bernardo, the Barangay Chairman, kept accused-appellant from being mauled by the angry crowd outside of the barangay hall:

Pros. Rebagay:

Now, who were present when the accused are (sic) telling you this?

A: "Iyon nga iyong mga tanod ko, mamamayan doon nakapaligid, siyempre may sunog nagkakagulo, gusto nga siyang kunin ng mga mamamayan para saktan hindi ko maibigay papatayin siya gawa ng may namatay eh anim na tao and namatay, kaya iyong mga tao kinokontrol siya madidisgrasya siya dahil pin-pointed po siya, Your Honor, iyong dami na iyon libo iyong nakapaligid doon sa barangay hall napakahirap awatin. Gusting-gusto siyang kunin ng mga taong-bayan, nagalit dahil ang daming bahay hong nasunog." [35]

Accused-appellant has not shown any compelling reason why the witnesses presented would openly, publicly and deliberately lie or concoct a story, to send an innocent person to jail all the while knowing that the real malefactor remains at large. Such proposition defies logic. And where the defense failed to show any evil or improper motive on the part of the prosecution witnesses, the presumption is that their testimonies are true and thus entitled to full faith and credence. [36]

While the prosecution witnesses did not see accused-appellant actually starting the fire that burned several houses and killed the Separa family, her guilt may still be established through circumstantial evidence provided that: (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 conviction beyond reasonable doubt. [37]

Circumstantial evidence is that evidence which proves a fact or series of facts from which the facts in issue may be established by inference. [38] It is founded on experience and observed facts and coincidences establishing a connection between the known and proven facts and the facts sought to be proved. [39] In order to bring about a conviction, the circumstantial evidence presented must constitute an unbroken chain, which leads to one fair and reasonable conclusion pointing to the accused, to the exclusion of others, as the guilty person. [40]

In this case, the interlocking testimonies of the prosecution witnesses, taken together, exemplify a case where conviction can be upheld on the basis of circumstantial evidence. First, prosecution witness Rolando Gruta, the driver of the pedicab that accused-appellant rode on, testified that he knew for a fact that she worked as a housemaid of the victims, and that he positively identified her as the person hurriedly leaving the house of the victims on 2 January 2001 at 4:45 a.m., and acting in a nervous manner. That while riding on the pedicab, accused-appellant was unsure of her intended destination. Upon reaching the place where he originally picked up accused-appellant only a few minutes after dropping her off, Rolando Gruta saw the Separas' house being gutted by a blazing fire. Second, Remigio Bernardo testified that he and his tanods, including Rolando Gruta, were the ones who picked up accused-appellant Edna at Balasan Street (where Rolando Gruta dropped her off) after receiving a call that there was a woman acting strangely at said street and who appeared to have nowhere to go. Third, SPO4 Danilo Talusan overheard accused-appellant admit to Carmelita Valdez, a reporter of Channel 2 (ABS-CBN) that said accused-appellant started the fire, plus the fact that he was able to see the telecast of Gus Abelgas' show where accused-appellant, while being interviewed, confessed to the crime as well. The foregoing testimonies juxtaposed with the testimony of Mercedita Mendoza validating the fact that accused-appellant confessed to having started the fire which killed the Separa family as well as burned seven houses including that of the victims, convincingly form an unbroken chain, which leads to the unassailable conclusion pinpointing accused-appellant as the person behind the crime of simple arson.

In her second assigned error, accused-appellant questions the admissibility of her uncounselled extrajudicial confession given to prosecution witnesses, namely Remigio Bernardo, Mercedita Mendoza, and to the media. Accused-appellant Edna contends that being uncounselled extrajudicial confession, her admissions to having committed the crime charged should have been excluded in evidence against her for being violative of Article III, Section 12(1) of the Constitution.

Particularly, she takes exception to the testimony of prosecution witnesses Remigio Bernardo and Mercedita Mendoza for being hearsay and in the nature of an uncounselled admission.

With the above vital pieces of evidence excluded, accused-appellant is of the position that the remaining proof of her alleged guilt, consisting in the main of circumstantial evidence, is inadequate to establish her guilt beyond reasonable doubt.

We partly disagree.

Article III, Section 12 of the Constitution in part provides:

(1) Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.

x x x x

(3) Any confession or admission obtained in violation of this Section or Section 17 hereof shall be inadmissible in evidence.

We have held that the abovequoted provision applies to the stage of custodial investigation - when the investigation is no longer a general inquiry into an unsolved crime but starts to focus on a particular person as a suspect.[41] Said constitutional guarantee has also been extended to situations in which an individual has not been formally arrested but has merely been "invited" for questioning.[42]

To be admissible in evidence against an accused, the extrajudicial confessions made must satisfy the following requirements:

- (1) it must be voluntary;
- (2) it must be made with the assistance of competent and independent counsel;
- (3) it must be express; and
- (4) it must be in writing.[43]

Arguably, the barangay tanods, including the Barangay Chairman, in this particular instance, may be deemed as law enforcement officer for purposes of applying Article III, Section 12(1) and (3), of the Constitution. When accused-appellant was brought to the barangay hall in the morning of 2 January 2001, she was already a suspect, actually the only one, in the fire that destroyed several houses as well as killed the whole family of Roberto Separa, Sr. She was, therefore, already under custodial investigation and the rights guaranteed by Article III, Section 12(1), of the Constitution should have already been observed or applied to her. Accused-appellant's confession to Barangay Chairman Remigio Bernardo was made in response to the "interrogation" made by the latter - admittedly conducted without first informing accused-appellant of her rights under the Constitution or done in the presence of counsel. For this reason, the confession of accused-appellant, given to Barangay Chairman Remigio Bernardo, as well as the lighter found by the latter in her bag are inadmissible in evidence against her as such were obtained in violation of her constitutional rights.

Be that as it may, the inadmissibility of accused-appellant's confession to Barangay Chairman Remigio Bernardo and the lighter as evidence do not automatically lead to her acquittal. It should well be recalled that the constitutional safeguards during custodial investigations do not apply to those not elicited through questioning by the police or their agents but given in an ordinary manner whereby the accused verbally admits to having committed the offense as what happened in the case at bar when accused-appellant admitted to Mercedita Mendoza, one of the neighbors of Roberto Separa, Sr., to having started the fire in the Separas' house. The testimony of Mercedita Mendoza recounting said admission is, unfortunately for accused-appellant, admissible in evidence against her and is not covered by the aforesaid constitutional guarantee. Article III of the Constitution, or the Bill of Rights, solely governs the relationship between the individual on one hand and the State (and its agents) on the other; it does not concern itself with the relation between a private individual and another private individual - as both accused-appellant and prosecution witness Mercedita Mendoza undoubtedly are.[44] Here, there is no evidence on record to show that said witness was acting under police authority, so appropriately, accused-appellant's uncounselled extrajudicial confession to said witness was properly admitted by the RTC.

Accused-appellant likewise assails the admission of the testimony of SPO4 Danilo Talusan. Contending that "[w]hen SPO4 Danilo Talusan testified in court, his story is more of events, which are not within his personal knowledge but based from accounts of witnesses who derived information allegedly from the accused or some other persons x x x". In other words, she objects to the testimony for being merely hearsay. With this imputation of inadmissibility, we agree with what the Court of Appeals had to say:

Although this testimony of SFO4 Danilo Talusan is hearsay because he was not present when Gus Abelgas interviewed accused-appellant EDNA, it may nevertheless be admitted in evidence as an independently relevant statement to establish not the truth but the tenor of the statement or the fact that the statement was made [People v. Mallari, G.R. No. 103547, July 20, 1999, 310 SCRA 621 citing People v. Cusi, Jr., G.R. No. L-20986, August 14, 1965, 14 SCRA 944.]. In People vs. Velasquez, G.R. Nos. 132635 & 143872-75, February 21, 2001, 352 SCRA 455, the Supreme Court ruled that:

"Under the doctrine of independently relevant statements, regardless of their truth or falsity, the fact that such statements have been made is relevant. The hearsay rule does not apply, and the statements are admissible as evidence. Evidence as to the making of such statement is not secondary but primary, for the statement itself may constitute a fact in issue or be circumstantially relevant as to the existence of such a fact." [45]

As regards the confession given by accused-appellant to the media, we need not discuss it further for the reporters were never presented to testify in court.

As a final attempt at exculpation, accused-appellant asserts that since the identities of the burned bodies were never conclusively established, she cannot be responsible for their deaths.

Such assertion is bereft of merit.

In the crime of arson, the identities of the victims are immaterial in that intent to kill them particularly is not one of the elements of the crime. As we have clarified earlier, the killing of a person is absorbed in the charge of arson, simple or destructive. The prosecution need only prove, that the burning was intentional and that what was intentionally burned is an inhabited house or dwelling. Again, in the case of People v. Soriano,[46] we explained that:

Although intent may be an ingredient of the crime of Arson, it may be inferred from the acts of the accused. There is a presumption that one intends the natural consequences of his act; and when it is shown that one has deliberately set fire to a building, the prosecution is not bound to produce further evidence of his wrongful intent.[47]

The ultimate query now is which kind of arson is accused-appellant guilty of?

As previously discussed, there are two (2) categories of the crime of arson: 1) destructive arson, under Art. 320 of the Revised Penal Code, as amended by Republic Act No. 7659; and 2) simple arson, under Presidential Decree No. 1613. Said classification is based on the kind, character and location of the property burned, regardless of the value of the damage caused,[48] to wit:

Article 320 of The Revised Penal Code, as amended by RA 7659, contemplates the malicious burning of structures, both public and private, hotels, buildings, edifices, trains, vessels, aircraft, factories and other military, government or commercial establishments by any person or group of persons.[[49]] The classification of this type of crime is known as Destructive Arson, which is punishable by reclusion perpetua to death. The reason for the law is self-evident: to effectively discourage and deter the commission of this dastardly crime, to prevent the destruction of properties and protect the lives of innocent people. Exposure to a brewing conflagration leaves only destruction and despair in its wake; hence, the State mandates greater retribution to authors of this heinous crime. The exceptionally severe punishment imposed for this crime takes into consideration the extreme danger to human lives exposed by the malicious burning of these structures; the danger to property resulting from the conflagration; the fact that it is normally difficult to adopt precautions against its commission, and the difficulty in pinpointing the perpetrators; and, the greater impact on the social, economic, security and political fabric of the nation. [Emphasis supplied.]

If as a consequence of the commission of any of the acts penalized under Art. 320, death should result, the mandatory penalty of death shall be imposed.

On the other hand, PD 1613 which repealed Arts. 321 to 326-B of The Revised Penal Code remains the governing law for Simple Arson. This decree contemplates the malicious burning of public and private structures, regardless of size, not included in Art. 320, as amended by RA 7659, and classified as other cases of arson. These include houses, dwellings, government buildings, farms, mills, plantations, railways, bus stations, airports, wharves and other industrial establishments.[[50]] Although the purpose of the law on Simple Arson is to prevent the high incidence of fires and other crimes involving destruction, protect the national economy and preserve the social, economic and political stability of the nation, PD 1613 tempers the penalty to be meted to offenders. This separate classification of Simple Arson recognizes the need to lessen the severity of punishment commensurate to the act or acts committed, depending on the particular facts and circumstances of each case. [Emphasis supplied.]

To emphasize:

The nature of Destructive Arson is distinguished from Simple Arson by the degree of perversity or viciousness of the criminal offender. The acts committed under Art. 320 of the Revised Penal Code (as amended) constituting Destructive Arson are characterized as heinous crimes for being grievous, odious and hateful offenses and which, by reason of their inherent or manifest wickedness, viciousness, atrocity and perversity are repugnant and outrageous to the common standards and norms of decency and morality in a just, civilized and ordered society.[51] On the other hand, acts committed under PD 1613 constituting Simple Arson are crimes with a lesser degree of perversity and viciousness that the law punishes with a lesser penalty. In other words, Simple Arson contemplates crimes with less significant social, economic, political and national security implications than Destructive Arson. However, acts falling under Simple Arson may nevertheless be converted into Destructive Arson depending on the qualifying circumstances present. [Emphasis supplied.][52]

Prescinding from the above clarification vis-à-vis the description of the crime as stated in the accusatory portion of the Information, it is quite evident that accused-appellant was charged with the crime of Simple Arson - for having "deliberately set fire upon the two-storey residential house of ROBERTO SEPARA and family x x x knowing the same to be an inhabited house and situated in a thickly populated place and as a consequence thereof a conflagration ensued and the said building, together with some seven (7) adjoining residential houses, were

razed by fire." [Emphasis supplied.]

The facts of the case at bar is somewhat similar to the facts of the case of *People v. Soriano*.^[53] The accused in the latter case caused the burning of a particular house. Unfortunately, the blaze spread and gutted down five (5) neighboring houses. The RTC therein found the accused guilty of destructive arson under paragraph 1^[54] of Art. 320 of the Revised Penal Code, as amended by Republic Act No. 7659. This Court, through Mr. Justice Bellosillo, however, declared that:

x x x [T]he applicable provision of law should be Sec. 3, par. 2, of PD 1613, which imposes a penalty of reclusion temporal to reclusion perpetua for other cases of arson as the properties burned by accused-appellant are specifically described as houses, contemplating inhabited houses or dwellings under the aforesaid law. The descriptions as alleged in the second Amended Information particularly refer to the structures as houses rather than as buildings or edifices. The applicable law should therefore be Sec. 3, Par. 2, of PD 1613, and not Art. 320, par. 1 of the Penal Code. In case of ambiguity in construction of penal laws, it is well-settled that such laws shall be construed strictly against the government, and liberally in favor of the accused.

The elements of arson under Sec. 3, par. 2, of PD 1613 are: (a) there is intentional burning; and (b) what is intentionally burned is an inhabited house or dwelling. Incidentally, these elements concur in the case at bar.^[55]

As stated in the body of the Information, accused-appellant was charged with having intentionally burned the two-storey residential house of Robert Separa. Said conflagration likewise spread and destroyed seven (7) adjoining houses. Consequently, if proved, as it was proved, at the trial, she may be convicted, and sentenced accordingly, of the crime of simple arson. Such is the case "notwithstanding the error in the designation of the offense in the information, the information remains effective insofar as it states the facts constituting the crime alleged therein."^[56] "What is controlling is not the title of the complaint, nor the designation of the offense charged or the particular law or part thereof allegedly violate, x x x, but the description of the crime charged and the particular facts therein recited."^[57]

There is, thus, a need to modify the penalty imposed by the RTC as Sec. 5 of PD No. 1613 categorically provides that the penalty to be imposed for simple arson is:

SEC. 5. Where Death Results from Arson. - If by reason of or on the occasion of arson death results, the penalty of reclusion perpetua to death shall be imposed. [Emphasis supplied.]

Accordingly, there being no aggravating circumstance alleged in the Information, the imposable penalty on accused-appellant is reclusion perpetua.

Apropos the civil liabilities of accused-appellant, current jurisprudence^[58] dictate that the civil indemnity due from accused-appellant is P50,000.00 for the death of each of the victims.^[59] However, the monetary awards for moral and exemplary damages given by the Court of Appeals, both in the amount of P50,000.00, due the heirs of the victims, have to be deleted for lack of material basis. Similarly, the Court of Appeals award of exemplary damages to Rodolfo Movilla in the amount of P50,000.00 for the destruction of his house, also has to be deleted, but in this instance for being improper. Moral damages cannot be award by this Court in the absence of proof of mental or physical suffering on the part of the heirs of the victims.^[60] Concerning the award of exemplary damages, the reason for the deletion being that no aggravating circumstance had been alleged and proved by the prosecution in the case at bar.^[61]

To summarize, accused-appellant's alternative plea that she be acquitted of the crime must be rejected. With the evidence on record, we find no cogent reason to disturb the findings of the RTC and the Court of Appeals. It is indubitable that accused-appellant is the author of the crime of simple arson. All the circumstantial evidence

presented before the RTC, viewed in its entirety, is as convincing as direct evidence and, as such, negates accused-appellant's innocence, and when considered concurrently with her admission given to Mercedita Mendoza, the former's guilt beyond reasonable doubt is twice as evident. Hence, her conviction is effectively justified. More so, as it is propitious to note that in stark contrast to the factual circumstances presented by the prosecution, accused-appellant neither mustered a denial nor an alibi except for the proposition that her guilt had not been established beyond reasonable doubt.

IN VIEW WHEREOF, the Decision of the Court of Appeals dated 2 September 2005, in CA G.R. CR HC No. 01139, is hereby AFFIRMED insofar as the conviction of accused-appellant EDNA MALNGAN Y MAYO is concerned. The sentence to be imposed and the amount of damages to be awarded, however, are MODIFIED. In accordance with Sec. 5 of Presidential Decree No. 1613, accused-appellant is hereby sentenced to RECLUSION PERPETUA. Accused-appellant is hereby ordered to pay the heirs of each of the victims P50,000.00 as civil indemnity.

SO ORDERED.

Panganiban, C. J., Puno, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Callejo, Sr., Azcuna, Tinga, Garcia, and Velasco, Jr., JJ., concur.

[1] Penned by Court of Appeals Associate Justice Vicente Q. Roxas with Associate Justices Portia Aliño-Hormachuelos and Juan Q. Enriquez, Jr. concurring; rollo, pp. 3-26.

[2] Penned by Hon. Rodolfo A. Ponferrada, Presiding Judge, RTC Manila, Branch 41; Records, pp. 296-310.

[3] CA decision, pp. 2-5; rollo, pp. 4-7.

[4] Records, pp. 1-2.

[5] Id. at 1.

[6] Id. at 12-13.

[7] During the trial, accused-appellant Edna was assisted by Atty. Brian S. Masweng of the National Commission on Indigenous Peoples as she is a member of Bla'an ethnic tribe from Sarangani Province.

[8] Also termed as SFO4 in some parts of the records.

[9] TSN, 19 June 2001, pp. 23-26.

[10] TSN, 15 August 2001, pp. 5-12.

[11] TSN, 21 April 2003, pp. 5-10.

[12] TSN, 22 January 2002, pp. 4-7.

[13] Exhibit "A" and its submarkings - pictures of the victims; Exhibit "B" and its submarkings - pictures of the victims; Exhibit "C" and its submarkings - pictures of the victims; Exhibit "D" and its submarkings - pictures of the burned houses; Exhibit "E" and its submarkings - Sworn Statement of Mercedita de los Santos Mendoza; Exhibit "F" and its submarkings - Sworn Statement of eyewitness Rolando Gruta; Exhibit "G" - plastic package wherein the disposable lighter (Exh. "G-1") was placed; Exhibit "G-1" - disposable lighter; Exhibit "H" and its submarkings - Crime Report; Exhibit "I" and its submarkings - Booking Sheet and Arrest Report of accused Edna Malngan; Exhibit "J"- sketch of the house fo the Separa Family; and Exhibit "K" and its submarkings - letter

dated 3 January 2001.

[14] Records, pp. 261-262.

[15] Id. at 263-281.

[16] Id. at 261.

[17] Demurrer to Evidence, p. 1; Id. at 263.

[18] Id. at 296-310.

[19] G.R. Nos. 147678-87, 7 July 2004, 433 SCRA 640; *People v. Mateo*, case modified Sections 3 and 10 of Rule 122, Section 13 of Rule 124, Section 3 of Rule 125 of the Revised Rules of Criminal Procedure and any other rule insofar as they provide for direct appeals from the Regional Trial Court to the Supreme Court in cases where the penalty imposed is death, reclusion perpetua or life imprisonment.

[20] Rollo, pp. 3-26.

[21] As stated in appellant Edna's Brief, pp. 3-4; CA rollo, pp.41-42.

[22] AN ACT TO IMPOSE THE DEATH PENALTY ON CERTAIN HEINOUS CRIMES, AMENDING FOR THAT PURPOSE THE REVISED PENAL CODE, AS AMENDED, OTHER SPECIAL PENAL LAWS, AND FOR OTHER PURPOSES.

[23] Amending the Law on Arson.

[24] See *People v. Paterno*, 85 Phil. 722.

[25] Aquino, R. C. and Griño-Aquino, C. C. *The Revised Penal Code*, 1997 ed., Vol. II, pp. 589-590.

[26] Citing *Burns*, 41 Phil. 418, 432, 440.

[27] Citing *People v. Paterno*, *supra*, note 24.

[28] Citing *Bersabal*, 48 Phil. 439; *Piring*, 63 Phil. 546; *Mones*, 68 Phil. 46; *Laolao*, 106 Phil. 1165.

[29] Id. at 1.

[30] Accused-appellant Edna's Brief, p. 4; CA rollo, p. 42.

[31] Id. at 43.

[32] Id.

[33] Id. at 44.

[34] RTC Judgment, p. 11; records, p. 306.

[35] TSN, 21 April 2003, pp. 9-10.

[36] *People v. Lizada*, G.R. No. 97226, 30 August 1993, 225 SCRA 708, 713.

[37] *People v. Briones*, G.R. No. 97610, 19 February 1993, 219 SCRA 134.

[38] *People v. Ayola*, G.R. No. 138923, 4 September 2001, 364 SCRA 451, 461.

[39] Id.

[40] *People v. Sevileno*, G.R. No. 152954, 10 March 2004, 425 SCRA 247, 256; *People v. Leño*, G.R. No. 138886, 9 October 2001, 366 SCRA 774, 786; *People v. Balderas*, G.R. No. 106582, 31 July 1997, 276 SCRA 470, 483.

[41] *People v. Andan*, G.R. No. 116437, 3 March 1997, 269 SCRA 95, 106.

[42] *Sanchez v. Demetriou*, G.R. Nos. 111771-77, 9 November 1993, 227 SCRA 627, 639.

[43] *People v. Tan*, G.R. No. 117321, 11 February 1998, 286 SCRA 207, 214.

[44] *People v. Marti*, G.R. No. 81561, 18 January 1991, 193 SCRA 57, 67.

[45] *Rollo*, pp. 19-20.

[46] *Supra* at note 30.

[47] *Curtis*, *A Treatise on the Law of Arson* (1st ed., 1986), Sec. 283, p. 303.

[48] *People v. Soriano*, G.R. No. 142565, 29 July 2003, 407 SCRA 367.

[49] Under Art. 320, as amended, the enumeration of the instances for Destructive Arson is exclusive: (a) one (1) or more buildings or edifices, consequent to one single act of burning, or as a result of simultaneous burning, or committed on several or different occasions; (b) any building of public or private ownership, devoted to the public in general or where people usually gather or congregate for a definite purpose such as, but not limited to, official governmental function or business, private transaction, commerce, trade workshop, meetings and conferences, or merely incidental to a definite purpose, such as but not limited to, hotels, motels, transient dwellings, public conveyance or stops or terminals, regardless of whether the offender had knowledge that there are persons in said building or edifice at the time it is set on fire and regardless also of whether the building is actually inhabited or not; (c) any train or locomotive, ship or vessel, airship or airplane, devoted to transportation or conveyance, or for public use, entertainment or leisure; (d) any building, factory, warehouse installation and any appurtenances thereto, which are devoted to the service of public utilities; (e) any building the burning of which is for the purpose of concealing or destroying evidence of another violation of law, or for the purpose of concealing bankruptcy or defrauding creditors or to collect from insurance; (f) when committed by two (2) or more persons, regardless of whether their purpose is merely to burn or destroy the building or the burning merely constitutes an overt act in the commission of another violation of law; (g) any arsenal, shipyard, storehouse or military powder or fireworks factory, ordinance, storehouse, archives or general museum of the Government; (h) in an inhabited place, any storehouse or factory of inflammable or explosive material.

[50] Sec. 3 of Presidential Decree No. 1613 enumerates the Other Cases of Arson which are punishable by the penalty of reclusion temporal to reclusion perpetua: (a) Any building used as offices of the government or any of its agencies; (b) Any inhabited house or dwelling; (c) Any industrial establishment, shipyard, oil well or mine shaft, platform or tunnel; (d) Any plantation, farm, pastureland, growing crop, grain field, orchard, bamboo grove or forest; (e) Any rice mill, sugar mill, cane mill, or mill central; and, (f) any railway or bus station, airport, wharf or warehouse.

[51] See Preamble, Republic Act No. 7659.

[52] *Supra* at note 30.

[53] *Supra*.

[54] 1. One (1) or more building or edifices, consequent to one single act of burning, or as a result of simultaneous burnings, or committed on several or different occasions.

[55] Supra at note 30.

[56] People v. Librado, G.R. No. 141074, 16 October 2003, 413 SCRA 536.

[57] People v. Dimaano, G.R. No. 168168, 14 September 2005, 469 SCRA 647, 666.

[58] People v. Bulan, G.R. No. 143404, 8 June 2005, 459 SCRA 550; People v. Masagnay, G.R. No. 137364, 10 June 2004, 431 SCRA 572; People v. Comadre, et al., G.R. No. 153559, 8 June 2004, 431 SCRA 366; and People v. Bagnate, G.R. No. 133685-86, 20 May 2004, 428 SCRA 633.

[59] Article 2206 of the New Civil Code provides that when death occurs as a result of a crime, the heirs of the deceased are entitled to be indemnified without need of any proof thereof.

[60] People v. Abut, G.R. No. 137601, 24 April 2003, 401 SCRA 498.

[61] Art. 2230 of the New Civil Code dictates that, in criminal offenses, exemplary damages as a part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances.

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