VIRGILIO BUG-ATAN, BERME LABANDERO GREGORIO MANATAD PETITIONERS, VS. THE PEOPLE OF PHILIPPINES, RESPONDENT.

G.R. No. 175195. September 15, 2010

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

The testimony of a co-conspirator is not sufficient for the conviction of the accused unless such testimony is supported by other evidence. As an exception, however, the testimony of a co-conspirator, even if uncorroborated, will be considered sufficient if given in a straightforward manner and contains details which could not have been the result of deliberate afterthought.[1]

This petition for review on certiorari[2] assails the Decision[3] of the Court of Appeals (CA) dated May 25, 2006 which upheld the Judgment[4] dated September 20, 1994 of the Regional Trial Court (RTC), Branch 28, Mandaue City finding petitioners guilty beyond reasonable doubt of homicide.

For the death of Pastor Papauran (victim) on April 15, 1993, Norman Maramara (Maramara) was indicted for murder.[5] After pleading not guilty but before his trial, Maramara moved and was allowed by the trial court to enter into a plea bargaining with the prosecution and the victim's next of kin. Accordingly, Maramara, upon re-arraignment, pleaded guilty to a lesser offense of homicide, a crime necessarily included in the charge of murder.[6] It would appear, however, that before he was indicted or thereabout, Maramara executed an extrajudicial confession[7] wherein he admitted shooting the victim to death and implicated as his co-conspirators herein petitioners Gregorio Manatad (Manatad), Virgilio Bug-atan (Bug-atari) and Bernie Labandero (Labandero).

Based on the account of Maramara, petitioners were accordingly charged with murder in an Information dated August 25, 1993, the accusatory portion of which reads:

> The State accuses GREGORIO MANATAD, VIRGILIO BUG-ATAN and BERNIE LABANDERO of MURDER, committed as follows:
>
> That on or about the 15th day of April 1993, in the City of Mandaue, Philippines, and within the jurisdiction of this Honorable Court, the aforenamed accused in conspiracy with NORMAN MARAMARA whose information for murder was filed on June 9,1993, docketed as Criminal Case No. DU-3721 who was convicted on July 19, 1993, and with others who shall be prosecuted separately once sufficient and/or corroborative evidence are gathered and secured, and proper preliminary investigation is conducted thereon, with deliberate intent to kill and with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously conspire, confederate and help one another in inducing and causing die said NORMAN MARAMARA to attack, assault and shoot Pastor Papauran with a handgun, thereby inflicting upon the latter mortal wound at his vital portion which caused his death soon thereafter,
>
> CONTRARY TO LAW.[8]

Petitioners, when arraigned, pleaded not guilty. Thereafter, trial ensued.

Factual Antecedents

The CA, in its assailed Decision, chronicled the facts in this sequence:

> On April 14, 1993, at around 12:00 o'clock noon, accused-appellants Manatad and Bug-atan arrived at La Paloma, Labangon, Cebu City to meet with Maramara [whom] they instructed x x x to go to Mandaue City and kill Pastor Papauran. Accused-appellants Bug-atan and Manatad gave Maramara a .38 caliber revolver with three reserve[d] bullets and P500.00 for transportation money. The sum of P30,000.00 was also offered to Maramara as part of the considerations for his killing Pastor Papauran, together with a promise that accused-appellant Bug-atan would move for the dismissal of Criminal Case No. CBU-24099, a case for murder filed against Maramara which was pending before the sala of then Judge Portia Hormachuelos.
>
> Sometime in the morning of April 15, 1993, Maramara met with accused- appellants Bug-atan and Labandero at Labangon, Cebu City. Thereafter, Maramara and accused-appellant Labandero boarded a passenger jeepney and proceeded to Mandaue City to carry out the task of killing Pastor Papauran. Accused-appellant Bug-atan, on the other hand, road [sic] Ms motorcycle to Labogon, Mandaue City and waited in the comer outside Pastor Papauran's house to act as back-up. Maramara and accused-appellant Labandero arrived at Labogon and proceeded to the house of Pastor Papauran. Maramara shot Pastor Papauran once in the head and then he and accused-appellant Labandero walked away and ran towards the highway. They boarded a passenger jeepney towards Consolacion. Three days later, accused-appellant Bug-atan and Maramara went to Labogon on a motorcycle to confirm if Pastor Papauran was really dead. When they saw that Pastor Papauran was already dead, accused-appellant Bug-atan told Maramara to keep silent about the killing and that he would pay the latter on April 21, 1999.[9] However, Maramara was already arrested by the police on April 21,1999.[10]

Petitioners denied the accusation against them. They respectively interposed the defense of denial and alibi and ascribed ill-motive on prosecution principal witness Maramara. Thus:

> xxx. In denying criminal liability, accused-appellant Manatad interposed the defense of alibi. He testified that, on April 11 to 15, 1993 he was allegedly in Luyag, San Remegio and Tigbawan, Labuelan, all places located in the province of Cebu. The accused-appellant Labandero declared that he was an eye-witness for the State in the case of "People v. Nicolas Yolen and Norman Maramara, Criminal Case No. CBU-24099," and accordingly, after testifying against Maramara, he immediately left for Manila since he had received death threats that he would be the next to be killed. Thus, accused-appellant Labandero claims that he was in Manila at the time of the killing of Pastor Papauran and that the extrajudicial confession and testimony of Maramara is false, fabricated and was concocted by the latter as a means of revenge. Accused-appellant Bug-atan, on the other hand, simply denied having participated in the commission of the offense charged.[11]

Ruling of the Regional Trial Court

The trial court accorded full faith and credence to the testimonies of the prosecution witnesses particularly that of Maramara and found the existence of conspiracy among the petitioners in the commission of the crime. It rejected their alibi holding that the same is self-serving and uncorroborated. Thus, on September 20,1994, judgment was rendered against the petitioners:

> WHEREFORE, foregoing premises considered, judgment is hereby rendered finding the accused, Gregorio Manatad, Virgilio Bug-atan and Bernie Labandero guilty beyond reasonable doubt for the crime of Homicide, the said accused are hereby [each sentenced] to undergo an indeterminate penalty [of] imprisonment of Eight (8) Years, One (1) Day of Prision Mayor as minimum to Fourteen (14) Years, Eight (8) Months and One (1) Day of Reclusion Temporal as Maximum with the accessories of the law and to indemnify jointly and severally the legal heirs of Pastor Papauran in the amount of P50.000.00 without subsidiary imprisonment in case of insolvency and to pay their proportionate share of the cost.

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> All accused being detention prisoners shall be credited in the service of their respective sentences full time during which they have undergone preventive imprisonment.
>
> SO ORDERED.[12]

Ruling of the Court of Appeals

On appeal, the CA affirmed the trial court's Decision. Like the trial court, the appellate court found the testimonies of the prosecution witnesses credible and sustained the trial court's finding of conspiracy. It noted that petitioners' identities were duly established by Maramara's positive identification and, thus, disregarded petitioners' denial and alibi. On May 25, 2006, the appellate court disposed the appeal:

> WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us DISMISSING the appeal filed in this case and AFFIRMING the Decision dated September 20, 1994 of the RTC in Mandaue City in Criminal CaseNo.DU-3938.
>
> SO ORDERED.[13]

The appellate court, in the challenged October 4, 2006 Resolution[14] denied petitioners' Motion for Reconsideration prompting the latter to institute before this Court the instant Petition for Review on Certiorari. We note that petitioners did not enumerate any specific assignment of errors but instead presented arguments on procedural and substantive matters.

Issues

As we gleaned from the arguments of the petitioners, the main issues formulated thereon for resolution are: (1) whether Maramara is a credible witness; (2) whether conspiracy was proven;"and, (3) whether the guilt of petitioners was proven beyond reasonable doubt. But before dwelling on these matters, we opted to tackle an issue brought beforehand by petitioners concerning a procedural point. Though it is our opinion that the discussion on this point is not relevant in the resolution of the guilt or innocence of petitioners, we still find it necessary to determine what crime was actually committed and its corresponding penalty.

Our Ruling

Preliminarily, petitioners are challenging, on procedural standpoint, the manner in which the proceeding in Criminal Case No. DU-3721 entitled People v. Norman Maramara was conducted. They point out that after Maramara was arraigned in the morning of July 19, 1993, the trial court hastily heard and approved a plea bargain motion in the afternoon leading to his immediate conviction on the same day. They also fault the trial court in concluding that there were no aggravating or mitigating circumstances to appreciate despite Maramara's confession to the murder of the victim. They likewise question why the filing of Criminal Case Nos. DU-3721 and DU-3938[15] was done separately and not simultaneously. According to petitioners, the conviction of Maramara in Criminal Case No. DU-3721 was precipitately done following a skewed procedure.

We disagree. We find no legal flaw in the assailed actions of the trial court in Criminal Case No. DU-3721.

At the outset, it is easily discemable that petitioners failed to point out any rule of procedure or provision of law that was transgressed by the trial court. On the contrary, the plea bargain was validly acted upon despite the fact that all the proceedings, i.e. arraignment, plea bargaining and conviction, occurred on a single day. Section 2, Rule 116 of the Rules of Court, which authorizes plea bargain for a lesser offense in a criminal case, is explicit on how and when a plea bargain may be allowed. The rule pertinently provides:

> Sec. 2. Plea of guilty to lesser offense. - At arraignment, the accused, with the consent of the offended party and the prosecutor, may be allowed by the trial court to plead guilty to a lesser offense which is necessarily

> included in the offense charged. After arraignment but before trial, the accused may still be allowed to plead guilty to said lesser offense after withdrawing his plea of not guilty. No amendment of the complaint or information is necessary.

As clearly worded, there is nothing in the law which expressly or impliedly prohibits the trial court from allowing an accused to change his plea, on a plea bargain, immediately after a previous plea of not guilty. In approving the plea bargaining agreement, the trial court undoubtedly took into consideration the timeliness of the plea bargaining and its compliance with the requirements of the law.

Neither do we see any error in the trial court's holding that there were no aggravating or mitigating circumstances to appreciate even with Maramara's confession of murder for the obvious reason that introduction of evidence became no longer necessary after entering a plea of guilty.

Respecting the non-simultaneous filing of Criminal Case Nos. DU-3721 and DU-3938, suffice it to say that at the time Maramara pleaded guilty, the present charge against petitioners was still in the initial stage of preliminary investigation.

We now proceed to the substantive arguments raised in the petition.

Evaluation of the witnesses' credibility
is a matter best left to the trial court.

Indubitably, the credibility of the testimony of prosecution's prime witness Maramara is the meat of the instant controversy. Petitioners postulate that he is not a credible witness. They point out that there were inconsistencies in his testimonies vis-a-vis his confession, and that his declarations should be totally rejected considering his questionable reputation and personal background as evidenced by his previous conviction. Being a confessed conspirator, his testimony was procured from a polluted source. Moreover, he had the ill-motive of revenge against Labandero and Bug-atan considering that Labandero was a witness against Maramara in the killing of Lanogan while Bug-atan was responsible for his arrest on April 21, 1993.

We are not convinced.

Petitioners try to discredit Maramara by highlighting his alleged inconsistent statements in his extrajudicial confession and his testimony in court, i.e., he allegedly averred in his confession that Manatad and Bug-atan went to see him on April 9, 1993 whereas in his direct examination, he merely stated that there was only one person who went to him. Petitioners also invite our attention to the variance regarding the place where the meeting was held, whether it was at the house of Maramara's aunt or at the pier.

These perceived inconsistencies provide no persuasive reason for us to distrust the credibility of Maramara. They refer to minor details and not to the central fact of the crime. They are too trivial to affect his straightforward account of the killing of the victim and the complicity of the petitioners. It is settled that inconsistencies relating to minor details do not affect the creditworthiness of the witness testifying and that minor inconsistencies tend to show that the witnesses were not coached or rehearsed. This is a well- settled doctrine which need not require much documentation. The testimony of a witness must be considered in its entirety instead of in truncated parts. The technique in deciphering a testimony is not to consider only its isolated parts and anchor a conclusion on the basis of said parts.[16] At any rate, Maramara had adequately explained and properly corrected himself regarding these alleged inconsistencies during his examination in court.[17]

Maramara's previous conviction neither detracts his competency as a witness nor necessarily renders his testimony totally untrustworthy and inadmissible. While Maramara admitted to having been previously convicted in Criminal Case No. DU-3721, this circumstance does not necessarily make him or his testimony ipso facto

incredible. The determination of the character of a witness is not a prerequisite to belief in his testimony.[18] His alleged bad reputation, even if true, should not sway the court in the evaluation of the veracity of his testimony. Other important factors should be considered in determining the inherent probability of his statements for a convicted person is not necessarily a liar. After all, conviction of a crime, unless otherwise provided by law, shall not be a ground for disqualification of witnesses.[19] More importantly, the testimony of Maramara who undeniably pleaded guilty in killing the victim should definitely be given more weight inasmuch as his testimony pertains in not insignificant points to the specific incident. It is to be noted that Dr. Crisostomo Abbu, the medical officer who conducted the post- mortem examination on the body of the victim, provided collaborating testimony regarding the location of the inflicted wound, thereby rendering more credible the testimonial account of Maramara. In fine, we defer to the trial court's finding, sustained by the appellate court, giving full weight and credit to Maramara's testimony. The trial court's findings regarding the witness's credibility are accorded the highest degree of respect.[20]

The Court finds the supposed enmity of Maramara not sufficient reason to impel him to implicate petitioners in the killing of the victim. While it may be conceded that Labandero was a witness against Maramara in a murder case while Bug-atan was instrumental in Maramara's arrest, still, the defense was unable to conclusively establish that Maramara was ill-motivated in denouncing petitioners as his co-conspirators in the commission of the crime. There is no proof that Maramara had the intention to pervert the truth and prevaricate just to implicate petitioners in so serious a crime as murder. In fact, the trial court did not perceive such improper motivation on his part. All that petitioners had are pure speculation and afterthought. The absence of evidence of improper motive tends to indicate that a witness's testimony is worthy of full faith and credence.[21]

We see no reason to deviate from the trial court's keen observation that the credibility of Maramara as witness has remained intact notwithstanding the attempts of the defense to demolish it. Hence, his testimony should be given full weight and credit. We likewise agree with the appellate court in holding that the trial court did not err in appreciating the testimony of Maramara since it was corroborated by the testimonies of other witnesses and was given unhesitatingly in a straightforward manner and full of details which could not have been the result of deliberate afterthought. His testimony is too rich in details brought out during his examination in court which cannot simply be swept aside as mere fabrication. The declarations of the other prosecution witnesses, individually considered, may have been circumstantial and lacking in full details. But their combined testimonies somehow supplement in no small measure the testimonial account of Maramara. As we and the courts below cautiously determined, they strengthen the prosecution's evidence not only with respect to the fact of killing but also on the conspiracy angle of the case.

Conspiracy was duly proven.

Like the courts below, we are equally convinced that there is sufficient evidence of conspiracy as convincing as the evidence of the participation of each of the petitioners. The records teem with circumstances correctly outlined by the trial court clearly indicating the collective and individual acts of the petitioners which reveal their common purpose to assault and liquidate the victim. For emphasis, we need to quote a portion of the ratiocination of the appellate court in this regard:

> In the case at bench, as categorically attested to by witness Maramara. accused-appellants asked him to kill Pastor Papauran in exchange for money and dropping an earlier case, Criminal Case No. 24099, filed against him. They also accompanied him on the day of the shooting to see to it that the job was done. The concerted acts of accused-appellants reveal a consciously adopted plan and clearly demonstrate their joint design to exterminate Pastor Papauran. Conspiracy having been established, the act of one is the act of all.[22]

Needless to stress, these circumstances are clear enough to show that petitioners acted in concert in the

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implementation of a common objective - to kill the victim. In conspiracy, proof of the agreement need not rest on direct evidence. Conspiracy may be deduced from the acts of the accused before, during and after the commission of the crime which indubitably point to and are indicative of a joint purpose, concert of action and community of interest.[23] To be a conspirator, one need not participate in every detail of the execution nor talce part in every act and may not even know the exact part to be performed by the others in the execution of the conspiracy.[24] But once conspiracy is shown, as in this case, the act of one is the act of all.

Defense of alibi and denial
was correctly rejected.

For alibi to prevail, the established doctrine is that the accused must prove not only that he was at some other place at the time of the commission of the crime but also that it was physically impossible for him to be at the locus criminis or within its immediate vicinity.[25] Physical impossibility means that the accused was at such other place for such a length of time that it was impossible for him to have been at the crime scene either before or after the time he was at such other place.[26]

Manatad's alibi is that from April 11 to 15, 1993, he was in Cuyang, San Remigio and Tigbawan, Tabuelan, doing faith healing. His alibi, assuming it to be true, cannot be given merit. He could have easily been at the scene of the crime at the time of its commission considering that San Remigio and Tabuelan are municipalities located in the province of Cebu. His presence therein did not, therefore, render impossible his being at the scene of the killing at Labogon, Mandaue City, a place also located in the province of Cebu.

To corroborate his exculpatory tale, Manatad presented, among others, Patrocino Vaflor and Rafaela Maglinte to support his alleged alibi. However, these witnesses were shown to be biased since they have the tendency to falsely testify in Manatad's favor for they admittedly owed him a great debt of gratitude.[27]

For his part, Labandero posits that he was in Manila at the time of the incident because of a previous death threat on him after giving his testimony in Criminal Case No. 24099 such that it was physically impossible for him to be at the locus criminis. Considering that his alibi and supposed death threat were uncorroborated and unsubstantiated by clear and convincing evidence, the Court finds the same self-serving and deserving of no weight in law. Moreover, the fact that he has no derogatory record will not affect the outcome of his case since it does not disprove his complicity in the commission of the offense.

Respecting the denial of Bug-atan, suffice it to state that a mere denial constitutes negative evidence and warrants the least credibility or none at all. Absent any strong evidence of non-culpability, a denial crumbles in the face of positive declarations.[28]

In fine, petitioners failed to rebut the prosecution's evidence and their defense of alibi and denial must be rejected.

The foregoing notwithstanding, this Court has perused the lengthy discussion of the trial court and the assailed Decision of the appellate court.

Prosecution's evidence sufficiently
established the presence of treachery
and evident premeditation.

Treachery qualifies the crime to murder. There is treachery when the offender commits any of the crimes against persons, employing means, method or forms which tend directly and especially to ensure its execution, without risk to the offender arising from the defense that the offended party might make.[29] The essence of treachery is the sudden and unexpected attack by an aggressor on the unsuspecting victim depriving the latter of any chance to

defend himself and thereby ensuring its commission without risk to himself.[30]

In the present case, the presence of the qualifying circumstance of treachery was indubitably established. The attack on the unarmed victim was so sudden, unexpected, without preliminaries and provocation. The victim was totally unprepared and oblivious of the attack since he was peacefully resting inside his house. The single shot found its mark at the back portion of his head indicating that he was shot from behind with his back turned to the assailant. This position was disadvantageous to the victim since he was not in a position to defend himself or to retaliate. Moreover, the location of the wound obviously indicates that the assailant deliberately and consciously aimed for the vital part of the victim's body to ensure the commission of the crime. The attack from the rear is treacherous. As has been held many times, treachery exists since the defenseless victim was shot from behind. The fact that Bug-atan furnished the deadly weapon used in the shooting eloquently shows that they made a deliberate and conscious adoption of the means to kill the victim. These facts, established by evidence on record, clearly constitute treachery as defined in Article 14(16) of the Revised Penal Code.

Before evident premeditation may be appreciated, the following elements must be proved: a) the time when the accused determined to commit the crime; b) an act manifestly indicating that the accused has clung to his determination; and, c) sufficient lapse of time between the determination and execution to allow him to reflect upon the consequences of his act.

The foregoing requisites were fulfilled. First, it was on April 14, 1993 when Manatad and Bug-atan gave Maramara a .38 caliber revolver and P500.00 as expenses for transportation, instructing the latter to proceed to Mandaue City and kill the victim. Undisputedly, these presuppose planning. Second, the execution of the crime was done the following morning of April 15, 1993 where Bug-atan and Labandero accompanied Maramara to the house of the victim. Third, the more than one day period, at the very least, was substantial interval of time clearly sufficient to afford a full opportunity for meditation and reflection upon the consequences of their nefarious acts. These proved their premeditated design to end the life of the victim which was accomplished.

Crime committed and proper penalty

While the Decision of the trial court recognized the guilt of the petitioners for the offense as charged to have been proven beyond reasonable doubt, the trial court went on to hold them guilty to a lesser offense of homicide citing the Court's ruling in People v. Tapalla.[31] In said case, this Court declared that if the prosecution accepts from any of the defendants charged with conspiracy in the commission of a crime, a plea of guilty to a lesser offense included in the one alleged in the information, such acceptance will benefit his co-defendants. In arriving at this conclusion, the trial court was of the impression that Maramara's plea of guilty to a lesser offense of homicide in Criminal Case No. DU-3721 should benefit the petitioners in this case.

The case of Tapalla,[32] invoked by the trial court as authority in arriving at such conclusion, is not applicable in the present case. The information in Criminal Case No. DU-3721 indicting Maramara alone of murder is distinct and separate from the information charging petitioners for the same offense in the instant case. Moreover, Maramara was neither charged as co-accused of petitioners nor of conspiring to commit a crime in either case. As correctly observed by the trial court, Maramara was only a principal witness in this case[33] though admittedly a conspirator in the commission of the crime. These circumstances provide a distinction from the Tapalla case where the accused Tingzon, who pleaded guilty to the lesser offense of homicide, was a co- accused in the same information charging him along with others of conspiring to commit murder. We therefore cannot agree with the trial court's conclusion drawn from the principle laid down in the Tapalla case and neither can we give imprimatur on the appellate court's affirmation thereof. The basis thus used is, in our opinion, wrong.

As the evidence stands, the crime committed by petitioners is murder in view of the attending circumstances of

treachery and evident premeditation. Murder, as defined under Article 248 of the Revised Penal Code is the unlawful lolling of a person which is not parricide or infanticide, provided that treachery or evident premeditation, inter alia, attended the lulling. The presence of any one of the enumerated circumstances under Article 248 is enough to qualify a killing as murder punishable by reclusion perpetua to death. When more than one qualifying circumstance is proven, as in this case, the rule is that the other must be considered as generic aggravating.[34] In the present case, the qualifying circumstance of evident premeditation will be considered as a generic aggravating circumstance warranting the imposition of the penalty of death in the absence of any mitigating circumstance.[35] Since the imposition of the death penalty has been prohibited by Republic Act No. 9346,[36] a law favorable to petitioners which took effect on June 24, 2006, the penalty that should be imposed on petitioners is reduced to reclusion perpetua without eligibility for parole. Sections 2 and 3 of the Act provide:

> Section 2. In lieu of the death penalty, the following shall be imposed:
>
> a) The penalty of reclusion perpetua, when the law violated makes use of the nomenclature of the penalties, of the Revised Penal Code;
>
> xxxx
>
> Section 3. Person convicted of offenses punishable with reclusion perpetua or whose sentences will be reduced to reclusion perpetua by reason of this Act, shall not be eligible for parole under Act No. 4103 otherwise known as the Indeterminate Sentence Law, as amended.

Civil Liability

When death occurs due to a crime, the following damages may be recovered: (1) civil indemnity ex delicto for the death of the victim; (2) actual or compensatory damages; (3) moral damages; (4) exemplary damages; (5) attorney's fees and expenses of litigation; and, (6) interest, in proper cases.[37]

The Decision of the trial couit as affirmed by the appellate court only awarded P50,000.00 to the legal heirs of the victim without stating the nature of this grant. As held in People v. Zamorqga, [38] civil indemnity and moral damages, being based on differen jural foundations are separate and distinct from each other. Thus, it becomes imperative for this Court to rectify the error and award additional damages following precedents.

In line with prevailing jurisprudence, we award the fixed amount of P75,000.00 for the death of the victim[39] as civil indemnity ex delicto without any need of proof other than the commission of the crime. An award of moral damages is also in order even though the prosecution did not present any proof of the heirs' emotional suffering apart from the fact of death of the victim, since the emotional wounds from the vicious killing of the victim cannot be denied.[40] The award of P75,000.00 is proper pursuant to established jurisprudence.

Although the prosecution presented evidence that the heirs had incurred actual expenses, no receipts were presented in the trial court. An award of temperate damages in lieu of actual damages in the amount of P25,000.00 to the heirs of the victim is warranted because it is reasonable to presume that when death occurs, the family of the victim suffered pecuniary loss for the wake and funeral of the victim although the exact amount was not proved.[41]

In addition, exemplary damages in the amount of P30,000.00 should be awarded considering the attendance of the aggravating circumstance of treachery that qualified the killing to murder and evident premeditation which served as generic aggravating circumstance. Exemplary damages are awarded when treachery attended the commission of the crime.[42]

WHEREFORE, the appealed judgment is AFFIRMED with MODIFICATIONS. Petitioners Gregorio Manatad,

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Virgilio Bug-atan and Bernie Labandero are found GUILTY beyond reasonable doubt of murder, not homicide, qualified by treachery, and sentenced to suffer reclusion perpetua without eligibility for parole.

Petitioners are ORDERED to pay the heirs of victim Pastor Papauran the amounts of P75,000.00 as civil indemnity, P75,000.00 as moral damages, P25,000.00 as temperate damages and P30,000.00 as exemplary damages. Costs against petitioners.

SO ORDERED.

Corona, C.J., (Chairperson), Carpio Morales[*], Velasco, Jr., and Perez, JJ., concur.

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[*] In lieu of Associate Justice Teresita J. Leonardo-De Castro per Special Order No. 884 dated September 1,2010.

[1] People v. Mamarion, 459 Phil. 51, 76-77 (2003) citing People v. Sala, 370 Phil 323, 363 (1999).

[2] Rollo, pp. 10-56.

[3] CA rollo, pp. 252-260; penned by Associate Justice Isaias P. Dicdican and concurred in by Associate Justices Ramon M Bato, Jr. and Apolinario D. Bruselas, Jr.

[4] Records, pp. 215-277.

[5] Criminal Case No. DU-3721.

[6] Decision dated July 19, 1993, records pp. 144-145.

[7] Records, pp. 3-6.

[8] Id. at pp. 1-2.

[9] Should be 1993.

[10] CA rollo, pp. 254-255.

[11] Id. at 255.

[12] Id. at 260.

[13] Id. at 66.

[14] Id. at 290-291.

[15] The instant case.

[16] Northwest Airlines Inc. v. Chiong, G.R. No. 155550, January 31, 2008, 543 SCRA 308, 324.

[17] TSN, Maramara, October 28, 1993, pp. 8-12.

[18] People v. Cuadra, 175 Phil. 72, 82 (1978).

[19] RULES OF COURT, Rule 130, Section 20, par. 2.

[20] People v. Bajada, G.R. No. 180507, November 20, 2008, 571 SCRA 455, 467.

[21] People v. DelaCruz, G.R. No. 174371, December 11.2008, 573 SCRA 708, 720.

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[22] CA rollo, p. 259.

[23] Olalia, Jr. v. People, G.R. No. 177276, August 20, 2008, 562 SCRA 723,735-736.

[24] People v. De Jesus, 473 Phil. 405, 429 (2004).

[25] People v, Santos, G.R. No. 176735, June 26, 2008. 555 SCRA 578, 600.

[26] People v. Santos, G.R.No. 171452. October 17,2008, 569 SCRA 544,574.

[27] TSN, Vaflor, February 23, 1994, pp. 10-11; TSN, Maglinte, February 23, 1994, p. 20.

[28] Fernandez v. Rubillos, A.M. No. P-08-245 I, October 17, 2008, 569 SCRA 283, 289.

[29] People v. Ballesteros, G.R. No. 172696, AugusL 11, 2008, 561 SCRA 657, 670.

[30] People v. Dela Cruz, G.R. No. 168173, December 24, 2008. 575 SCRA 412, 443.

[31] 45 Official Gazette 3418.

[32] Id.

[33] TSN, December 6, 1993, p. 3.

[34] People v. Reynes, 423 Phil. 363, 384 (2001).

[35] Article 63. Rules for the application of indivisible penalty - x x x In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

> 1. when in the commission of the deed there is present only one aggravating circumstance, the greater penalty shall be applied.
>
> xxxx

[36] An Act Prohibiting the Imposition of Death Penalty in the Philippines.

[37] Nueva España v. People, 499 Phil. 547,557(2005).

[38] G.R.No. 178066, February 6,2008, 544 SCRA 143, 154.

[39] People v. Sanchez, G.R. No. 1886 10, June 29, 2010.

[40] People v. Caraig, 448 Phil. 78, 98 (2003).

[41] People v. Ballesta, G.R. No. 181632, September 25. 2008, 566 SCRA 400, 423.

[42] Olalia, Jr. v. People, supra note 23 at 725.

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