

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RENANDANG MAMARUNCAS, PIAGAPO, LANA O DEL SUR; PENDATUM AMPUAN, PIAGAPO, LANA O DEL SUR; APPELLANTS, BAGINDA PALAO (AT LARGE) ALIAS &LDQUO...

G.R. No. 179497. January 25, 2012

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

The assessment of the credibility of witnesses by the trial court is the center of this controversy. The well-known rule, though subject to certain recognized exceptions, is that findings of facts and assessment of credibility of witnesses are matters best left to the trial court. Hence, “[u]nless certain facts of substance and value were overlooked which, if considered, might affect the result of the case, the trial court’s assessment must be respected.”[1]

Assailed in the present appeal is the June 30, 2006 Decision[2] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 00196 which affirmed with modification the July 19, 1999 Decision[3] of the Regional Trial Court (RTC) of Iligan City, Branch 06 in Criminal Case No. 06-6150 convicting Renandang Mamaruncas (Mamaruncas) and Pendatum Ampuan (Ampuan) (appellants) of the crime of murder.

On February 9, 1996, the following Information[4] for murder was filed against Mamaruncas, Baginda Palao (Palao) alias Abdul Wahid Sultan and Ampuan.[5]

That on or about February 1, 1996, in the City of Iligan, Philippines, and within the jurisdiction of this Honorable Court, the said accused, except for others whose cases are still under preliminary investigation, conspiring with and confederating together and mutually helping each other, armed with deadly weapon, to wit: a caliber .45 pistol, by means of treachery and evident premeditation, and with intent to kill, did then and there willfully, unlawfully and feloniously attack, shoot and wound one Baudelio R. Batoon, thereby inflicting upon him the following physical injuries, to wit:

- Cardio respiratory arrest
- Hypovolemic shock
- Multiple gunshot wound

which caused his death.

Contrary to and in violation of Article 248 of the Revised Penal Code with the aggravating circumstances of treachery and evident premeditation.

Only Mamaruncas and Ampuan appeared at the scheduled arraignment on May 20, 1996. Their co-accused, Palao alias Abdul Wahid Sultan (Abdul), remains at large. Appellants pleaded not guilty[6] and trial proceeded against them.

Factual Antecedents

The facts of the case, as summarized by the Office of the Solicitor General (OSG) in its brief and substantiated by the transcripts of stenographic notes of the proceedings, are as follows:

Around noontime on February 1, 1996, Baudelio Batoon, Richard Batoon, Juanito Gepayo and a certain “Nito” were working on vehicles inside Baudelio Batoon’s auto repair shop situated along the highway in Tubod, Baraas, Iligan City.

Baginda Palao then entered the shop accompanied by appellants Renandang Mamaruncas and Pendatum Ampuan. Baginda Palao wore desert camouflage fatigues; while his two (2) companions wore Philippine Army tropical green fatigues. Baginda Palao showed Baudelio Batoon an arrest warrant and told the latter he was serving it against Batoon.

The arrival of Baginda Palao’s group prompted Juanito Gepayo and Richard Batoon to stop their work and observe what was happening.

Baudelio Batoon told Baginda Palao to just wait awhile, as they would settle the matter after he [Batoon] [finishes] tuning-up an engine he had been working on.

Baginda Palao reacted by slapping the victim’s stomach and pointing a .45 caliber pistol at him. Baudelio Batoon then tried to grab Palao’s gun, causing the two of them to grapple for the same. As these two wrestled for control of the gun, Renandang Mamaruncas, who was behind Baudelio Batoon, shot from behind Batoon’s right thigh with a .38 cal. homemade gun. Pendatum Ampuan, who was also standing behind Baudelio Batoon, followed up by shooting Batoon’s left arm pit with a .45 cal. [homemade] pistol. Baudelio Batoon fell to the ground and Baginda Palao finished [him off] with a single .45 cal. shot to the back. Juanito Gepayo and Richard Batoon saw the entire scene, stunned and unable to do anything. From their vantage points three (3) to four (4) meters away, these witnesses had a clear and unobstructed view of the entire incident.

Meanwhile, Police Inspector Graciano Mijares, then Commanding Officer of the Iligan City PNP Mobile Force Company, was riding a civilian car along the highway, heading towards Iligan City proper. He was accompanied by his driver, SPO3 William Yee, and SPO3 George Alejo. They heard the gunshots emanating from the auto repair shop at Baraas, prompting Inspector Mijares to order his driver to stop the car. They alighted and proceeded to the source of the gunshots. At the repair shop, they saw three (3) men in camouflage gear with guns drawn and pointed at a person already lying on the ground. Inspector Mijares’ group shouted at the camouflaged gunmen to stop what they were doing and to drop their firearms, at the same time announcing that they (Mijares’ group) were policemen.

The camouflaged gunmen reacted by firing at the policemen. The latter fired back. During the exchange of gunfire, Baginda Palao ran behind the Batoon house, while Renandang Mamaruncas and Pendatum Ampuan ran towards the road and a nearby car. Inspector Mijares was able to hit Mamaruncas and Ampuan, while SPO3 Yee likewise hit Ampuan. Mamaruncas, who managed to get inside the car, and Ampuan were then captured by the policemen. The lawmen also gave chase to Baginda Palao; but he escaped.

Other responding policemen brought Mamaruncas and Ampuan to the hospital for treatment and they were eventually placed under detention. Baudelio Batoon was brought to the hospital by his wife; but he was pronounced dead on arrival.

Based on the necropsy examination of the victim’s body, Dr. Leonardo Labanen established that the three (3) gunshot wounds found on the body of Baudelio Batoon (i.e., at the right thigh, left armpit and back) were inflicted at close range due to the presence, or at least traces, of gunpowder burns.[7]

Only appellants testified for their defense. Their testimonies, as narrated by the trial court, are as follows:

Accused Renandang Mamaruncas testified that he is 34 years old, married, carpenter and a resident of Piagapo, Lanao del Sur. On the morning of February 1, 1996, he was in Marawi City. He decided to come down to Iligan City to see a movie. He left Marawi at 7:00 a.m. and upon arrival at the Tambacan terminal in Iligan City, he went to the house of his cousin. Later, he changed his mind about going to a movie and returned to the Tambacan terminal in order to go back to Marawi City. At about 11:30 a.m., Abdul Wahid Sultan arrived with Pendatum Ampuan on board a car driven by Aminola. Abdul Wahid invited him to go with them because he will collect some money and afterwards they will have some enjoyment. He agreed and sat at the rear seat behind the driver. Abdul Wahid was at the front seat with Pendatum behind at the back seat. They drove to Baraas. They stopped at a crossing and Abdul Wahid and Pendatum Ampuan alighted. Before walking away, Abdul Wahid handed to Renandang a .38 cal[.] revolver with instructions to remain in the car and [keep] watch. At first he refused but Abdul Wahid insisted so he accepted the gun. Abdul Wahid and Pendatum walked to the shop leaving the rear right door open. About ten minutes later, he heard three gunshots. He moved to the rear seat where the door was open and saw policemen, who arrived and surrounded the car. He placed the gun on the seat and raised his hands as a sign of surrender. Then with his right hand, he closed the car door. Just as the door closed, the policemen shot him on the forearm and chest below the right nipple. He lost consciousness and regained it only at the hospital.

He further testified that Abdul Wahid Sultan is an old friend. He is also known as Baginda Palao. Pendatum Ampuan is not known as Abdul Wahid Sultan.

He also declared that the statement of Juanito Gepayo that only Abdul Wahid Sultan and Pendatum Ampuan entered the shop and shot Baudelio Batoon is true and that the testimony of P/Insp. Mijares that he also shot the victim is not true. He denied any part in the shooting to death of Baudelio Batoon.

Accused Pendatum Ampuan testified that he is 20 years old, single, student and a resident of Piagapo, Lanao del Sur. On January 31, 1996 at about 6:00 a.m., he left Marawi City for Iligan City on board a passenger Armak jeepney. He alighted at the terminal behind the Gaisano Superstore and at exactly 7:00 a.m., he entered the store and went to the upper storey to shop. When he came out, he met a friend name[d] Bessah. Together they walked to the Maharlika Theater but then Bessah expressed the intention to go home to Marawi City. He accompanied Bessah to the Tambacan terminal. Then he proceeded to the house of his Uncle Ali in Cabaro. (This is a place North of the city and at the opposite side from Tambacan which is South of the city). He arrived there at noon. He stayed overnight at his Uncle Ali's house. At about 9:00 a.m., the following day, February 1, 1996, he left the house of his uncle. Outside, he met Baginda Palao, who was looking for a certain Baser, a policeman. He wanted the latter to help him collect a debt. They went to the terminal at the back of Gaisano store but did not find Baser. Baginda told him to wait while he will look for Baser inside the Gaisano store. Baginda returned without having found Baser and once again he told him to wait while Baginda will look for a car. A little later, Baginda returned on board a car driven by one Aminola Basar. They went to the Tambacan terminal but again did not find Baser. Instead, they saw Renandang Mamaruncas. Baginda invited the latter to go with them to Baraas to collect a debt. Renandang entered the car and they proceeded to Baraas. The car stopped at a place near a shop. Baginda instructed him and Renandang to remain in the car because he was going out to collect the debt. Baginda left the car and entered the shop. About ten minutes later, he heard shouting followed by gunfire. He stepped out of the car to verify and saw Baginda Palao [shoot] the victim. He retreated to the car as the police led by Capt. Mijares arrived. They confiscated the car key and arrested them except Baginda Palao who escaped. They were taken to the hospital due to injuries. In his case, the sustained wounds when mauled by the children of the victim but in another breath he admitted that his injury was a gunshot wound when he was caught in the cross fire as the police shot Renandang Mamaruncas. He was inside the car when he was hit. He further admitted that Baginda Palao is known as Abdul Wahid Sultan. He denied shooting Baudelio Batoon.[8]

Ruling of the Regional Trial Court

The RTC debunked appellants' defense of denial and held them guilty as principals by direct participation in the

killing of Baudelio Batoon (Baudelio). It gave full faith and credence to the evidence of the prosecution especially on the presence of conspiracy among the malefactors and rendered a verdict of conviction, thus:

WHEREFORE, the court finds the accused Renandang Mamaruncas and Pendatum Ampuan GUILTY beyond reasonable doubt as principals of the crime of murder qualified by treachery defined and penalized in Art. 248 of the Revised Penal Code as amended, without the presence of any other aggravating circumstances and hereby sentences each of them to suffer the penalty of RECLUSION PERPETUA with the corresponding accessory penalties attached thereto by law and to indemnify the Heirs of Baudelio Batoon the sums of:

- P10,200,000.00 for and as loss of support;
- P66,904.00 for and as actual damages;
- P50,000.00 as death indemnity and
- P100,000.00 for and as moral damages

without subsidiary imprisonment in case of insolvency.

Cost against the accused.

Having been under preventive detention since February 1, 1996, the period of such detention shall be credited in full in favor of said accused in the service of their respective sentences.

SO ORDERED.[9]

In view of the Notice of Appeal[10] filed by the appellants, the RTC forwarded the records of the case to this Court. By Resolution[11] dated January 31, 2000, the Court resolved to accept the appeal. In view thereof, appellants were required to file their brief.[12] Appellants thus filed their brief on November 20, 2000[13] while the OSG submitted the Brief for the Plaintiff-Appellee[14] on May 2, 2001. Later, however, consonant with this Court's pronouncement in *People v. Mateo*[15] the case was transferred to the CA for appropriate action and disposition.[16]

Ruling of the Court of Appeals

By Decision[17] promulgated on June 30, 2006, the appeals court affirmed with modification the RTC Decision. Said court ruled that the inconsistencies in the prosecution witnesses' testimonies pointed out by the appellants pertain only to minor and collateral matters which do not dilute the probative weight of said testimonies. Regarding the erroneous designation of appellant Ampuan's name in the Information, the court went on to hold that such error was only a formal defect and the proper correction of which was duly made without any objection on the part of the defense. The CA likewise held that treachery attended the commission of the crime.

The decretal portion of the Decision reads:

WHEREFORE, premises considered, the Appeal is hereby DISMISSED and the questioned Judgment dated July 19, 1999 of the Regional Trial Court is AFFIRMED with MODIFICATION. Appellants Renandang Mamaruncas and Pendatum Ampuan are found GUILTY beyond reasonable doubt of murder as defined in Article 248 of the Revised Penal Code, as amended by Republic Act No. 7659 and are hereby sentenced to suffer the penalty of reclusion perpetua. The appellants are to pay, jointly and severally, the heirs of Baudelio Batoon the amount of P50,000.00 by way of civil indemnity, P50,000.00 as moral damages, and P25,000.00 as exemplary damages and P66,904.00 as actual damages.

SO ORDERED.[18]

Disgruntled, appellants are now again before this Court in view of their Notice of Appeal[19] from the Decision

of the CA.

By Resolution[20] dated November 19, 2007, this Court notified the parties that they may file their respective supplemental briefs within 30 days from notice. In their respective manifestations, the parties opted to adopt the briefs they earlier filed as their supplemental briefs.[21]

In their brief, appellants assign the following errors:

- That the trial court erred in convicting [them] when they should have been acquitted for failure of the prosecution to prove its case beyond reasonable doubt; and
- The information filed before the trial court was substantially defective.[22]

The basic thrust of appellants' first assignment of error is the credibility of the prosecution witnesses. Appellants contend that the trial court anchored its finding and conclusion on the testimonies of witnesses Juanito Gepayo (Gepayo), Richard Batoon (Batoon) and P/Sr. Insp. Graciano Mijares (Mijares), who appear to be inconsistent in their stand and whose credibility is therefore assailable. They question the prosecution witnesses' identification of Abdul and Ampuan as one and the same person and aver that the same only leads to the logical conclusion that said witnesses were perjured witnesses. They argue that Ampuan failed to grasp the information read to him as he was arraigned as "Abdul Wahid Sultan alias Pendatum Ampuan".

On the other hand, the OSG in praying for the affirmance of the appealed Decision, opines that inconsistencies on minor and collateral matters in the testimony of a prosecution eyewitness do not affect his credibility. It also contends that whatever defect the information subject of appellant Ampuan's arraignment has had been cured with the latter's consent during the trial.

Our Ruling

The appeal lacks merit.

In support of their quest for acquittal, appellants tried to cast doubt on the credibility of witness Gepayo anchored on the following grounds: (1) there was serious inconsistency in his testimony on whether he knew Ampuan before the incident; (2) his actuation of just watching the incident without giving any assistance to his fallen employer as well as his immediate return to work thereafter is contrary to human nature and experience; (3) while he testified that appellant Mamaruncas was one of the wounded suspects during the encounter, he failed to identify him in court; and, (4) in his affidavit, he identified Abdul and Ampuan as one and the same person but later on testified to the contrary.

Credibility of witnesses not affected
by minor inconsistencies.

The perceived inconsistency on whether Gepayo knows Ampuan even before the incident is inconsequential as to discredit the credibility of Gepayo's testimony. The inconsistency pointed out by appellants pertains only to collateral or trivial matters and has no substantial effect on the nature of the offense. In fact, it even signifies that the witness was neither coached nor was lying on the witness stand. What matters is that there is no inconsistency in Gepayo's complete and vivid narration as far as the principal occurrence and the positive identification of Ampuan as one of the principal assailants are concerned.[23] "The Court has held that although there may be inconsistencies in the testimonies of witnesses on minor details, they do not impair their credibility where there is consistency in relating the principal occurrence and positive identification of the assailant." [24]

It could be true that Gepayo did not retreat to a safer place during the shooting incident and did not render assistance to his wounded employer. To appellants, this reaction is contrary to human nature. We believe

otherwise. This imputed omission, to our mind, does not necessarily diminish the plausibility of Gepayo's story let alone destroy his credibility. To us, his reaction is within the bounds of expected human behavior. Surely, he was afraid that they might kill him because the malefactors were then armed with guns.[25] Thus, he would not dare attempt to stop them and stake his life in the process. At any rate, it is settled "that different people react differently to a given situation or type of situation, and there is no standard form of human behavioral response when one is confronted with a strange or startling or frightful experience. Witnessing a crime is an unusual experience which elicits different reactions from the witnesses and for which no clear-cut standard form of behavior can be drawn." [26]

The failure of Gepayo to identify Mamaruncas in court does not bolster appellants' cause. As the CA correctly pointed out:

x x x We agree with the prosecution's observation that although he did not positively identify appellant Mamaruncas as one of the shooters, he was however, able to point out that there was a third person who accompanied assailants Palao and Ampuan in approaching the victim during the incident. This is also bolstered by Insp. Mijares['] testimony that he saw three assailants pointing their guns at the victim who was already lying prostrate on the ground.[27]

In any event, even without Gepayo's identification of Mamaruncas, the un rebutted testimony of another prosecution eyewitness, Batoon, clearly points to Mamaruncas as one of the assailants. Thus:

Q:

After these three persons rather Abdul Wahid together with two companions, presented the warrant of arrest to your father, what happened thereafter?

A:

They pulled their guns and pointed [them at] my father.

Q:

Who pulled out .45 caliber gun [and pointed it at] your father?

A:

Abdul Wahid, Sir

Q:

And what happened after the .45 pistol [was] pointed [at] your father?

A:

My father tried to [grab] the .45 caliber from Abdul Wahid, Sir.

Q:

What happened after?

A:

My father was shot by one of his companion[s], Sir.

Q:

Who [first shot] your father?

A:

(Witness pointing to a person. [W]hen he was asked x x x his name[,] he answered that he is Renandang Mamaruncas)

x x x x

Q:

After this Renandang Mamaruncas shot your father, what happened thereafter?

A:

The other companion fired the next shot (witness pointing to a person sitting at the bench inside the Courtroom and when he was asked x x x his name, he answered that he is Pendatum [Ampuan].)[28]

Undoubtedly, the testimonies of eyewitnesses Gepayo and Batoon on material details are straightforward and consistent with each other. They personally saw appellants at the scene of the crime at the time it was committed. Their combined declarations established beyond reasonable doubt the identities of both appellants, along with their co-accused Abdul, as the perpetrators of the crime.

As to the contention that Gepayo referred to Abdul Wahid Sultan and Pendatum Ampuan as one and the same person in his affidavit[29] and yet later on testified to the contrary, this Court finds the same inconsequential and will not outrightly justify the acquittal of an accused. In a very recent case,[30] this Court reiterated that as between an affidavit executed outside the court and a testimony given in open court, the latter almost always prevails. It emphasized therein that:

Discrepancies between a sworn statement and testimony in court do not outrightly justify the acquittal of an accused. Such discrepancies do not necessarily discredit the witness since ex parte affidavits are often incomplete. They do not purport to contain a complete compendium of the details of the event narrated by the affiant. Thus, our rulings generally consider sworn statements taken out of court to be inferior to in court testimony (citation omitted).

The evidence at hand, moreover, clearly points out that it was the police officers who supplied the names of the suspects in Gepayo's affidavit.[31]

Any alleged defect in the Information deemed waived.

Anent the second assigned error, appellants aver that the Information filed before the trial court was substantially defective considering that it accuses Abdul and Ampuan as one and the same person when in fact they were identified as different persons. As such, Ampuan was not able to comprehend the Information read to him.

The Court cannot accord merit to this argument. It is well to note that appellants failed to raise the issue of the defective Information before the trial court through a motion for bill of particulars or a motion to quash the information. Their failure to object to the alleged defect before entering their pleas of not guilty amounted to a waiver of the defect in the Information. "Objections as to matters of form or substance in the [I]nformation cannot be made for the first time on appeal." [32] Records even show that the Information was accordingly amended during trial to rectify this alleged defect but appellants did not comment thereon, viz:

FISCAL ROBERTO ALBULARIO:

Per manifestation and admission of this witness, the Information be amended from [Renandang] Mamaruncas and the word and, it should be Bagindo [sic] Palao alias Abdul Wahid Sultan and the alias Pendatum Ampuan be erased as corrected.

COURT:

Any comment from the accused.

ATTY. FIDEL MACAUYAG:

No comment, Your Honor.[33]

Treachery correctly appreciated.

From the evidence and as found by the trial court and affirmed by the appellate court, the facts sufficiently prove that treachery was employed by appellants. The attack on Baudelio was so swift and unexpected, affording the hapless, unarmed and unsuspecting victim no opportunity to resist or defend himself. As ruled by the trial court:

In the above situation, treachery was considered to exist. More so in this case when the victim was completely without any weapon from the inception of the assault. At the moment when Pendatum Ampuan and Renandang Mamaruncas shot him, Baudelio Batoon was not in any position to defend himself. And when Abdul Wahid shot him while lying wounded on the ground, he was utterly defenseless.[34]

Hence, both lower courts correctly found appellants guilty of murder in view of the presence of treachery.

Conspiracy was duly proven.

We also sustain the finding of conspiracy. Conspiracy exists “when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. Direct proof of previous agreement to commit a crime is not necessary x x x [as it] may be shown through circumstantial evidence, deduced from the mode and manner in which the offense was perpetrated, or inferred from the acts of the accused themselves when such lead to a joint purpose and design, concerted action and community of interest.”[35]

In this case, conspiracy was clearly established. All three accused entered the shop of Baudelio at the same time. Ampuan shot Baudelio from behind, hitting the latter at his left armpit while Mamaruncas shot Baudelio on the thigh. When Baudelio fell to the ground face down, Abdul shot him at the back. These consecutive acts undoubtedly showed appellants’ unanimity in design, intent and execution. They performed specific acts with such closeness and coordination as to unmistakably indicate a common purpose and design in the commission of the crime.

The Court thus sees no cogent reason to disturb the findings of the RTC and the CA considering that they are based on existing evidence and reasonable conclusions drawn therefrom. It has been held time and again that factual findings of the trial court, its assessment of the credibility of witnesses and the probative weight of their testimonies and the conclusions based on these factual findings are to be given the highest respect. As a rule, the Court will not weigh anew the evidence already passed on by the trial court and affirmed by the CA.[36] Though the rule is subject to exceptions, no such exceptional grounds obtain in this case.

Against the damning evidence adduced by the prosecution, appellants could only muster mere denial. As ruled in various cases by the Court, denial, if unsubstantiated by clear and convincing evidence is inherently a weak defense as it is negative and self-serving. “As between the categorical testimony that rings of truth on one hand, and a bare denial on the other, the former is generally held to prevail.”[37]

The Penalty

Undoubtedly, the crime committed is murder in view of the attending aggravating circumstance of treachery. Murder, as defined under Article 248[38] of the Revised Penal Code as amended, is the unlawful killing of a person which is not parricide or infanticide, provided that treachery, inter alia, attended the killing. The presence

of any one of the enumerated circumstances under the aforesaid Article is enough to qualify a killing as murder punishable by reclusion perpetua to death. Since only the qualifying circumstance of treachery is found to be present, both the RTC and the CA properly imposed the penalty of reclusion perpetua pursuant to Article 63 of the Revised Penal Code. Moreover, Section 3 of Republic Act No. 9346[39] provides:

Section 3. Persons 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.

Pursuant to the above provision, appellants are therefore not eligible for parole.

Awards of Damages

The Court modifies the award of civil indemnity in the amount of P50,000.00. In line with prevailing jurisprudence,[40] said award is increased to P75,000.00. Anent the award of moral damages, the CA correctly imposed the amount of P50,000.00.[41] These “awards are mandatory without need of allegation and proof other than the death of the victim, owing to the fact of the commission of murder or homicide.”[42]

Anent the award of actual damages, the victim’s widow testified that the family spent a total of P66,904.00 relative to the wake and burial of the victim. However, the claim for said amount is supported merely by a list of expenses[43] personally prepared by the widow instead of official receipts. To be entitled to an award of actual damages, “it is necessary to prove the actual amount of loss with a reasonable degree of certainty, premised upon competent proof and on the best evidence obtainable x x x.”[44] “A list of expenses cannot replace receipts when the latter should have been issued as a matter of course in business transactions.”[45] Thus the Court deletes the lower courts’ award of actual damages. Nonetheless, since entitlement of the same is shown under the facts of the case, temperate damages in the amount of P25,000.00[46] should be awarded in lieu of actual damages to the heirs of the victim pursuant to Article 2224 of the Civil Code which provides that temperate damages “may be recovered when the court finds that pecuniary loss has been suffered but its amount cannot, from the nature of the case, be proved with certainty.”

The CA correctly deleted the indemnity for loss of earning capacity awarded by the trial court. Such indemnity cannot be awarded in the absence of documentary evidence except where the victim was either self-employed or a daily wage worker earning less than the minimum wage under current labor laws.

As testified to by the widow, Florenda Batoon, the victim was earning a monthly income of P20,000.00 and P90,000.00 as an auto repair shop and a six-wheeler truck operator, respectively. The trial court made a conservative estimate of P500.00 a day as the net income from the truck alone after making reasonable deductions from its operation. Thus, ranged against the daily minimum wage then prevailing in Region X which is P137.00 per day pursuant to Wage Order No. RX-03, this case undoubtedly does not fall under the exceptions where indemnity for loss of earning capacity can be given despite the lack of documentary evidence.

The Court sustains the award of exemplary damages in view of the proven qualifying circumstance of treachery. The CA however awarded exemplary damages to the heirs of the victim in the amount of P25,000.00. To conform with prevailing jurisprudence, the Court increases this amount to P30,000.00.[47]

WHEREFORE, premises considered, the June 30, 2006 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 00196 which found appellants Renandang Mamaruncas and Pendatum Ampuan guilty beyond reasonable doubt of murder is AFFIRMED with further MODIFICATIONS as follows:

1. Appellants are sentenced to suffer the penalty of reclusion perpetua without eligibility for parole;
2. The award of civil indemnity is increased to P75,000.00;

3. The award of P66,904.00 as actual damages is deleted;
4. P25,000.00 as temperate damages is awarded in lieu of actual damages;
5. The award of exemplary damages is increased to P30,000.00; and
6. Appellants are further ordered to pay the heirs of the victim interest on all damages awarded at the legal rate of 6% per annum from the date of finality of this judgment.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Villarama, Jr., JJ., concur.

[1] *People v. Castel*, G.R. No. 171164, November 28, 2008, 572 SCRA 642, 668.

[2] CA rollo, pp. 250-273; penned by Associate Justice Ramon R. Garcia and concurred in by Associate Justices Romulo V. Borja and Sixto C. Marella, Jr.

[3] Records, pp. 162-171; penned by Judge Valerio M. Salazar.

[4] *Id.* at 1.

[5] Initially, the names of the accused were indicated as “Romandang Mamaruncas, Baginda Palao and Abdul Wahid Sultan alias Pendatum Ampuan. (*Id.*) Later, the names of the accused were properly corrected in the Information as Renandang Mamaruncas, Baginda Palao alias Abdul Wahid Sultan and Pendatum Ampuan, *id.*; TSN, September 7, 1998, p. 18.

[6] Records, p. 34.

[7] CA rollo, pp. 185-189. Citations omitted.

[8] Records, pp. 165-166.

[9] *Id.* at 171.

[10] *Id.* at 173-175.

[11] CA rollo, p. 42.

[12] See Notice to File Appellant Brief dated March 6, 2000, *id.* at 45.

[13] *Id.* at 64-77.

[14] *Id.* at 179-208.

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

[16] See Minute Resolution dated September 13, 2004, CA rollo, p. 245.

[17] *Supra* note 2.

[18] CA rollo, p. 272.

[19] *Id.* at 281-284.

[20] Rollo, p. 32.

[21] See the OSG’s Manifestation and Motion for Leave to Adopt Brief as Supplemental Brief, *id.* at 33-36, and appellants’ Manifestation and Motion (In Lieu of Supplemental Brief), *id.* at 37-40.

[22] CA rollo, p. 65.

[23] See TSN, May 20, 1996, pp. 18 and 77.

[24] *People v. Bernabe*, G.R. No. 185726, October 16, 2009, 604 SCRA 216, 231.

[25] TSN, May 20, 1996, p. 47.

[26] *People v. Diaz*, G.R. No. 185841, August 4, 2009, 595 SCRA 379,403.

[27] CA rollo, p. 265.

[28] Direct Testimony of Richard Batoon, TSN, September 18, 1996, pp. 15-19.

[29] Exhibit "1," records, p. 6.

[30] *Gemma Ong a.k.a Maria Teresa Gemma Catacutan v. People*, G.R. No. 169440, November 23, 2011.

[31] TSN, May 20, 1996, p. 88.

[32] *Panuncio v. People*, G.R. No. 165678, July 17, 2009, 593 SCRA 180, 188.

[33] TSN, September 7, 1998, p. 29.

[34] Records, p. 169.

[35] *Mangangey v. Sandiganbayan*, G.R. Nos. 147773-74, February 18, 2008, 546 SCRA 51, 66.

[36] *Chua v. People*, G.R. Nos. 150926 and 30, March 6, 2006, 484 SCRA 161, 167.

[37] *People v. Dumlao*, G.R. No. 181599, August 20, 2008, 562 SCRA 762, 769.

[38] Art. 248. Murder. – Any person who, not falling within the provisions of Article 246, shall kill another, shall be guilty of murder and shall be punished by reclusion perpetua, to death if committed with any of the following attendant circumstances:

- With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense, or of means or persons to insure or afford impunity;
- In consideration of a price, reward, or promise;
- By means of inundation, fire, poison, explosion, shipwreck, stranding of a vessel, derailment or assault upon a railroad, fall of an airship, by means of motor vehicles, or with the use of any other means involving great waste and ruin;
- On occasion of any of the calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic, or any other public calamity;
- With evident premeditation;
- With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse.

[39] An Act Prohibiting the Imposition of Death Penalty in the Philippines. Took effect on June 24, 2006.

[40] *People v. Agacer*, G.R. No. 177751, December 14, 2011.

[41] *Id.*

[42] *People v. Orias*, G.R. No. 186539, June 29, 2010, 622 SCRA 417, 437-438.

[43] Exhibit “D”, records, p. 72.

[44] *People v. Dela Cruz*, G.R. No. 168173, December 24, 2008, 575 SCRA 412, 446-447.

[45] *People v. Guillera*, G.R. No. 175829, March 20, 2009, 582 SCRA 160, 171.

[46] *People v. Agacer*, *supra* note 40.

[47] *People v. Asis*, G.R. No. 177573, July 7, 2010, 624 SCRA 509, 531.

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