PEOPLE OF THE PHILIPPINES, APPELLEE, VS. EDGAR CONCILLADO, APPELLANT.

G.R. No. 181204. November 28, 2011

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

When an accused admits the commission of the crime but claims the justifying circumstance of self-defense, the burden of proof is shifted to him. When the accused miserably fails to discharge his burden, he does not deserve an acquittal. His conviction must be sustained, as in the instant case.

Factual Antecedents:

In the early moning of August 24, 2002, Diosdado Pido (Diosdado) was shot, stabbed and hacked in Barangay Guinciaman, San Miguel, Leyte. Having sustained a total of 26 wounds, he instantly succumbed to death. Blamed for his untimely demise were Edgar Concillado (Edgar), Erlito Concillado (Erlito) and Dolores Concillado (Dolores). Thus, on November 5, 2002, an Information[1] was filed charging them with murder. The accusatory portion thereof reads:

> That on or about the 24th day of August, 2002, in the Municipality of San Miguel, Province of Leyte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, with deliberate intent, with treachery and evident premeditation, did then and there willfully, unlawfully and feloniously attack, assault, hack, stab and shoot one DIOSDADO PIDO with a homemade shotgun (surit) which the accused have provided themselves for the purpose, thereby inflicting upon the latter the following wounds, to wit:
>
> 1. Incised wound right side face extending from mid portion earlobe Right to molar bone.
>
> Length - 11.0 cm.
> Depth - 2.5 cm.
>
> Fracturing molar bone, Right.
>
> 2. Incised wound Left Shoulder joint
>
> Length - 2.0 cm.
> Depth - 1.0 cm.
>
> 3. Incised wound left upper arm, antero lateral aspect, 5.0 cm. below axilla Left.
>
> Length - 1.5 cm.
> Depth - 0.1 cm.
>
> 4. Incised wound left forearm posterior aspect upper third
>
> Length - 10.0 cm.

Depth - 2.5 cm.

5. Incised wound 3.0 cm. below wound no. 4

Length - 2.0 cm.
Depth - 0.3 cm.

6. Stab wound left knuckle between 4th and 5th Carpal bone.

Length - 2.0 cm.
Depth - 2.5 cm.

7. Incised wound right upper arm anterior aspect 3.0 cm. above elbow joint.

Length - 5.0 cm.
Depth - 1.5 cm.

8. Incised wound right forearm postero lateral aspect 5.0 cm. below elbow joint

Length - 6.0 cm.
Depth - 0.1 cm.

9. Stab wound right hand below thumb and index finger

Length - 3.0 cm.
Depth - 3.5 cm.

10. Incised wound right chest anterior aspect at the level of the 4th rib

Length - 9.0 cm.
Depth - 2.0 cm. hitting 4th rib.

11. Incised wound left side chest 3.0 cm. below wound no. 10

Length - 6.5 cm.
Depth - 2.0 cm.

12. Linear abrasion between wounds no. 10 and 11

Length - 10.0 cm.

13. Incised wound 1.0 cm. above left nipple

Length - 3.0 cm.
Depth - 0.2 cm.

14. Incised wound 1 cm. below left nipple

Length - 1.5 cm.
Depth - 10 cm.

15. Stab wound 1.5 cm. below left nipple, directed slightly upward and to the center penetrating left ventricle of the heart.

Length - 0.2 cm.
Depth - 10 cm.

16. Stab wound abdomen left side, 2 cm. above navel portion of the small intestine 15 cm. protruding from the wound.

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Length - 10.0 cm.

17. Stab wound right upper abdomen, 12 cm. from anterior midline at the level of the last rib.

Length - 5.0 cm. about 15 cm. of small intestine protruding from the wound.

18. Stab wound, 5 cm. lateral to wound no. 16

Length - 3.0 cm. directed toward the center of the body.

19. Gunshot wound left upper thigh, antero lateral aspect, four in number spaced in one (1) to 2 cm. apart (Oval shape wound) average diameter is 1 cm.

20. Oval shape wound, 5 cm. lateral to wound no. 18 (4 pellet recovered near wound no. 19 (exit wound)

21. Incised wound 3 cm. lateral to wound no. 19

Length - 2.5 cm.
Depth - 1.0 cm.

22. Incised wound left knee anterior lateral aspect Length - 3.5 cm.

Depth - 0.5 cm.

23. Incised wound near left scapula

Length - 3.0 cm.
Depth - 0.5 cm.

24. Stab wound, four (4) cm. below wound no. 23.

Length - 1.8 cm.
Depth - 2.5 cm. hitting scapular bone.

25. Stab wound thru and thru skin deep 5 cm. below wound no. 24 entrance wound

Length - 1.5 cm.
exit wound 1 cm. below.
Length - 1.0 cm.

26. Incised wound, five (5) cm. below no. 25

Length - 0.5 cm.
Depth - 0.1 cm.

which wounds caused the death of said Diosdado Pido.

CONTRARY TO LAW.

During their arraignment on January 6, 2003, all the accused pleaded “not guilty” to the charge.[2] Pre-trial was thereafter set on January 9, 2003.[3] After the pre-trial was declared terminated,[4] trial on the merits immediately followed.

Version of the Prosecution

The prosecution first called to the witness stand Dr. Federico De Veyra, Jr. (Dr. De Veyra), the Municipal Health Officer of San Miguel, Leyte. However, his testimony was dispensed with[5] after the defense admitted the authenticity and due execution[6] of the Necropsy Report[7] he issued.

Next to be called to the witness stand was Lorenzo Viñas (Lorenzo).[8] He recalled that on August 23, 2002, he and the victim, Diosdado, went to Barangay Malaguinabut, San Miguel, Leyte, to attend the fiesta.[9] At around 12:30 a.m. of August 24, 2002, they went home to Barangay Guinciaman[10] aboard a motorcycle. Upon reaching Barangay Guinciaman, they parted ways. Shortly thereafter and from a distance of about 10 meters, Lorenzo saw Edgar shoot Diosdado using a "surit-surit" (homemade gun).[11] When Diosdado fell to the ground, Edgar and Dolores approached the victim and simultaneously stabbed him using small bolos about 10 inches in length.[12] Thereafter, Erlito joined the fray and delivered hacking blows on the victim using a long bolo.[13] Edgar, Dolores and Erlito then left the crime scene, crossed the nearby river and proceeded to the rice fields.[14]

After the malefactors have left, Lorenzo reported the incident to the barangay tanod[15] who in turn informed the authorities.

Balbina Aureo (Balbina), the sister of the deceased,[16] testified that in connection with the death of Diosdado, they incurred expenses amounting to P30,000.00 more or less.[17] Thereafter, the prosecution formally offered its documentary exhibit and rested its case.[18]

Version of the Defense

The defense likewise presented Dr. De Veyra as its first witness.[19] He testified that on August 24, 2002 at around 3:30 a.m., Edgar was brought to his house for treatment.[20] Edgar suffered three superficial[21] incised wounds at his right chest, right collarbone and left forearm[22] which could have been caused by a sharp bladed instrument.[23]

The defense next presented PO2 Jessiefesto Alvaro Quintana (PO2 Quintana), who testified that on August 24, 2002, he was the desk officer of the PNP [Philippine National Police] Station in San Miguel, Leyte.[24] As part of his duties, he recorded Entry No. 1461 dated August 24, 2002 found in page 208 of the police blotter to the effect that at about 1:10 a.m. of same day, Edgar voluntarily surrendered to the police station and admitted having killed Diosdado with the use of a long bolo.[25] He also wrote that Edgar suffered stab wounds on his right breast and left arm.[26] PO2 Quintana, however, could no longer recall the police officer to whom Edgar surrendered,[27] or whether there were police officers who went to the crime scene.[28]

The defense also presented SPO1 Leopoldo Lesiguez (SPO1 Lesiguez). He testified that on August 23, 2002 at around 11:00 p.m. he was on duty at the PNP Station, San Miguel, Leyte when Edgar arrived and informed him that he would voluntarily surrender.[29] Without bothering to ask Edgar who his victim was, he endorsed Edgar to PO2 Quintana.[30] When asked to clarify as to exactly when Edgar surrendered, he stated that the voluntary surrender happened on August 23, 2002 and not on August 24, 2002.[31]

On the other hand, PO Ramil Amaga (PO Amaga), testified that he is a member of the PNP assigned in San Miguel, Leyte, particularly at the operative services.[32] On August 23, 2002, he was tasked to maintain peace and order in Barangay Malaguinabut together with PO1 Calixto Viador.[33] At around 12 midnight, they proceeded to Barangay Guinciaman upon receipt of a report about a killing incident.[34] Upon reaching the crime scene, he saw the lifeless body of Diosdado lying on the ground.[35] He also saw Lorenzo who informed him that he was already at his house when he heard a gunshot and Diosdado asking for help. However, he (Lorenzo) arrived late because his house is located about 30 meters more or less from the crime scene.[36]

Manuel Solomon, the Barangay Captain of Guinciaman,[37] testified that on August 24, 2002 at about 1:00 a.m., he was roused from his sleep[38] by several persons who informed him about the killing of Diosdado. He immediately proceeded to the crime scene which is 200 meters more or less from his house.[39] Upon reaching the crime scene, he noticed several onlookers[40] including Lorenzo. After about 40 minutes, the investigating

officers arrived.[41]

Edgar, one of the accused and appellant herein, next took the witness stand. He admitted that he was the one who inflicted all the 26 wounds on the victim,[42] although he claimed that he was only acting in self-defense. He narrated that shortly after 11:00 p.m. of August 23, 2002,[43] he and his wife Dolores arrived at their house in Barangay Guinciaman after partaking in a drinking spree at the house of Imelda Obio (Imelda) which is located about 40 meters from their house.[44] His wife immediately went upstairs to sleep as she has fever.[45] Edgar remained downstairs and sat on the concrete floor near the door.[46] After a while, he urinated near their fence whereupon Diosdado suddenly appeared and challenged him to a fight.[47] Diosdado immediately delivered a hacking blow using a bolo about 25 inches long[48] hitting Edgar on his right chest.[49] Edgar ran towards the door of their house, took his "surit" and fired at Diosdado[50] who continued on hacking him.[51] Edgar was able to parry the blows coming from Diosdado as he was able to grab a long bolo[52] immediately after he fired his gun.[53] Edgar and Diosdado kept on exchanging blows until they were already outside the former's gate.[54] After some time, Diosdado turned his back on Edgar.[55] Thinking that Diosdado was already fleeing, Edgar went back to their house[56] and eventually surrendered himself at the police station.[57] He was thereafter treated by Dr. De Veyra for his wounds.[58]

Edgar claimed that during his fight with Diosdado, his wife, Dolores, was sleeping soundly upstairs. His brother, Erlito, on the other hand, was at Barangay Malaguinabut attending a fiesta.[59]

The defense likewise placed Dolores on the witness stand. She testified that on August 23, 2002, she and Edgar went to the house of Imelda after eating supper.[60] While at the house of Imelda, she lay down as she was indisposed while Imelda and Edgar consumed ¾ gallon of tuba. At about 11:00 p.m., they went home where she immediately retired upstairs while Edgar remained in their sala.[61] At around 1:00 a.m. of August 24, 2002, Edgar roused her from her sleep and told her to leave their house immediately.[62]

Dolores then heard people outside their house shouting that Diosdado had been killed and mentioning the name of Edgar.[63] Afraid of being lynched, Dolores went out of their house through the back door and hid among the grasses and bamboos.[64] She only left her hiding place when the voices subsided.[65] She sought refuge at the house of their neighbor[66] where she was told that her husband had already surrendered to the police authorities.[67] Dolores denied any participation in the crime.[68]

Erlito, the last defense witness, testified that in the early evening of August 23, 2002, he was at the house of a certain Junior Cajudo (Junior) in Barangay Malaguinabut attending the festivities[69] together with Lorenzo.[70] After their supper, they drank tuba until the following morning.[71] Thereafter, he decided to go home to Barangay Guinciaman but before reaching said barangay he was warned by Adela Bagi (Adela) not to proceed because he might be killed in retaliation for the killing of Diosdado by Edgar.[72] Erlito thus stayed at the house of Adela until night time of August 24, 2002. The following morning, he went to the house of a certain Ching Veloso to hide.[73]

Erlito labeled Lorenzo as a liar. He claimed that Lorenzo could not have witnessed the crime as he (Lorenzo) was in Barangay Malaguinabut likewise joining in the drinking spree at the house of Junior.[74]

On January 20, 2004, the defense rested its case.[75]

Ruling of the Regional Trial Court (RTC)

On March 12, 2004,[76] the RTC of Carigara, Leyte, Branch 13, rendered its Decision[77] finding all three accused guilty as charged.[78] The trial court held that there was conspiracy among the accused because they waited in ambush for the victim; and after shooting him, simultaneously delivered hacking and stabbing blows on

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him.[79] The RTC also found that the plan to kill Diosdado was not hatched on the spur of a moment thus it appreciated the qualifying aggravating circumstance of evident premeditation.[80]

The trial court also held that Lorenzo could not have been mistaken in identifying the accused because he is familiar with the three accused as they were his neighbors.[81] No improper motive was likewise imputed on Lorenzo[82] whose testimony was corroborated by the medical certificate issued by Dr. De Veyra.[83]

The court a quo ruled that the nature, location and number of wounds sustained by the victim belied the allegation of Edgar that he merely acted in self-defense[84] and that the victim was the unlawful aggressor.[85] Neither did it lend credence to Edgar's asseveration that he was hacked while urinating near the fence by the victim.

Dolores' and Erlito's defense of alibi was debunked by the RTC.[86] It held that Erlito failed to prove that it was physically impossible for him to be at the crime scene at the time of its commission considering that the six-kilometer distance between Barangay Malaguinabut and Barangay Guinciaman could be easily traversed in less than 10 minutes using a motorcycle.[87] At any rate, alibi could not prevail against the positive identification by Lorenzo.[88]

The dispositive portion of the Decision reads:

> WHEREFORE, premises considered, pursuant to Art. 248 of the Revised Penal Code as amended and further amended by R.A. 7659, (The Death Penalty Law), the Court found the three accused, EDGAR CONCILLADO, DOLORES CONCILLADO and ERLITO CONCILLADO, GUILTY, beyond reasonable doubt of the crime of MURDER, charged under the information and each is sentenced to suffer the maximum penalty of DEATH, and to pay civil indemnity, ex-delicto, to the heirs of Diosdado Pido, the sum of Seventy Five Thousand (P75,000.00) Pesos and pay moral and exemplary damages in the amount of Fifty Thousand (P50,000.00) Pesos and
>
> Pay the Cost.
>
> SO ORDERED.[89]

On August 3, 2004, we resolved to accept the appeal of Edgar, Erlito and Dolores.[90] On even date, we required both parties to file their respective briefs.[91] However, conformably with our ruling in People v. Mateo,[92] we resolved to refer the case to the Court of Appeals (CA) for appropriate action and disposition.[93]

Ruling of the Court of Appeals

On May 31, 2007, the CA rendered its Decision[94] acquitting Erlito and Dolores of the crime charged and finding Edgar guilty only of homicide.[95]

The CA found the testimony of Lorenzo, the prosecution eyewitness, to be dubious.[96] According to the CA, it was unnatural for Lorenzo to just stare and not bother to hide or take cover while the frenzied attack on Diosdado was ongoing.[97] It is likewise unbelievable for Lorenzo to have seen Dolores stab Diosdado on the left breast as the latter was already lying face down when Dolores supposedly arrived.[98] Considering the foregoing, the CA gave credence to the testimony of PO Amaga that Lorenzo heard the cries for help of Diosdado but arrived at the crime scene only after the crime had been consummated.[99] As such, it acquitted Erlito and Dolores there being no evidence that would establish their culpability.[100]

As regards Edgar who admitted the killing, the CA was not convinced of his self-defense theory.[101] However, for lack of evidence to establish the qualifying circumstances of treachery and evident premeditation, the CA convicted Edgar only of the crime of homicide.[102] In imposing the proper penalty, the CA appreciated the mitigating circumstance of voluntary surrender.

The dispositve portion of the CA Decision reads:

> WHEREFORE, the Decision dated March 8, 2004, is MODIFIED. Accused-appellant EDGAR CONCILLADO is found guilty of HOMICIDE only and is hereby sentenced to suffer an indeterminate penalty ranging from eight (8) years and eight (8) months of prision mayor minimum, as minimum, to fourteen (14) years and eight (8) months of reclusion temporal minimum, as maximum. Accused-appellant EDGAR CONCILLADO is ORDERED to pay the heirs of the victim the amount of P50,000.00 as civil indemnity ex delicto. The awards of moral and exemplary damages are DELETED.
>
> Accused-appellant DOLORES CONCILLADO and ERLITO CONCILLADO are ACQUITTED of the crime charged and ordered immediately RELEASED from confinement, unless they are being detained for some other legal cause.
>
> SO ORDERED.[103]

Edgar filed a Notice of Appeal.[104] On March 3, 2008, we accepted the appeal and notified the parties to file their supplemental briefs.[105] The defense opted not to file a supplemental brief and manifested that it is adopting instead all the arguments raised in the Appellant's Brief.[106] The Office of the Solicitor General similarly manifested that it is adopting its Appellee's Brief as its Supplemental Brief.[107]

Parties' Arguments

The defense insists that Edgar acted in self-defense, hence should be acquitted.[108] It avers that Edgar was only protecting himself from the incessant thrusts coming from Diosdado.[109] On the other hand, the prosecution asserts that Edgar's plea of self-defense has not been established by clear and convincing evidence.[110] Finally, the prosecution maintains that Edgar should be convicted of murder and not of homicide.[111]

Our Ruling

The appeal lacks merit.

The burden of proof is shifted to Edgar
when he admitted the killing but claimed
to have acted in self-defense.

"Well-settled is the rule in criminal cases that the prosecution has the

burden of proof to establish the guilt of the accused beyond reasonable doubt. However, once the accused admits the commission of the offense charged but raises a justifying circumstance as a defense, the burden of proof is shifted to him. He cannot rely on the weakness of the evidence for the prosecution for even if it is weak, it cannot be doubted especially after he himself has admitted the killing. This is because a judicial confession constitutes evidence of a high order."[112]

In this case, Edgar admits responsibility for the death of Diosdado but desires to avoid criminal responsibility therefor by claiming that he was only acting in self-preservation and that it was in fact Diosdado who was the unlawful aggressor. It is therefore incumbent upon Edgar to prove that he deserves an acquittal.

Both the trial court and the CA properly disregarded Edgar's claim of self-defense.

We examined the records and found no cogent reason to depart from the findings of both the trial court and the CA which disregarded Edgar's theory of self-defense.

For the justifying circumstance of self-defense to be properly appreciated, the following elements must concur: (1) unlawful aggression; (2) reasonable necessity of the means employed to prevent or repel it; and (3) lack of

sufficient provocation on the part of the person defending himself.[113]

"[T]he most important among all the elements is x x x unlawful aggression. Unlawful aggression must be proved first in order for self-defense to be successfully pleaded, whether complete or incomplete."[114] "There can be no self-defense unless there was unlawful aggression from the person injured or killed by the accused; for otherwise, there is nothing to prevent or repel."[115] "Unlawful aggression is an actual physical assault, or at least a threat to inflict real imminent injury, upon a person."[116]

We subscribe to the findings of both the trial court and the CA that there is no unlawful aggression on the part of Diosdado. According to the trial court, "[t]he distance of the accused from the fence while he was urinating was about 1½ meters, while the victim was outside and in-between them was a bamboo fence about four feet high. With the height of the fence and his distance from the fence, there is an impossibility of unlawful aggression on the part of the victim."[117] It also concluded that the victim could not have entered the yard of the accused. The dead body of Diosdado was found lying on the road about eight meters from the house of Edgar. However, no traces of blood could be found in the yard of the accused.[118]

We also agree with the ruling of the CA that the disparity of the injuries sustained belies all pretensions of self-defense. Diosdado suffered a total of 26 incised, stab and bullet wounds. On the other hand, Edgar suffered only three superficial wounds.[119] "As has been repeatedly ruled, the nature, number and location of the wounds sustained by the victim disprove a plea of self-defense."[120] Moreover, during his cross-examination, Edgar admitted that he continued to inflict injuries on Diosdado notwithstanding the fact that he was already lying lifeless on the ground.[121]

There being no unlawful aggression to speak of, Edgar's theory of self-

defense has no leg to stand on. Having miserably failed to discharge his burden of proof, we therefore find Edgar criminally responsible for the death of Diosdado.

The crime committed

We agree with the CA that Edgar could be held liable only for the crime of homicide and not murder. "For alevosia to qualify the crime to murder, it must be shown that: (1) the malefactor employed such means, method or manner of execution as to ensure his or her safety from the defensive or retaliatory acts of the victim; and (2) the said means, method and manner of execution were deliberately adopted. Moreover, for treachery to be appreciated, it must be present and seen by the witness right at the inception of the attack."[122]

On the other hand, evident premeditation "requires proof showing: (1) the time when the accused decided to commit the crime; (2) the overt act manifestly indicating that he clung to his determination; (3) a sufficient lapse of time between the decision and the execution, allowing the accused to reflect upon the consequences of his act. Such proof must be based on external acts that are not merely suspicious but also notorious, manifest, evident and indicative of deliberate planning. The evidence must show [that] the decision to kill prior to the moment of its execution was the result of meditation, calculation, reflection or persistent attempts. Absent such evidence, mere presumptions and inferences are insufficient. Evident premeditation may not be appreciated where there is no proof as to how and when the plan to kill was hatched or the time that elapsed before it was carried out. The premeditation must be evident and not merely suspected."[123]

In the instant case, the testimony of Lorenzo having been properly discredited by the CA, the prosecution has no evidence to show how the attack was commenced or how it was perpetrated. There is also no evidence to show that Edgar decided to kill Diosdado and has clung to such determination even after a sufficient time has elapsed. Consequently, there is no basis for us to appreciate the qualifying aggravating circumstances of treachery and

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evident premeditation.

The Penalty

In order to determine the appropriate penalty, we must first assess whether the courts below properly appreciated Edgar's voluntary surrender. “For the mitigating circumstance of voluntary surrender to be appreciated, the surrender must be spontaneous and in a manner that shows that the accused made an unconditional surrender to the authorities, either based on recognition of guilt or from the desire to save the authorities from the trouble and expenses that would be involved in the accused’s search and capture. Moreover, it is imperative that the accused was not actually arrested, the surrender is before a person in authority or an agent of a person in authority, and the surrender was voluntary.”[124]

In the instant case, records show that Edgar’s surrender was spontaneous. He presented himself to the police authorities even before the latter had knowledge of the killing. He also unconditionally admitted before them that he killed Diosdado.

The entry in the police blotter to the effect that Edgar presented himself at the police station on August 24, 2002 deserves more weight than the testimony of SPO1 Lesiguez that Edgar surrendered on August 23, 2002. A person’s recollection is more vulnerable and prone to error compared to written reports. Besides, it is highly improbable for Edgar to surrender even before committing the crime. Undoubtedly, therefore, Edgar’s surrender on August 24, 2002 was voluntary.

Under Article 249 of the Revised Penal Code, the penalty for homicide is reclusion temporal.[125] Conformably with Article 64(2) of the Revised Penal Code, when there is only a mitigating circumstance present, the penalty shall be imposed in its minimum period. In the instant case, the mitigating circumstance of voluntary surrender[126] is present.

Hence, to compute the imposable penalty, the maximum penalty shall be taken from reclusion temporal in its minimum period which ranges from twelve (12) years and one (1) day to fourteen (14) years and eight (8) months. On the other hand, to get the minimum of the imposable penalty, we apply the Indeterminate Sentence Law which instructs that the minimum shall be within the range of the penalty next lower to that prescribed for the offense. The penalty next lower to reclusion temporal is prision mayor, the range of which is six (6) years and one (1) day to twelve (12) years.[127] Accordingly, we impose upon Edgar the prison term of six (6) years and one (1) day of prision mayor, as minimum, to thirteen (13) years of reclusion temporal, as maximum.

The Damages

As regards the damages, we find the award of P50,000.00 as civil indemnity pursuant to prevailing jurisprudence.[128] However, the CA erred in deleting the award of moral damages. “In cases of murder and homicide, the award of moral damages is mandatory, without need of allegation and proof other than the death of the victim.”[129] Hence, Edgar should also pay the heirs of

Diosdado the amount of P50,000.00 as moral damages.[130]

We note that the CA did not award actual damages. Although Balbina, the sister of Diosdado, testified that they incurred P30,000.00 more or less in connection with the funeral of Diosdado, they nonetheless failed to present receipts to substantiate said claim. “Settled is the rule that only duly receipted expenses can be the basis of actual damages.”[131] Nonetheless, “[u]nder Article 2224 of the Civil Code, temperate damages may be recovered as it cannot be denied that the heirs of the victim suffered pecuniary loss although the exact amount was not proved.”[132] Thus, we award the amount of P25,000.00 as temperate damages in lieu of actual damages to the

heirs of Diosdado. “In addition, and in conformity with current policy, we also impose on all the monetary awards for damages an interest at the legal rate of 6% from date of finality of this Decision until fully paid.”[133]

WHEREFORE, the appealed judgment is AFFIRMED with the MODIFICATIONS that appellant Edgar Concillado is sentenced to suffer the prison term of six (6) years and one (1) day of prision mayor, as minimum, to thirteen (13) years of reclusion temporal, as maximum, and ordered to pay the heirs of Diosdado Pido the amounts of P50,000.00 as moral damages and P25,000.00 as temperate damages, all in addition to the P50,000.00 civil indemnity which is retained, as well as interest on all these damages assessed at the legal rate of 6% from date of finality of this Decision until fully paid.

SO ORDERED.

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

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[1] Records, pp. 13-15.

[2] Id. at 21.

[3] Id.

[4] Id. at 24.

[5] Id. at 25.

[6] TSN, January 9, 2003, p. 6.

[7] Exhibit “A,” Folder of Exhibits.

[8] Records, p. 32.

[9] TSN, February 5, 2003, p. 4.

[10] Id. at 5.

[11] Id. at 6.

[12] Id. at 7.

[13] Id. at 8.

[14] Id. at 9.

[15] Id.

[16] Id. at 3.

[17] Id. at 6.

[18] Records, p. 39.

[19] TSN, April 1, 2003, p. 2.

[20] Id. at 3.

[21] Id. at 6.

[22] Id. at 4.

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[23] Id. at 5.

[24] TSN, April 11, 2003, p. 4.

[25] Id.

[26] Id.

[27] Id.

[28] Id. at 7.

[29] TSN, May 15, 2003, p. 3.

[30] Id.

[31] Id. at 4.

[32] TSN, June 4, 2003, p. 3.

[33] Id. at 4.

[34] Id. at 4-5.

[35] Id. at 5.

[36] Id. at 6.

[37] TSN, June 18, 2003, p. 2.

[38] Id. at 4.

[39] Id. at 5.

[40] Id.

[41] Id. at 6.

[42] TSN, July 28, 2003, pp. 14-16.

[43] Id. at 2.

[44] Id. at 4.

[45] Id. at 8.

[46] Id.

[47] Id. at 9.

[48] Id. at 9-10.

[49] Id. at 10.

[50] Id.

[51] Id. at 11.

[52] Id.

[53] Id. at 12.

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[54] Id. at 13.

[55] Id.

[56] Id.

[57] Id. at 18.

[58] Id. at 17.

[59] Id. at 15-16.

[60] TSN, August 8, 2003, p. 4.

[61] Id. at 5.

[62] Id. at 6.

[63] Id. at 7.

[64] Id. at 8.

[65] Id.

[66] Id.

[67] Id. at 10.

[68] Id. at 11.

[69] TSN, January 13, 2003, p. 4.

[70] Id.

[71] TSN, January 13, 2003, p. 6.

[72] Id. at 8.

[73] Id. at 10.

[74] Id. at 11.

[75] Records, p. 82.

[76] Id. at 84.

[77] Id. at 84-108; penned by Judge Crisostomo L. Garrido.

[78] Id. at 108.

[79] Id. at 97.

[80] Id.

[81] Id.

[82] Id. at 98.

[83] Id.

[84] Id. at 99.

[85] Id. at 106.

[86] Id. at 103.

[87] Id. at 102.

[88] Id.

[89] Id. at 108.

[90] CA rollo, p. 49.

[91] Id.

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

[93] CA rollo, p. 160.

[94] Id. at 165-183; penned by Associate Justice Francisco P. Acosta and concurred in by Associate Justices Arsenio J. Magpale and Agustin S. Dizon.

[95] Id. at 183.

[96] Id. at 173.

[97] Id. at 174.

[98] Id. at 175.

[99] Id. at 176-178.

[100] Id. at 178-179.

[101] Id. at 179.

[102] Id. at 181.

[103] Id. at 183.

[104] Id. at 216-217.

[105] Rollo, p. 130.

[106] Records, p. 31.

[107] Id. at 35-36.

[108] CA rollo, pp. 83-84.

[109] Id. at 84.

[110] Id. at 135.

[111] Id. at 139.

[112] People v. Campos, G.R. No. 176061, July 4, 2011.

[113] Revised Penal Code, Article 11(1).

[114] People v. Dolorido, G.R. No. 191721, January 12, 2011, 639 SCRA 496, 503.

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[115] People v. Campos, supra note 112.

[116] People v. Dolorido, supra note 113.

[117] Records, p. 106.

[118] Id.

[119] CA rollo, p. 180.

[120] People v. Campos, supra note 112.

[121] TSN, July 29, 2003, p. 12.

[122] People v. Tomas, Sr., G.R. No. 192251, February 16, 2011.

[123] People v. Jarlos, 445 Phil. 800, 811 (2003).

[124] People v. Badriago, G.R. No. 183566, May 8, 2009, 587 SCRA 820, 835-836.

[125] The range of reclusion temporal is 12 years and 1 day to 20 years with the following periods:

> Minimum: 12 years 1 day to 14 years 8 months
> Medium: 14 years 8 months 1 day to 17 years 4 months
> Maximum: 17 years 4 months 1 day to 20 years

[126] See Revised Penal Code, Article 13, par. 7.

[127] The range of prision mayor is 6 years 1 day to 12 years with the following periods:

> Minimum: 6 years 1 day to 8 years
> Medium: 8 years 1 day to 10 years
> Maximum: 10 years 1 day to 12 years.

[128] See People v. Basada, G.R. No. 185840, June 29, 2010, 622 SCRA 334, 340.

[129] People v. Domingo, G.R. No. 184343, March 2, 2009, 580 SCRA 436, 457.

[130] People v. Basada, supra note 128.

[131] People v. Campos, supra note 112.

[132] Id.

[133] Id.

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