

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ROBERTO ASIS AND JULIUS PEÑARANDA, ACCUSED-APPELLANTS.

G.R. No. 177573. July 07, 2010

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

Assailed before this Court is the Decision[1] dated July 31, 2006 of the Court of Appeals in CA-G.R. CR No. 02293, which affirmed the Decision[2] dated July 28, 1999 of the Regional Trial Court (RTC) of Quezon City, Branch 95, in Criminal Case No. Q-98-77356, finding accused-appellants Roberto Asis and Julius Peñaranda guilty beyond reasonable doubt of the crime of Murder and sentencing them to suffer the penalty of reclusion perpetua.

In the court of origin, accused-appellants were charged with the crime of Murder in an Information[3] dated June 10, 1998. The crime was alleged to have been committed as follows:

That on or about the 7[th] day of June 1998, in Quezon City, Philippines, the above-named accused, conspiring and confederating with other persons whose true identities and other personal circumstances have not as yet been ascertained and mutually helping one another, with intent to kill, qualified with evident premeditation, treachery and abuse of superior strength, did then and there willfully, unlawfully and feloniously attack, assault and employ personal violence upon the person of one DONALD PAIS y BALAO, by then and there stabbing him with a bladed weapon hitting him on different parts of his body, thereby inflicting upon said DONALD PAIS y BALAO mortal wounds which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of said DONALD PAIS y BALAO.

When arraigned on July 6, 1998, both accused-appellants pleaded not guilty to the crime charged.

The prosecution presented eyewitnesses Ma. Theresa Ramos and Clifford Magsanoc (both residents of Payatas, Quezon City), Senior Police Officer (SPO) 1 Joselito Roxas, Dr. Anthony Joselito Llamas (a medico-legal officer of the Philippine National Police [PNP] Crime Laboratory), and SPO3 Ernesto Pais (the victim's father), while the defense presented accused-appellants Roberto Asis and Julius Peñaranda, and also Jenifer Indat and Villamor Casillan (also residents of Payatas) as witnesses.

After trial, a Decision was rendered by the court a quo on July 28, 1999, finding accused-appellants guilty beyond reasonable doubt of the crime of Murder. The trial court thus decreed:

WHEREFORE, judgment is hereby rendered finding the two accused, Roberto Asis y Bautista and Julius Peñaranda y Jacaba, GUILTY beyond reasonable doubt of the crime of murder defined in and penalized by Article 248 of the Revised Penal Code, as amended, and, there being no mitigating or aggravating circumstance, are hereby sentenced to suffer the penalty of reclusion perpetua. They are further ordered to indemnify the heirs of the victim the amounts of P50,000.00 as death indemnity, and P50,000.00 as actual or compensatory damages. The Court cannot award loss of earnings as the prosecution failed to adduce evidence for the grant of the same.[4]

The record of this case was originally transmitted before this Court in view of the notices of appeal of accused-appellants. In our Resolutions[5] both dated July 3, 2000, we accepted the appeal and directed the Chief of the Judicial Records Office to send notices to the parties to file their respective briefs.

Accused-appellants, through the Public Attorney's Office of the Department of Justice, filed their Brief for the Accused-Appellants[6] on May 31, 2005, while the People, through the Office of the Solicitor General, filed its Appellee's Brief[7] on October 4, 2005.

Pursuant to *People v. Mateo*,[8] the record was remanded to the Court of Appeals for appropriate action and disposition where it was docketed as CA-G.R. CR No. 02293.

The evidence for the prosecution and for the defense were summarized by the Court of Appeals as follows:

On June 7, 1998[,] at about 6:30 in the evening, prosecution witness Ma. Theresa Ramos was inside her store when she saw Donald Pais, the victim, standing from a distance of five meters. She also saw Alex Costuna, accused-appellant Julius Peñaranda and another person in front of her store. Suddenly, a commotion broke out and stones were being thrown by different persons. Accused-appellant Julius Peñaranda placed his arms around Donald's shoulders, after which, Alex Costuna punched Donald who initially fought back but was eventually outnumbered. Donald was hit in the head. He ran away limping because he was stoned in the legs. However, Alex Costuna, accused-appellant Roberto Asis and several other persons caught up with Donald and ganged up on him. Thereupon, Alex Costuna took out a knife and repeatedly stabbed Donald. Accused-appellant Roberto Asis also did the same thing. The victim sat on the ground with hands crossed, covering his head to ward off his attackers. According to witness Theresa Ramos, she saw around nine to ten persons ganging up on the victim, but she could not tell who among them initiated the attack. However, she saw that aside from accused-appellant Roberto Asis and Alex Costuna, other men also hit and boxed Donald Pais. She shouted for help but nobody came. The victim was bloodied and holding his stomach. After accused-appellants' group left, Theresa and her husband boarded the victim on a tricycle and took him to Fairview General Hospital in Quezon City where he died shortly after.

According to another witness by the name of Clifford Magsanoc, at around seven in the evening of June 7, 1998, he was standing in front of a store while chatting with a friend. There was then an on-going commotion perpetrated by Alex Costuna, Romy Manzanilla and accused-appellants Julius Peñaranda and Roberto Asis. Their target was Donald Pais who was hit on different parts of his body. The victim attempted to flee but his assailants caught up with him and stabbed him repeatedly. The witness saw the victim bloodied and lying on his back. When the accused-appellants' group left, the witness helped in boarding the victim on a tricycle.

Dr. Anthony Joselito Llamas, a medico-legal officer of the PNP Crime Laboratory autopsied the victim's body, and his findings are reduced in a medico-legal report, and quoted in *pari materia* as follows:

POST MORTEM FINDINGS:

Fairly developed, fairly nourished male cadaver in rigor mortis, with postmortem lividity at the dependent portions of the body. Conjunctiva are pale. Lips and nail beds are cyanotic.

HEAD, TRUNK AND EXTREMITIES:

- Abrasion, frontal region, measuring 2 x 0.4 cm., 1.2 cm. Right of the anterior midline.
- Abrasion, right maxillary region, measuring 0.8 x 0.6 cm., 8 cm. From the anterior midline.
- Abrasion, frontal region, measuring 3.5 cm. x 2 cm., 7 cm. Left of the anterior midline with superimposed lacerated wound, measuring 2.2 x 0.6 cm.
- Lacerated wound, occipital region, measuring 3 x 0.3 cm., 4 cm. right of the posterior midline.

- Area of multiple contusions, right axillary region, measuring 8 x 5 cm., 17.5 cm. from the anterior midline.
- Abrasion, right supermammary region, measuring 1.3 x 0.5 cm., 5.5 cm. from the anterior midline.
- Stab wound, right mammary region, measuring 2.2 x 0.5 cm., 3.5 cm. from the anterior midline, 11 cm. deep, directed posteriorwards, slightly medialwards, and to the left, fracturing the right 5[th] rib, piercing the right hemidiaphragm, and the left lobe of the liver.
- Stab wound, right inframammary region, measuring 3 x 0.6 cm., 11.5 cm. from the anterior midline, 9 cm. deep, directed posteriorwards, medialwards, and slightly upwards, passing the 6[th] intercostals space, fracturing the 6[th] right rib and piercing the right and left lobes of the liver.
- Stab wound, right hypochondriac region, measuring 3.8 x 1 cm., 14.5 cm. from the anterior midline 8.5 cm. deep, directed posteriorwards, medialwards and slightly upwards, fracturing the 7[th] thoracic rib and perforating the stomach.
- Abrasion, left supermammary region, measuring 6.5 x 0.3 cm., 15.5 cm. from the anterior midline.
- Area of multiple contusions, left axillary region, measuring 6 x 3 cm., 16 cm. from the anterior midline.
- Stab wound, left lateral abdominal region, measuring 1.8 x 0.5 cm., 13.5 cm. from the anterior midline.
- Stab wound, thru and thru, distal 3[rd] of the right arm, measuring 2.8 x 0.5 cm., 5.5. cm. medial to its anterior midline piercing the underlying soft tissues making a point of exit at the proximal 3[rd] of the right forearm, measuring 2.5 x 0.5 cm., 3.5 cm. lateral to its posterior midline.
- Contusion, distal 3[rd] of the right forearm, measuring 4 x 4 cm., 2 cm. lateral to its posterior midline.
- Abrasion, middle 3[rd] of the left arm, measuring 3.5 x 1 cm. lateral to its anterior midline.
- Lacerated wound, left elbow, measuring 2 x 0.5 cm., along its posterior midline.
- Stab wound, left elbow, measuring 2 x 0.5 cm., 5 cm. lateral to its posterior midline.

x x x x

CONCLUSION:

Cause of death is multiple stab wounds of the trunk.

In sum, Dr. Llamas concluded that Donald Pais sustained abrasions, lacerated wounds, contusions and stab wounds in various parts of his body, some of which fatally hit his vital organs and caused his death.

Evidence for the defense shows as follows:

On January 7, 1998[,] at around five in the afternoon, defense witness Jennifer Indat was tending her store. At about quarter past six in the evening, she was preparing to close her store when she saw two Ilongos conversing beside her store. She heard the Ilongo named Roy saying he could not sleep if he could not make revenge and kill somebody. Thereafter, a young girl passed by. The two Ilongos whistled at the young girl. The latter uttered "Kuya Donald, its already night time and you go home." The two Ilongos suddenly stood up, got stones and threw the same at Donald. The latter went home. Meanwhile, somebody pacified the two Ilongos and one of them was dragged home. Jennifer Indat testified that she closed her store at around quarter to seven in the evening. She then proceeded to the house of Julius Peñaranda to pay the latter money that her husband owed the former. On her way to Julius's house, she met the victim who was holding a bladed weapon. She hurriedly went to the house of Julius. Before she entered the latter's house, she heard Donald shouting "Putangina niyo lumabas kayo diyan sino ang matapang sa inyo." Julius was already sleeping so she just gave the money to his mother. She went home at

around seven forty in the evening.

According to another defense witness by the name of Villamor Casillan, he arrived home at around seven in the evening on June 7, 1998. He changed his clothes and went out to watch a basketball game in front of his house. At seven twenty in the evening, he heard Donald Pais shouting the name of Alex Costuna saying "Putangina mo Alex." He did not mind what he heard but when Donald successively shouted "Putangina mo Alex, putangina mo Alex, Kuya Jerry." he immediately left what he was watching, approached Donald, and helped the latter to stand up. Donald was very weak because he had stab wounds. He shouted for help at the house of Camilo Tabago. He got a tricycle and brought Donald to the hospital where Donald died. He waited for the arrival of Donald's father Sgt. Pais.

Accused-appellant Julius Peñaranda denied before the court his alleged participation in the killing of Donald Pais. According to him at the time of the incident, he was in their house sleeping because he was a little drunk so he slept early. He attended the birthday celebration of his brother-in-law Roberto Asis. They had a drinking spree at the back of their house together with Alex Costuna and a certain Bong.

Julius insisted that he only learned about the death of Donald Pais from his mother the following day. He asked who killed Donald but [his] mother did not know. He woke up at four in the morning of June 8, 1998, had breakfast and then went straight to work. He arrived home at seven in the evening. While having dinner, somebody knocked at their door. When he opened the door, he saw four policemen who invited him to the police precinct to answer some questions.

Accused-appellant Julius Peñaranda likewise denied the claim of prosecution witness Theresa Ramos that he was one of those who attacked and stabbed Donald Pais. According to him, Ramos only testified against him because she was afraid that he would testify concerning the killing of Sonny Atienza inside her house. Before Sonny died, he revealed to him that he had a relationship with Ramos. The suspect in the killing of Sonny were Donald Pais and Ruel Ubillo. Allegedly, warrants of arrest had been issued against Donald and Ruel.

As for accused-appellant Roberto Asis, he had no preparation for his birthday on June 7, 1998. A certain Bogart arrived in their house and greeted him happy birthday at twelve noon. Then, Bogart asked permission to leave, but promised to be back. When Bogart returned, he was carrying a bottle of Tanduay. Because it was his birthday, Bogart told him that they would drink. They had a drinking spree with Alex Costuna and the Ilongos up to around quarter to five in the afternoon. He then told them that they had to stop drinking because he would be going to work the following morning. At five thirty in the afternoon, he went home and lay down. Between eleven to twelve in the evening, policemen woke him up and invited him to ask questions regarding the killing of Donald Pais. They asked him to accompany them to where the Ilongos and Alex Costuna were. On their way to the residence of the Ilongos, he recognized Sgt. Pais with the group of policemen. He put his arms around the shoulder of Sgt. Pais and told him he really pity him because of the death of Donald. After pointing to the policemen the residence of the Ilongos and Alex Costuna, they told him to go home. On his way home, Sgt. Pais asked him to help and cooperate with them regarding the arrest of the Ilongos and Alex Costuna. He told them that he would do his best to help them. Then, the policemen invited him to go with them to the police station in order to shed light on the incident. He first went home to ask permission from his wife. At the police station, the policemen told him that somebody was pointing to him as one of the perpetrators of the murder.[9]

On July 31, 2006, the Court of Appeals promulgated the herein challenged decision affirming in toto the decision of the RTC. We quote the pertinent portions of the Court of Appeals decision, thus:

Apparently, the defense attempts to discredit the testimonies of the prosecution witnesses by harping on the seeming inconsistencies in their statements: (a) as regards the position of the victim at the time he was

attacked. While prosecution witness Theresa Ramos said that the victim was sitting on the ground while he was being attacked, the other prosecution witness Clifford Magsanoc testified that when he saw the victim, the latter was lying prost[r]ate on his back; (b) as regards the participation of the other unknown assailants. While Theresa Ramos testified that the other assailants punched and boxed the victim, Clifford Magsanoc insisted that he also saw the other assailants stab the victim.

The foregoing inconsistencies in the witnesses' declarations, however, do not necessarily impair their credibility. Well settled is the rule that inconsistencies and discrepancies as to minor matters irrelevant to the elements of the crime cannot be considered as grounds for acquittal. x x x.

x x x x

Indeed, the accused-appellants' alibi and denial cannot prevail over the positive identification by the prosecution witnesses as the perpetrators of the crime x x x. Again, for alibi to qualify as a valid defense, it must first be shown that it was physically impossible for the accused to have been present in the crime scene at the supposed time of its commission. x x x.

In this case, the place where the murder was committed was also within the same vicinity as the accused-appellants' houses where the two allege to have been in deep slumber while the killing was being committed. The accused-appellants, therefore, were not so geographically removed from the locus criminis as to conclusively rule out the possibility that they were responsible for the felony.

x x x x

WHEREFORE, in the light of the foregoing premises, the instant appeal is hereby DENIED. Accordingly, the court a quo's decision dated 28 July 1999 is perforce affirmed in toto.[10]

From the Court of Appeals, the case was again elevated to this Court upon the filing of accused-appellants' notice of appeal on August 7, 2006. In our Resolution[11] dated June 27, 2007, we required both parties to submit their respective supplemental briefs, if they so desire. The parties, however, opted not to file supplemental briefs and manifested that they were merely adopting their briefs filed before the Court of Appeals.[12]

In their Brief, accused-appellants raised the following assignment of errors:

I

THE TRIAL COURT GRAVELY ERRED IN GIVING FULL WEIGHT AND CREDENCE TO THE CONFLICTING AND CONTRADICTORY TESTIMONIES OF PROSECUTION WITNESSES MA. THERESA RAMOS AND CLIFFORD MAGSANOC.

II

THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS OF THE CRIME CHARGED DESPITE FAILURE OF PROSECUTION TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT.[13]

Accused-appellants insist that the prosecution failed to prove their guilt beyond reasonable doubt. They assail the credibility of prosecution witnesses Ma. Theresa Ramos and Clifford Magsanoc, whose testimonies, accused-appellants contend, are conflicting and inconsistent. They particularly point out that while Ma. Theresa testified that the victim was sitting on the ground while he was being attacked, Clifford testified that the victim was lying prostrate on his back. Likewise, Ma. Theresa testified that the other assailants punched the victim while Clifford declared that he saw the other assailants stab the victim. Accused-appellants also argue that the testimonies of these witnesses did not jibe with the medico-legal findings which cast doubt as to the veracity of the said testimonies and their culpability for the crime charged.

After a careful consideration of the evidence of this case, we find no reason to reverse the decision of the RTC in Criminal Case No. Q-98-77356 as affirmed by the Court of Appeals.

The alleged inconsistencies in the testimonies of the prosecution witnesses are not sufficient to adversely affect their credibility. They merely pertain to the position of the victim at the time he was attacked and the participation of the unknown assailants. The materiality of the victim's exact position when he was attacked as well as the participation of the unknown assailants are minor details and of little significance. The more important consideration is that both Ma. Theresa and Clifford categorically and positively identified accused-appellants as the persons who assaulted the victim. As the Court declared in *People v. Lacbayan*[14]:

It is perfectly natural for different witnesses testifying on the occurrence of a crime to give varying details as there may be some details which one witness may notice while the other may not observe or remember. In fact, jurisprudence even warns against a perfect dovetailing of narration by different witnesses as it could mean that their testimonies were pre-fabricated and rehearsed. x x x.

We agree with the view of the Solicitor General that such seeming inconsistencies refer to trivial matters and can easily be reconciled, thus:

In support of their appeal, appellants contend that their guilt was not proved beyond reasonable doubt allegedly because of the inconsistent testimonies of prosecution witnesses Ma. Theresa Ramos and Clifford Magsanoc specifically on the exact position of Donald Pais after he was ganged up by appellants' group. Appellants point out that while Ma. Theresa Ramos testified that Donald Pais sat on the ground and crossed his arms over his head, Clifford Magsanoc, however, stated that Donald Pais was lying on his back with arms crossed over his head.

There is no contradiction. True, when Ma. Theresa Ramos saw Donald Pais, he was still sitting on the ground while she was shouting for help. Thus, when Donald Pais lost his strength because of his wounds, he fell on the ground, and it was at this point that Clifford Magsanoc saw him.[15]

While prosecution witnesses Ma. Theresa and Clifford differ in their narration of minor details, they unequivocally identified the accused-appellants as the perpetrators of the crime. Ma. Theresa declared on the witness stand:

ATTY. MALLARES:

Q.

Mrs. Witness, if you can recall, where were you on June 7, 1998 at about 6:30 in the evening?

A.

I was inside my store.

Q.

Where is your store located?

A.

Just in front of my house.

Q.

Where is the exact address, if you still remember?

A.

29 San Juan Evangelista, Payatas, Quezon City.

Q.

What were you doing at that time inside the store?

A.

Nothing sir, I was just sitting inside and looking outside.

Q.

And while so doing looking outside your store, was there any unusual incident that occurred within the immediate vicinity of the place on such date and place where you were?

A.

There was.

Q.

What was the unusual incident if you can still recall?

A.

I saw Donald in front of the store but far from me. I also saw Alex and Julius with another one. Suddenly, Julius put his arms on the shoulder of Donald with his right hand. (Witness demonstrating as if she is wrapping his right arm on somebody).

Q.

How far is that distance where you were at the time you saw them, this Julius putting his hand over the shoulder of Donald?

A.

From this place where I am seated right now to the stand fan.

ATTY. MALLARES:

May I know if the good counsel will stipulate the distance of more or less five meters.

ATTY. PEREZ:

Seven meters.

COURT:

As stipulated by the parties, more or less seven meters.

Q.

And what happened next after this Julius Peñaranda placed his arm over the shoulder of Donald?

A.

I saw Alex suddenly punched Donald.

Q.

What happened to Donald when he was punched by Alex?

A.

He was hit but he hit back.

Q.

And so what happened next after they exchanged blows, between Donald and Alex?

A.

I went out of the store and looked thru the gate. I saw my son and I called my son and told him to come here. Because at the time there were already stone throwing. In fact stones were thrown as if they were flying.

Q.

After the stone throwing what happened next?

A.

There was commotion and I saw this Donald running away but he was hit in the head. I saw him bloodied in the head. He was not able to run away.

Q.

That particular circumstance Donald had been hit by the stone and cannot run anymore, what happened next?

A.

He cannot run because he is limping. He was hit by the stone and at that time they already ganged up on him.

Q.

Whom do you recognize who ganged up on him?

A.

Alex Costuna. I also saw Robert Asis and other persons whom I can recognize if I see them again.

Q.

You mentioned Roberto Asis who is one of the accused in this case. If you see his face again, can you recognize him?

A.

Yes, sir.

Q.

Will you please point to him if he is inside the courtroom?

A.

(witness pointing to a male person wearing yellow shirt who when asked his name answered as Roberto Asis).

Q.

You mentioned about a certain Julius Peñaranda also if you see him or if he is inside the courtroom, can you point to him?

A.

The one beside Roberto Asis (witness pointing to a male person wearing yellow shirt with marking and who when asked his name answered as Julius Peñaranda).[16]

Clifford's testimony corroborated that of Ma. Theresa, to wit:

ATTY. MALLARES: (to the witness)

Q.

After he felt dizzy, what happened to him?

A.

He was bloodied, sir.

Q.

After he was bloodied what happened to him?

A.

He was "inabutan napo siya," sir.

Q.

Who was that person whom you are referring to as those who "inabutan" that Donald Pais?

A.

Julius Peñaranda, Alex Costuna and Romy Manzanilla, sir.

Q.

Who else?

A.

Ober Asis, sir.

Q.

And who else other than them?

A.

Their companions, sir.

Q.

By the way, you know these persons Robert Asis and this Julius Peñaranda?

A.

Yes, sir.

Q.

If they are inside the courtroom will you please point to them?

A.

The one with the top hair, sir. (witness pointed to a male person wearing yellow shirt with black pants when

asked of his name, he stated his name as Roberto Asis).

Q.

How about this Julius Peñaranda?

A.

(witness pointed to a male person wearing yellow shirt with Giordano Blues marking in front portion when asked of his name he stated his name as Julius Peñaranda).

x x x x

Q.

At the time this Alex Costuna delivered his stabbing thrust on the person of Donald Pais, what was the position of Donald Pais in relation to the thrust made by Alex Costuna?

A.

(Witness demonstrating by crossing both of his hands). Like this, sir.

Q.

Was he still standing or sitting?

ATTY. PEREZ: (to the court)

Leading, Your Honor.

COURT:

Anyway you already asked him what happened next why not ask the same question, rather than to lead the witness.

ATTY. MALLARES: (to the witness)

Q.

After Donald Pais was stabbed twice by this Alex Costuna, what happened next?

A.

Obet followed him, sir.

Q.

What did Obet Asis do if any?

A.

Obet him with the stones, sir.

Q.

What else did Obet do if any?

A.

He also stabbed Donald Pais, sir.

Q.

And how about this Julius Peñaranda, what did he do if any?

A.

He also stabbed Donald Pais, sir.

Q.

How about this Romy Manzanilla?

A.

He also stabbed, sir.

Q.

How about their companions whom you did not know by their names?

A.

They also stabbed him, sir.

Q.

What happened to this Donald Pais after he was stabbed by the group of Obet Asis?

A.

Napatihaya na po at duguan, sir. (lying face up and bloody).

Q.

Why what was the position of this Donald Pais before he was "napatihaya"?

A.

He was standing, sir.

Q.

And what did the group of Obet Asis do after he was bloodied and already "nakatihaya"?

A.

They ran away, sir.[17]

Undeniably, the testimonies of these two witnesses on material details are coherent, categorical and consistent with each other. Ma. Theresa saw accused-appellant Peñaranda put his arms around the victim, after which, a certain Alex Costuna punched the victim who initially retaliated but eventually ran away because he was outnumbered. However, accused-appellants and their group caught up with the victim, ganged up on him and thereafter stabbed him. Both witnesses personally saw accused-appellants at the scene of the crime at the time it was committed. Contrary to accused-appellants' assertions, the declarations of these two witnesses established beyond reasonable doubt their identity as the perpetrators of the crime.

It must be emphasized that the RTC gave full faith and credence to the testimonies of the prosecution witnesses. The time-tested doctrine is that a trial court's assessment of the credibility of a witness is entitled to great weight, and is even conclusive and binding on this Court. The reason is obvious. The trial court has the unique

opportunity to observe at firsthand the witnesses, particularly their demeanor, conduct and attitude in the course of the trial.[18]

Accused-appellants also claim that the testimonies of Ma. Theresa and Clifford did not coincide with the findings of the medico-legal officer. Ma. Theresa testified that the victim was stabbed thrice, while Clifford declared that the victim was stabbed twice by Costuna and once each by Asis, Peñaranda, and a certain Romy Manzanilla. In addition, accused-appellants' unknown companions, numbering around five to six persons, also stabbed the victim. On the other hand, the medico-legal report indicated that the victim sustained just six stab wounds.

Again, this seeming inconsistency does not detract from the certitude of Ma. Theresa's and Clifford's testimonies that they saw accused-appellants stab the victim. True, they may have been mistaken with respect to the exact number of wounds inflicted on the victim by the accused-appellants and their group, but their account of the events remains credible. The essential thing is that the medico-legal findings which concluded that the victim's cause of death was multiple stab wounds confirmed the interlocking testimonies of prosecution witnesses that the victim was stabbed by several men including accused-appellants. Indeed, this Court declared in *People v. Bihison*[19]:

Eyewitnesses to a horrifying event cannot be expected, nor be faulted if they are unable, to be completely accurate in picturing to the court all that has transpired and every detail of what they have seen or heard. Various reasons, mostly explainable, can account for this reality; the Court has long acknowledged the verity that different human minds react distinctly and diversely when confronted with a sudden and shocking event, and that a witness may sometimes ignore certain details which at the time might have appeared to him to be insignificant but which to another person under the same circumstances, would seem noteworthy.

Moreover, accused-appellants have not shown any evidence of improper motive on the part of Ma. Theresa and Clifford that would have impelled them to falsely testify against them. Where there is nothing to indicate that the witnesses for the prosecution were actuated by improper motive, their positive and categorical declarations on the witness stand under the solemnity of an oath deserve full faith and credence.[20]

Accused-appellants' defense of denial was properly rejected by both the Court of Appeals and the RTC. We quote with approval the trial court's ratiocination, viz:

The Court is not convinced of the defense of the accused that they did not participate in the commission of the crime and were neither at the place of the incident because they were positively identified by prosecution witnesses. "Defenses of denial and alibi are inherently weak and have always been viewed with disfavor by the courts due to the facility with which they can be concocted." (*People vs. Danao*, 253 SCRA 146). The alibi of the accused deserves scant consideration in the absence of evidence that it was physically impossible for the two accused to be at the scene of the crime at the time it was committed. In fact, evidence shows that both accused never left the area at all before, during or after the incident and their sole defense was that they were sleeping at their respective houses at the time the crime was committed. There is therefore no physical impossibility for them to be at the scene of the crime taking into account the distance between the place of the incident and the place where they were allegedly situated.[21]

As consistently enunciated by this Court, the established doctrine is that, for the defense of alibi to prosper, 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 delicti or within its immediate vicinity.[22] From the aforequoted findings of the trial court, accused-appellants failed to demonstrate satisfactorily that it was physically impossible for them to be at the scene of the crime at the time it was committed. The crime of murder happened in San Juan Evangelista St., Payatas, Quezon City or exactly the same area where accused-appellants' houses were located and claimed to be sleeping when the crime occurred. Weak as it is, alibi becomes weaker in

the face of the positive identification made by the prosecution witnesses as in this case.[23]

Treachery was correctly appreciated in the killing of Donald Pais. The victim was caught defenseless when accused-appellant Peñaranda suddenly put his arms on the shoulder of the victim and thereafter, accused-appellant Asis and his group punched and stabbed him several times. The attack was so swift and unexpected, affording the hapless, unarmed and unsuspecting victim no opportunity to resist or defend himself. As the RTC reasoned:

The act of accused Julius Peñaranda in putting his arms on the shoulder of the victim, Donald Pais, after which said accused, alongside with accused Roberto Asis and other men, suddenly boxed, stabbed and hit him on different parts of his body constitute treachery as the attack was sudden and rapid and did not afford the victim any chance at all to put up any defense. Regardless of whether the attack was frontal or at the back considering that there were several wounds both at the front and back of the victim's body, "an unexpected and sudden attack under circumstances which render the victim unable and unprepared to defend himself by reason of the suddenness and severity of the attack constitutes alevosia, and the fact that the attack was frontal does not preclude the presence of treachery." (People vs. Dinglasan, 267 SCRA 26). The number and location of the wounds inflicted on the victim is a strong indication that the accused made sure of the success of their effort to kill the victim without risk to themselves.[24]

We, thus, sustain the conviction of accused-appellants for the crime of Murder as well as the penalty imposed upon them. Under Article 248 of the Revised Penal Code, the penalty for the crime of Murder is reclusion perpetua to death. Accused-appellants were correctly sentenced to suffer reclusion perpetua, the lower of the two indivisible penalties, since there was no aggravating circumstance attending the commission of the crime.[25]

We now come to the award of damages. When death occurs due to a crime, the following may be awarded: (1) civil indemnity ex delicto for the death of the victim; (2) actual or compensatory damages; (3) moral damages; (4) exemplary damages; and (5) temperate damages.[26]

Conformably with existing jurisprudence, the heirs of Donald Pais are entitled to civil indemnity in the amount of P75,000.00, which is mandatory and is granted to the heirs of the victim without need of proof other than the commission of the crime.[27] Likewise, moral damages in the amount of P50,000.00 shall be awarded in favor of the heirs of the victim. Moral damages are awarded despite the absence of proof of mental and emotional suffering of the victim's heirs. As borne out by human nature and experience, a violent death invariably and necessarily brings about emotional pain and anguish on the part of the victim's family.[28]

Both the RTC and the Court of Appeals failed to award exemplary damages to the heirs of the victim. In view of the presence of the qualifying aggravating circumstance of treachery, the award of exemplary damages in the amount of P30,000.00,[29] in accordance with Article 2230 of the Civil Code,[30] is in order.

With respect to actual damages, the victim's father, SPO3 Ernesto Pais, testified that the family spent a total of P50,000.00 as burial and funeral expenses but he failed to present receipts to substantiate his claim. In *People v. Abrazaldo*,[31] we laid down the doctrine that where the amount of actual damages for funeral expenses cannot be determined because of the absence of receipts to prove them, temperate damages may be awarded in the amount of P25,000.00. Thus, in lieu of actual damages, temperate damages in the amount of P25,000.00 must be awarded to the heirs of Donald Pais because although the exact amount was not proved with certainty, it was reasonable to expect that they incurred expenses for the coffin and burial of the victim.

The two courts did not award loss of earnings because the prosecution failed to adduce evidence for the grant of the same. The Court, in the case of *People v. Mallari*,[32] enunciated:

The rule is that documentary evidence should be presented to substantiate a claim for damages for loss of earning capacity. By way of exception, damages therefore may be awarded despite the absence of documentary

evidence provided that there is testimony that the victim was either (1) self-employed earning less than the minimum wage under current labor laws, and judicial notice may be taken of the fact that in the victim's line of work no documentary evidence is available; or (2) employed as a daily-wage worker earning less than the minimum wage under current labor laws.

In this case, neither of the two exceptions applied. As testified by his father, Donald was earning P700.00 a day as jeepney driver at the time of his death, whereas the daily minimum wage in the National Capital Region at that time was P198.00 per Wage Order No. NCR-06 effective February 6, 1998. Therefore, his earnings were above the minimum wage set by the labor laws in his respective workplace at the time of his death. The above-quoted rule thus finds no application to the case at bar.

In addition to the damages awarded, we also impose on all the amounts of damages an interest at the legal rate of 6% from this date until fully paid.[33]

WHEREFORE, the decision dated July 31, 2006 of the Court of Appeals in CA-G.R. CR No. 02293 is hereby AFFIRMED. Accused-appellants Roberto Asis and Julius Peñaranda are found GUILTY beyond reasonable doubt of the crime of Murder and sentenced to suffer the penalty of reclusion perpetua. They are hereby ordered to indemnify the heirs of Donald Pais the following: (a) P75,000.00 as civil indemnity; (b) P50,000.00 as moral damages; (c) P30,000.00 as exemplary damages; (d) P25,000.00 as temperate damages; and (e) interest on all damages awarded at the legal rate of 6% from this date until fully paid.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Del Castillo, and Perez, JJ., concur.

[1] Penned by Associate Justice Bienvenido L. Reyes with Associate Justices Jose C. Reyes, Jr. and Enrico A. Lanzas, concurring; rollo, pp. 3-13.

[2] CA rollo, pp. 28-38.

[3] Id. at 5-6.

[4] Id. at 38.

[5] Id. at 41 and 42.

[6] Id. at 119-136.

[7] Id. at 158-175.

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

[9] Rollo, pp. 3-6.

[10] Id. at 10-13.

[11] Id. at 12.

[12] Id. at 15-17 and 23-25.

[13] CA rollo, p. 121.

[14] 393 Phil. 800, 807 (2000).

- [15] Appellee's Brief, CA rollo, pp. 168-169.
- [16] TSN, August 3, 1998, pp. 2-4.
- [17] TSN, August 24, 1998, pp. 7-11.
- [18] *People v. Dimaano*, G.R. No. 168168, September 14, 2005, 469 SCRA 647, 658.
- [19] 367 Phil. 778, 786 (1999).
- [20] *People v. Benito*, 363 Phil. 90, 98 (1999).
- [21] CA rollo, pp. 36-37.
- [22] *People v. Ballesteros*, 349 Phil. 366, 375 (1998).
- [23] *People v. Bonifacio*, 426 Phil. 511, 520-521 (2002).
- [24] CA rollo, p. 37.
- [25] Article 61, Revised Penal Code.
- [26] *People v. Anod*, G.R. No. 186420, August 25, 2009, 597 SCRA 205, 212.
- [27] *People v. Ocampo*, G.R. No. 177753, September 25, 2009, 601 SCRA 58, 73.
- [28] *Id.* at 64, 73.
- [29] *People v. Gido*, G.R. No. 185162, April 24, 2009, 586 SCRA 825, 837.
- [30] Art. 2230. 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. Such damages are separate and distinct from fines and shall be paid to the offended party.
- [31] 445 Phil. 109, 126 (2003).
- [32] 452 Phil. 210, 225 (2003).
- [33] *People v. Honor*, G.R. No. 175945, April 7, 2009, 584 SCRA 546, 561.

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