

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ZOSIMO AGUILA Y ATIENZA, ACCUSED-APPELLANT.

G.R. NO. 171017. December 06, 2006

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

For review is the Decision of the Court of Appeals in CA-G.R. CR No. 01077, dated 18 July 2005,[1] affirming the Decision of the Regional Trial Court (RTC) of Lipa City, Fourth Judicial Region, Branch 12, in Criminal Case No. 0451-2000, dated 22 July 2002,[2] convicting the accused-appellant Zosimo Aguila y Atienza, of the crime of murder, sentencing him to suffer the penalty of reclusion perpetua, and ordering him to pay the heirs of deceased Conrado V. Enriquez (Conrado), the amount of P39,690.00 as actual damages, P50,000.00 as civil indemnity, and P50,000.00 as moral damages.

On 5 September 2000, appellant was indicted in an Information[3] for Murder allegedly committed as follows:

That on or about the 3[rd] day of September, 2000 at about 8:00 o'clock in the evening, at Barangay Bulacnin, Lipa City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, then armed with a piece of wood, with intent to kill and without any justifiable cause, with treachery and evident pre-meditation, did then and there willfully, unlawfully and feloniously attack, assault and club with the use of said piece of wood suddenly and without warning, one Conrado Enriquez y Villapando, thereby inflicting upon the latter multiple head injuries which directly caused his death.

When arraigned on 20 September 2000, appellant pleaded "Not Guilty" to the charge therein.[4] Thereafter, trial on the merits ensued.

The prosecution presented its case through the testimonies of its witnesses, namely: Simplicio Manalo, Donald Enriquez, Ronilo Bautista, SPO1 Marcelino Ligarte and Dr. Corazon Sabile. Their testimonies are summarized as follows:

Simplicio Manalo (Simplicio) is a farmer and resident of Barangay Bagong Pook, Rosario, Batangas. He testified that he knew the victim, Conrado, because they were good friends for a long time, and, that both of them were engaged in the selling of fighting cocks/roosters. He narrated that on 3 September 2000, at about 2:00 in the afternoon, he went to the house of Conrado at Barangay Bulacnin, Lipa City, as the latter wanted to show him his new set of fighting cocks/roosters. Both of them had merienda and drank a bottle of gin while conversing. They were not able to consume the bottle of gin because he refused to drink anymore. Thereafter, Conrado invited him to the birthday party of his cousin's child which was being held in a house near a waiting shed of the same barangay.[5]

When he and Conrado arrived at the birthday party, they joined the other visitors in a drinking spree. He, however, drank only a small amount of gin. Conrado, then, introduced him to his brother-in-law, Zosimo Aguila (Aguila) herein appellant, and to his "bilas" Ronilo Bautista (Ronilo) who were also drinking thereat. During the drinking session, he saw and heard Conrado and appellant arguing about a borrowed hoe.[6]

At about 8:00 in the evening, he told Conrado that he was leaving. Conrado accompanied him to a nearby lighted waiting shed for a ride home. While waiting for a jeepney, he noticed that Conrado laid down on the bench of the waiting shed and fell asleep. Later, he saw appellant and Ronilo walking and heading to the waiting shed. Upon arriving thereat, the two approached the sleeping Conrado. He advised them not to wake up or disturb Conrado as the latter was heavily drunk. Appellant and Ronilo, however, told him that they would bring Conrado home. When Conrado woke up, the two carried him by putting his arms around their shoulders and walked towards the direction of a vacant lot near the waiting shed.[7]

Minutes later, he heard "cracking" sounds and shouts of "huwag" coming from the direction of the vacant lot. He glanced at the vacant lot and saw two persons, one was assaulting Conrado while the other was holding on to Conrado. He identified the two as the appellant and Ronilo. Frightened, he left the place and took a ride home. It was only after the lapse of one month that he learned of Conrado's death. Fearing for his own safety, he did not divulge to the family of Conrado what he knew about Conrado's death. When the family of Conrado, however, learned that he witnessed the incident, they went to his house and begged him several times to help in resolving the case. Out of pity for Conrado's family, he agreed to testify in court and gave his sworn statement before the police authorities.[8]

Donald Enriquez (Donald) is the younger brother of Conrado. He testified that on the evening of 3 September 2000, he went to the house of his cousin, Kuya Pitong Martija, to attend the birthday party of the latter's child. While he was on his way thereto, he passed by a lighted waiting shed and saw Conrado drunk and sleeping on the bench. Not wanting to disturb his drunk and tired brother, he merely looked at him and continued on his way to the birthday party. Upon arriving at the party, he joined the other visitors in a drinking session. Among his drinking companions were his Kuya Nestor, Kuya Noel, a certain Rudy and Kitoy. He saw appellant and Ronilo drinking with another group of visitors.[9]

Later, he noticed appellant and Ronilo walking away from their group and proceeding towards the lighted waiting shed which was about ten meters from the place where he and his group were drinking. Upon reaching the waiting shed, appellant and Ronilo woke up the sleeping Conrado. In order to carry Conrado, the two placed his arms around their shoulders and lifted him. Thereafter, they walked northwards. Subsequently, he excused himself from his companions and went to the house of his sister.[10]

The following day, he was informed that Conrado was already dead and that his body was found at the back of the house of a certain Ka Edro, which was at the northern direction, about fifty meters away from the waiting shed. He also found out that Conrado was hit with a piece of wood at the back of his head, and, that appellant and Ronilo were the culprits.[11]

Ronilo is the "bilas" of Conrado since their respective wives are sisters whereas the appellant is his brother-in-law. He stated that on 3 September 2000, at about 5:00 in the afternoon, appellant arrived at his house and invited him to a birthday party at the house of a certain Kumpareng Pitong. Upon arriving at the said house, he and appellant joined a group of drinkers which included Conrado and Simplicio.[12]

During the drinking session, he heard appellant and Conrado arguing about a hoe. Appellant borrowed a hoe from Conrado a long time ago. Since then, appellant had not returned the same to Conrado. Thus, Conrado repeatedly mentioned the said hoe to appellant but the latter merely kept his silence. Later, he and appellant called it a night and left the party. While on their way home, they passed by a waiting shed and saw Conrado sleeping on the bench. Appellant woke up Conrado and both of them carried him by placing Conrado's arms around their shoulders. They told Conrado that they will bring him home. While they were walking, Conrado began berating the appellant for not returning the hoe. At first, appellant ignored the scolding of Conrado. Subsequently,

however, appellant, irked and fed up, suddenly and without warning, stabbed Conrado with a stainless knife. When the stainless knife was broken, appellant pick up a piece of wood and hit Conrado four times in the head. Terrified, Ronilo ran away and proceeded to his house. On the following morning, he learned that Conrado was already dead.[13]

SPO1 Marcelino Ligarte (SPO1 Ligarte) testified that on 4 September 2000, Police Investigator Mario Magnaye told him that four barangay tanods of Barangay Bulacnin, Lipa City, came to the police station and reported a killing incident in their barangay. He was also informed that the victim was Conrado and the suspect was the appellant. Upon learning that appellant was hiding at the house of his brother-in-law, namely, Ben Palma, at Barangay Masaya, Rosario, Batangas, he, together with a certain SPO3 Marasigan and the barangay tanods immediately proceeded to the said house. When they arrived at the house of Ben Palma, one of the barangay tanods recognized the appellant and pointed out the latter to them. He approached the appellant, held his hand, and told him that he was a suspect in the killing of Conrado. He also informed appellant that he had a right to remain silent and to hire the services of a lawyer. Appellant did not say anything. Thereafter, they brought appellant to the Lipa City Police Headquarters for investigation.[14]

Dr. Corazon Sabile (Dr. Sabile) was the Medical Officer IV of Lipa City. She testified that on 4 September 2000, at about 1:30 in the afternoon, she conducted a post mortem examination on the body of Conrado. She found Conrado's corpse in complete rigor mortis and concluded that Conrado had died ten hours prior to the examination. When she examined the head of Conrado, she discovered multiple wounds or sixteen cranium cerebral injuries, most of them located at the posterior portion or at the back of the head. According to her, Conrado sustained multiple fractures of the bones in the head which means that Conrado's occipital bones at the back portion of the skull were fractured. The skull had a total of eight fractures, five of them were located at the back of the head, one at the bone of the nose, one at the upper jaw and another at the lower jaw.[15]

Considering that most of the injuries sustained by Conrado were located at the back portion of his head, she opined that the assailant was positioned at the back of Conrado during the assault. She also believed that a hard or blunt object was used in inflicting such injuries since Conrado sustained three lacerated wounds at the right ear and four lacerated wounds at the left ear which could have been caused by contact with a hard object. She noted that Conrado sustained lacerated wounds at the mandibular area, upper left, fracture on the frontal interior bone of the head, two fractured lateral left side of the head and fracture at the left of the backbone. Conrado also suffered three 0.7 cms x 0.2 cms. linear abrasion on his interior upper chest which could have been caused by rubbing or scratching with a hard rough object. She prepared the death certificate of Conrado.[16]

On the other hand, the defense presented the lone testimony of appellant to refute the foregoing accusations.

Appellant testified that he is a resident of Barangay Pagulingin, Lipa City. He narrated that on 3 September 2000, at about 4:00 in the afternoon, he arrived at the house of his sister, Antonia, and brother-in-law, Ronilo, at Barangay Bulacnin, Lipa City. At around 6:00 in the evening, Ronilo invited him to a birthday party at the house of Pitong Martija to which he agreed.[17]

Upon arriving at the party at about 7:00 in the evening, he saw three tables outside the house. One of the tables was occupied by Conrado, Donald, a certain Rodel Tolentino and Genio Masongsong, who were then drinking gin. Instead of joining the same group, he and Ronilo opted to occupy another table, and, thereafter drank gin.[18]

At about 9:00 in the evening, Conrado left the birthday party. Donald and Ronilo also left the birthday party in order to accompany and bring Conrado home as the latter was already drunk. He, however, chose to stay at the birthday party and continued drinking gin. Subsequently, Donald and Ronilo returned to the party. Ronilo, then, invited him to stay at his house to which he acceded. Thereafter, he, Donald, and Ronilo left the birthday party

and proceeded to the house of the latter. Upon arriving at Ronilo's house at about 10:00 in the evening, he lied down in a bed. He noticed that Donald and Ronilo were having a conversation.[19]

After sleeping for a while, he woke up and went outside of the house to urinate. He observed that Donald and Ronilo were still conversing with each other, the topic of which he had no idea. After relieving himself, he returned to the bed and glanced at a clock nearby. He noticed that it was already 1:00 in the morning. Subsequently, he fell asleep again.[20]

Appellant vehemently denied the truthfulness of the testimony of Simplicio claiming that the latter is not a resident of Barangay Bulacnin, and, that Simplicio is a paid witness. He also assailed the veracity of the testimony of Donald which according to him was ill-motivated. Lastly, he asseverated that Ronilo testified against him in order to be relieved of any liability.[21]

On 22 July 2002, the RTC rendered its Decision finding appellant guilty beyond reasonable doubt of the crime of murder.[22] It gave credence to the "vivid and detailed account of the incident" of the prosecution witnesses which according to it, "vibrates with truth and sincerity." It noted that the nature, number and location of the wounds sustained by Conrado bolstered the testimonies of the prosecution witnesses. It also found treachery in the commission of the crime since Conrado was "dead drunk," unarmed, and unsuspecting, and, thus, incapable of defending himself at the time of the attack. It is its "profound view," however, that Ronilo should have been included in the prosecution of the instant case. It also expressed the hope that the Department of Justice would inquire if the prosecution of Ronilo in the present case is still possible. In closing, the trial court held:

ACCORDINGLY, the Court finds the accused, ZOSIMO AGUILA y ATIENZA, guilty beyond per adventure of doubt, as principal by direct participation, of the crime of Murder, as defined and penalized under Article 248 of the Revised Penal Code, without any modifying circumstance, and sentences him to suffer the penalty of RECLUSION PERPETUA, to pay to the heirs of Conrado Enriquez the sums of P50,000.00, as indemnification for his death, P39,690.00, as actual damages and P50,000.00 as moral damages. With costs against accused.

Affronted, appellant filed a Notice of Appeal with the RTC on 20 August 2002.[23] Subsequently, on 23 October 2002, appellant filed his Appellant's Brief directly with this Court assailing the Decision of the RTC dated 22 July 2002. Pursuant to our ruling in the case of *People of the Philippines v. Efren Mateo y Garcia*, we issued a Resolution dated 30 March 2005 transferring the instant case to the Court of Appeals for disposition.[24] On 18 July 2005, the Court of Appeals promulgated its Decision denying the appeal of appellant and affirming in toto the assailed RTC Decision.[25] The dispositive portion thereof reads:

WHEREFORE, premises considered, the instant case is DENIED and the assailed Decision dated 22 July 2002, promulgated on 12 August 2002, of the Regional Trial Court of Lipa City, Branch 12 in Crim. Case No. 0451-2000 finding the appellant ZOSIMO AGUILA y ATIENZA guilty beyond reasonable doubt of the crime of Murder under Article 248 of the Revised Penal Code, as amended, and sentencing him to suffer the penalty of reclusion perpetua, and ordering him to pay to the heirs of the victim Conrado Enriquez the amounts of Php39,690.00 as actual damages; Php50,000.00 as death indemnity; and Php 50,000.00 as moral damages, is hereby AFFIRMED.

On automatic review, appellant raised the following issues:

I.

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT FOR THE CRIME OF MURDER.

II.

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE PROSECUTION'S EVIDENCE.

Apropos the first issue, appellant contends that the testimony of Ronilo does not deserve any credit as the same was filled with inconsistencies and contradictions. Ronilo testified during the trial that appellant stabbed Conrado with a stainless knife, and, that after the same knife got broken, appellant hit Conrado with a piece of wood four times. This, according to appellant, runs counter to the testimony of Dr. Sabile who declared that Conrado's death was caused by multiple cranium cerebral injuries, and, that she never mentioned finding any stab wounds on Conrado's body. Appellant also noted that the alleged stabbing of Conrado was not stated in Ronilo's Sinumpaang Salaysay, whereas, in his court testimony, Ronilo testified that after stabbing Conrado, appellant also clubbed Conrado with a piece of wood.

There is no merit in appellant's contention.

Witnesses cannot be expected to give a flawless testimony all the time. This is even more true if they are called to testify on details of a harrowing and frightening event which unfolded before their eyes. Minor discrepancies might be found in their testimony but they do not damage the essential integrity of the evidence in its material whole, nor should they reflect adversely on the witness' credibility as they erase suspicion that the same was rehearsed or concocted. Honest inconsistencies on minor and trivial matters serve to strengthen rather than destroy the credibility of a witness to a crime.[26]

The inconsistencies cited by appellant refer to minor and insignificant details which do not impair the credibility of Ronilo as a witness. It appears that Ronilo's allegation that appellant stabbed Conrado is erroneous and baseless since Dr. Sabile did not find any stab wounds on Conrado's body.[27] It should be stressed, however, that in addition to his testimony that appellant stabbed Conrado, Ronilo also testified that appellant struck Conrado with a piece of wood four times on the head.[28] This testimony is consistent with the findings of Dr. Sabile who declared that the multiple fractures in Conrado's skull was caused by a hard or blunt instrument such as a piece of wood.[29]

Thus, Ronilo's allegation that appellant stabbed Conrado with a knife should be considered as a mere surplusage, an immaterial and irrelevant part of his testimony, since what is important and decisive is that Ronilo had seen appellant struck Conrado in the head with a piece of wood and that he testified on such fact during the trial.

It is true that during the trial Ronilo testified that appellant stabbed Conrado whereas in his Sinumpaang Salaysay he did not mention the same. Again, this minor inconsistency does not destroy the veracity of Ronilo's testimony since, in both cases, he mentioned the fact that appellant struck Conrado four times in the head with a piece of wood. Note must also be taken of the fact that Ronilo had testified on an incident which had occurred three years earlier. Error-free testimonies cannot be expected from him, considering the limitations of human memory.[30]

Appellant also averred inconsistency in Ronilo's testimony when the latter testified that after attacking Conrado, appellant slept in his house without his knowledge. When he woke up the next morning, he saw appellant sleeping in his living room. This, according to appellant, contradicts Ronilo's other statement that he was frightened after witnessing the attack of appellant on Conrado. Appellant argued that if Ronilo was indeed frightened of the incident, he would have closed the doors and windows of his house and would not have allowed appellant to sleep in his house.

We do not subscribe to appellant's averments.

Appellant himself had testified during the cross-examination that any person could enter the house of Ronilo since its gate can be opened from the outside even without a key, and, that he is familiar with the same house as it is

also the house of his sister. He also stated that prior to the incident, there were times when he slept there whenever he got drunk, and, that he could sleep therein even if Ronilo and the appellant's sister are already asleep.[31]

It is also significant to note that Ronilo's account of how the gruesome act transpired was corroborated by Simplicio and Donald. Their testimonies on material and relevant points are substantially consistent with each other. More importantly, the testimony of Dr. Sabile that Conrado died of multiple fractures of the skull is in harmony with Ronilo's court testimony and Sinumpaang Salaysay that appellant hit Conrado with a piece of wood on the head.

As to the testimony of Simplicio, appellant argued that the same was perjured considering that the former's sworn statement was executed only on 11 July 2001 whereas the incident happened way back on 3 September 2000. With regard to the testimony of Donald, appellant asserted that it should not be given any weight as the former is merely angry at him for being an accused in the killing of his brother.

Even these arguments fail to persuade us.

The fact that Simplicio did not immediately give a sworn statement to the authorities about the incident and his initial hesitation to testify in court on the same does not necessarily destroy the genuineness of his testimony. Witnesses are usually reluctant to volunteer information about a criminal case or are unwilling to be involved in or dragged into criminal investigations due to a variety of valid reasons.[32] Fear of reprisal and the natural reluctance of a witness to get involved in a criminal case are sufficient explanations for a witness' delay in reporting the crime to authorities.[33] After the incident, Simplicio feared for his and his family's safety if he testified against appellant. It is only after the lapse of one year that he agreed to divulge information about the incident in order to make sure that the possibility of a threat to his life or his loved ones is already diminished, if not totally avoided. Furthermore, no ill-motive can be imputed to Simplicio for testifying against appellant. Appellant himself admitted that he does not know of any reason why Simplicio would testify against him.[34]

As regards the testimony of Donald, it should be borne in mind that mere relationship of a witness to the victim does not automatically impair the credibility of said witness, where no improper motive can be ascribed to the latter for so testifying.[35] A witness' relationship to the victim of a crime, in fact, makes his testimony even more credible as it would be unnatural for a relative interested in vindicating a crime done to their family to accuse somebody other than the real culprit.[36] Donald has no improper motive to implicate appellant in the crime. As the younger brother of Conrado, his mere desire in testifying was to see to it that justice is served and the real killer of Conrado be punished.

Appellant also alleged that treachery was not proven in the instant case, and, that a prior argument between him and Conrado negated the existence of treachery.

We disagree.

Treachery is a sudden and unexpected attack under the circumstances that render the victim unable and unprepared to defend himself by reason of the suddenness and severity of the attack.[37] It is an aggravating circumstance that qualifies the killing of the person to murder. Article 14, paragraph (16), of the Revised Penal Code states the concept and essential elements of treachery as an aggravating circumstance, thus:

ART. 14. Aggravating circumstances. - The following are aggravating circumstances:

x x x x

16. That the act be committed with treachery (alevosia).

There is treachery when the offender commits any of the crimes against the person, employing means,

methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.

As can be gleaned from the foregoing, two essential elements/conditions are required in order that treachery may be appreciated: (1) The employment of means, methods or manner of execution that would insure the offender's safety from any retaliatory act on the part of the offended party, who has, thus no opportunity for self-defense or retaliation; and (2) deliberate or conscious choice of means, methods or manner of execution. Further, it must always be alleged in the information and proved in trial in order that it may be validly considered.[38]

In the instant case, treachery was alleged in the information against appellant. Moreover, all the essential elements/conditions of treachery were established and proven during the trial.

During their drinking session at the birthday party, Conrado repeatedly reminded appellant to return the hoe which the latter borrowed from the former a long time ago. Although he felt irritated and insulted as the same was heard by their other drinking buddies, appellant kept his silence and continued drinking gin. Later that evening, Conrado left the drinking session in order to accompany Simplicio in waiting for a ride home. Upon reaching a lighted waiting shed, Conrado, who was already "dead drunk" and tired from a long drinking session, laid down on the bench of the waiting shed and slept. Subsequently, appellant and Ronilo went to the waiting shed and woke up Conrado. Appellant told Conrado that they would bring him home. As Conrado was still groggy, weak and unable to walk, appellant and Ronilo placed his arms around their shoulders and carried him away. While they were walking, Conrado kept on murmuring to appellant about the unreturned hoe. Unable to control his anger anymore, appellant stopped walking. He removed Conrado's arm around his shoulder and pick up a piece of wood nearby. Realizing that his life was in danger, Conrado repeatedly shouted "huwag," Conrado tried to move away but he was too drunk and too weak. With all his might and anger, appellant repeatedly struck the hapless Conrado on the head with a piece of wood. Ronilo, who was shocked and confused upon seeing the grim act, ran away from the scene and proceeded to his house. Upon seeing that Conrado was already lying on the ground, bloodied and motionless, appellant fled the scene.

It is clear from the foregoing that Conrado was unarmed, "dead drunk" and was being carried away when the attack occurred. In such a helpless condition, it was absolutely impossible for Conrado to defend himself or retaliate against the onslaught of appellant. Appellant took advantage of the intoxication of Conrado so that the latter may not escape his deadly ire. Appellant had also deliberately and consciously adopted means and methods in insuring the cruel and painful demise of Conrado by picking up a piece of wood and using it to repeatedly hit the head of Conrado.

While it is true that Conrado may have been warned of possible violence from appellant as the former kept on reminding the latter about an unreturned hoe, there is still treachery in the case at bar since what is decisive is that the attack was executed in such a manner as to make it impossible for the victim to retaliate.[39] As stated earlier, Conrado was unarmed, "dead drunk" and was therefore defenseless. Further, as Conrado's mind and body were heavily intoxicated, it was impossible or difficult for him to think and realize that appellant might retaliate against him.

Anent the second issue, appellant asserted that the trial court should not have given weight on the testimonies of the prosecution witnesses. According to him, his own testimony deserves more credence and faith.

Appellant's argument fails to sway us.

Jurisprudence dictates that when the credibility of a witness is in issue, the findings of fact of trial court, its calibration of the testimonies of the witnesses and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings are accorded high respect if not conclusive effect.[40] This is because the

trial court has the unique opportunity to observe the demeanor of a witness and is in the best position to discern whether they are telling the truth.[41] In the instant case, the RTC gave credence to the "vivid and detailed account of the incident" of the prosecution witnesses which according to it, "vibrates with truth and sincerity." It noted that the nature, number and location of the wounds sustained by Conrado bolstered the testimonies of the prosecution witnesses. It also found no improper motive on the part of the prosecution witnesses in testifying against appellant.

It is also worth stressing that the Court of Appeals affirmed such findings of the RTC. In this regard, it is settled that when the trial court's findings have been affirmed by the appellate court, said findings are generally conclusive and binding upon this Court.[42] We find no compelling reason to deviate from their findings.

During the trial, appellant denied any liability and invoked alibi. Appellant asseverated that he was at the birthday party drinking gin at the time of the incident, and, that it was Donald and Ronilo who accompanied Conrado on the way to the latter's home.

Denial is inherently a weak defense as it is negative and self-serving.[43] It cannot prevail over the positive identification and testimony of witnesses unless buttressed by strong evidence of non-culpability.[44] In the case at bar, Ronilo testified that appellant had struck Conrado with a piece of wood on the head. Simplicio declared that appellant was at the crime scene during the attack while Donald stated that shortly before the incident, Conrado was in the company of appellant. Appellant had not presented any evidence to counter the afore-stated testimonies.

For alibi to prosper, it is not enough for the accused to prove that he was somewhere else when the crime was committed. He must likewise prove that it is physically impossible for him to be present at the crime scene or its immediate vicinity at the time of its commission.[45] If appellant had, as he claimed, remained at the birthday party when Donald and Ronilo allegedly brought Conrado home, it was not physically impossible for him to be present at the crime scene or in its immediate vicinity. The distance between the house where the birthday party took place and the vacant lot where the crime was committed is merely twenty meters.

As the appellant failed to substantiate his defenses of denial and alibi, the positive, categorical, and credible testimonies of the prosecution witnesses must prevail.

We also observed that appellant, who was a resident of Barangay Pagulingin, Lipa City, immediately left his residence after the incident. He went to the house of his brother-in-law, Ben Palma, in Barangay Masaya, Rosario, Batangas, where he was later arrested by the police of Lipa City. Appellant failed to explain his presence thereat. Thus, his flight after the incident is a circumstance from which an inference of guilt may be drawn.[46] If he is truly innocent of the charge and his conscience is clear, there is no reason for him to run away and hide at the house of his brother-in-law.

On another point, we agree with the RTC and the Court of Appeals as regards the penalty imposed and damages awarded. However, in addition to these damages, exemplary damages should also be awarded to the heirs of Conrado since the qualifying circumstance of treachery was firmly established by the prosecution.[47] If a crime is committed with an aggravating circumstance, either qualifying or generic, an award of P25,000.00 as exemplary damages is justified under Article 2230 of the New Civil Code.[48] This kind of damage is intended to serve as a deterrent to serious wrongdoings, and as a vindication of undue sufferings and wanton invasion of the rights of an injured or a punishment for those guilty of outrageous conduct.[49]

WHEREFORE, the Decision of the Court of Appeals dated 18 July 2005 is hereby **AFFIRMED** with a **MODIFICATION** that exemplary damages in the amount of P25,000.00 is also awarded to the heirs of Conrado.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Austria-Martinez, and Callejo, Sr., JJ., concur.

[1] Penned by Associate Justice Celia C. Librea-Leagogo with Associate Justices Mariano C. Del Castillo and Lucas P. Bersamin, concurring; rollo, pp. 3-46.

[2] Penned by Judge Vicente F. Landicho; CA rollo, pp. 17-25.

[3] CA rollo, pp. 5-6.

[4] Records, pp. 14-15.

[5] TSN, 6 June 2001, pp. 2-10.

[6] Id.

[7] Id.

[8] Id.

[9] TSN, 3 October 2001, pp. 2-12.

[10] Id.

[11] Id.

[12] TSN, 23 January 2002, pp. 2-31.

[13] Id.

[14] TSN, 5 September 2001, pp. 2-10.

[15] TSN, 21 March 2001, pp. 2-26.

[16] Id.

[17] TSN, 27 February 2002, pp. 2-23.

[18] Id.

[19] Id.

[20] Id.

[21] Id.

[22] Supra note 2.

[23] Records, p. 210.

[24] A rollo, p. 103.

[25] Supra note 1.

[26] People v. Pateo, G.R. No. 156786, 3 June 2004, 430 SCRA 609, 615.

[27] Records, pp. 121-123 (Exhibits "A," "B" and "C").

- [28] TSN, 23 January 2002, p. 11.
- [29] TSN, 21 March 2001, p. 15.
- [30] *People v. Magbanua*, G.R. No. 133004, 20 May 2004, 428 SCRA, 617, 629.
- [31] TSN, 10 April 2002, pp. 22-23.
- [32] *People v. Simon*, G.R. No. 130531, 27 May 2004, 429 SCRA 330, 351.
- [33] *People v. Hernandez*, G.R. No. 139697, 15 June 2004, 432 SCRA 104, 112.
- [34] TSN, 10 April 2002, p. 10.
- [35] *People v. Delmindo*, G.R. No. 146810, 27 May 2004, 429 SCRA 546, 558.
- [36] *People v. Werba*, G.R. No. 144599, 9 June 2004, 431 SCRA 482, 495.
- [37] *People v. Santos*, G.R. No. 127492, 16 January 2004, 420 SCRA 37, 49.
- [38] Rule 110, Sections 8 and 9 of the Revised Rules on Criminal Procedure.
- [39] *People v. De la Cruz*, G.R. Nos. 154348-50, 8 June 2004, 431 SCRA 388, 398.
- [40] *People v. Abolidor*, G.R. No. 147231, 18 February 2004, 423 SCRA 260, 265.
- [41] *People v. Matito*, G.R. No. 144405, 24 February 2004, 423 SCRA 617, 625.
- [42] *People v. Castillo*, G.R. No. 118912, 28 May 2004, 430 SCRA 40, 50.
- [43] *People v. Caparas*, G.R. No. 134633, 14 April 2004, 427 SCRA 286, 297.
- [44] *People v. Malones*, G.R. Nos. 124388-90, 11 March 2004, 425 SCRA 318, 338.
- [45] *People v. Abes*, G.R. No. 138937, 20 January 2004, 420 SCRA 259, 274.
- [46] *People v. Ambrocio*, G.R. No. 140267, 29 June 2004, 433 SCRA 67, 82.
- [47] *People v. Manambay*, G.R. No. 130684, 5 February 2004, 422 SCRA 73, 90.
- [48] *Supra* note 34 at 90.
- [49] *People v. Orilla*, G.R. Nos. 148939-40, 13 February 2004, 422 SCRA 620, 643.

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