

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CESARIO OSIANAS, PABLITO LARIOSA, JOSE VILLARIN, MARIO PALABRICA, AND VICENTE CUMAWAS, ACCUSED-APPELLANTS.

G.R. No. 182548. September 30, 2008

Ponente: CHICO-NAZARIO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-182548/>

CHICO-NAZARIO, J.:

This is an appeal by Notice of Appeal from the Decision[1] of the Court of Appeals in CA-G.R. CR HC No. 00511 dated 13 November 2007 affirming with modification the Decision of the Regional Trial Court (RTC) of Kabankalan, Negros Occidental, in Criminal Cases No. 727, No. 727-A and No. 727-B finding herein accused-appellants guilty beyond reasonable doubt of the crime of murder.

INFORMATIONS

On 14 February 1998, three Informations for murder were filed, to wit:

CRIMINAL CASE NO. 727

The undersigned Provincial Prosecutor accuses CESARIO OSIANAS y LAREDO alias "EGOY", RODRIGO CUMAWAS y CASTILLO alias "DIGO", VICENTE CUMAWAS y CASTILLO alias "ENTENG", JULIETO CUMAWAS y CASTILLO alias "JUDY", FORTUNATO CUMAWAS y CASTILLO alias "BUGOY", MARIO PALABRICA y BULOY, VICTOR CANOY y LUMACANG, JOSE VILLARIN y MANILINGAN alias "OWA", PATRICIO BAYSON y FABRICANTE alias "PAT", PABLITO LARIOSA y YUNTING alias "PABLING", ROSALIO BULADO y LARIOSA alias "MEMI" and DIOSDADO LARIOSA y BULADO alias "KOING" of the crime of Murder, committed as follows:

That on or about the 20[th] day of October, 1989, in the Municipality of Hinoba-an, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with assorted firearms of unknown calibers and bladed weapons, conspiring, confederating and mutually helping one another, with evident premeditation and treachery, taking advantage of their superior strength, and with intent to kill, did then and there, willfully, unlawfully and feloniously attack, assault and stab one RONILO CUIZON y MAHUSAY, thereby inflicting multiple injuries upon the body of the latter, which caused the death of said victim.

CRIMINAL CASE NO. 727-A

The undersigned Provincial Prosecutor accuses CESARIO OSIANAS y LAREDO alias "EGOY", RODRIGO CUMAWAS y CASTILLO alias "DIGO", VICENTE CUMAWAS y CASTILLO alias "ENTENG", JULIETO CUMAWAS y CASTILLO alias "JUDY", FORTUNATO CUMAWAS y CASTILLO alias "BUGOY", MARIO PALABRICA y BULOY, VICTOR CANOY y LUMACANG, JOSE VILLARIN y MANILINGAN alias "OWA", PATRICIO BAYSON y FABRICANTE alias "PAT", PABLITO LARIOSA y YUNTING alias "PABLING", ROSALIO BULADO y LARIOSA alias "MEMI" and DIOSDADO LARIOSA y BULADO alias "KOING" of the crime of Murder, committed as follows:

That on or about the 20[th] day of October, 1989, in the Municipality of Hinoba-an, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with assorted firearms of unknown calibers and bladed weapons, conspiring, confederating and mutually helping one another, with evident premeditation and treachery, taking advantage of their superior strength, and with intent to kill, did then and there, willfully, unlawfully and feloniously attack, assault and stab one REYMUNDO CUIZON y MAHUSAY, thereby inflicting multiple injuries upon the body of the latter, which caused the death of said victim.

CRIMINAL CASE NO. 727-B

The undersigned Provincial Prosecutor accuses CESARIO OSIANAS y LAREDO alias "EGOY", RODRIGO CUMAWAS y CASTILLO alias "DIGO", VICENTE CUMAWAS y CASTILLO alias "ENTENG", JULIETO CUMAWAS y CASTILLO alias "JUDY", FORTUNATO CUMAWAS y CASTILLO alias "BUGOY", MARIO PALABRICA y BULOY, VICTOR CANOY y LUMACANG, JOSE VILLARIN y MANILINGAN alias "OWA", PATRICIO BAYSON y FABRICANTE alias "PAT", PABLITO LARIOSA y YUNTING alias "PABLING", ROSALIO BULADO y LARIOSA alias "MEMI" and DIOSDADO LARIOSA y BULADO alias "KOING" of the crime of Murder, committed as follows:

That on or about the 20[th] day of October, 1989, in the Municipality of Hinoba-an, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, armed with assorted firearms of unknown calibers and bladed weapons, conspiring, confederating and mutually helping one another, with evident premeditation and treachery, taking advantage of their superior strength, and with intent to kill, did then and there, willfully, unlawfully and feloniously attack, assault and stab one JOSE CUIZON y MAHUSAY, thereby inflicting multiple injuries upon the body of the latter, which caused the death of said victim.[2]

On 8 November 1990, accused Vicente Cumawas, Julieto Cumawas, Mario Palabrica, Victor Canoy, Patricio Bayson and Rosalio Bulado pleaded not guilty. On 10 December 1990, accused Cesario Osianan, Fortunato Cumawas, Jose Villarin, Pablito Lariosa and Diosdado Lariosa also pleaded not guilty. Finally, on 15 January 1991, accused Rodrigo Cumawas likewise pleaded not guilty.

On 11 June 1991, the Assistant Provincial Prosecutor filed a Motion to Dismiss the Information against Rosalio Bulado on the ground that said accused died on 23 May 1991.

On 30 April 1993, Rodrigo Cumawas, Julieto Cumawas, Victor Canoy, Patricio Bayson and Diosdado Lariosa withdrew their plea of not guilty and entered a plea of guilty. They were sentenced to suffer an indeterminate penalty of six years, one month and ten days of prision correccional as minimum to twelve years, five months and ten days of reclusion temporal as maximum. Trial against the remaining accused ensued.

On 25 May 1994, the trial court dismissed the case against Fortunato Cumawas who died on 16 August 1991.

PROSECUTION'S VERSION OF THE FACTS

On 20 October 1989, at around 6:00 p.m., in Sitio Calapayan, Barangay San Rafael, Hinoba-an, Negros Occidental, Jose Cuizon, his son Ronilo Cuizon, and his brother Raymundo Cuizon were sleeping in the house of Jose's daughter, Teresita Cuizon-Cuerpo, who was also asleep with her two children. Suddenly, there was a loud knocking on the door and shouts calling for Jose to rise and come out. When asked, the persons knocking at the door said they were members of the New People's Army (NPA) and that they will burn the house down if the door was not opened. Jose opened the door. Teresita then saw accused-appellants, together with the other seven accused who were all armed with improvised shotguns, short firearms, knives, and double-bladed weapons. They barged in, hog-tied the hands of Jose, Ronilo and Raymundo and brought them out of the house allegedly for

questioning.

In the meantime, Dionisio Palmero was in his house. He was alarmed by the incessant barking of dogs. When he looked out of the window, he saw Jose, Ronilo and Raymundo, with their hands bound behind their backs, in the company of twelve persons, among whom were the accused-appellants.

At around 2:00 p.m. of the next day, 21 October 1989, the dead bodies of Jose, Ronilo and Raymundo were found in Sitio Sangke, Talacagay, around two kilometers away from Barangay Hinoba-an. Ronilo's body lay face down on the ground covered with leaves, with his hands still tied with rope. Jose's corpse lay on its back with the hands still tied behind the body with a belt. Raymundo was found near the river with his hands also tied, with a piece of red cloth.

DEFENSE'S VERSION OF THE FACTS

Accused-appellant Cesario Osianas testified that at 10:00 p.m. on the night of the incident, 20 October 1989, he was asleep inside his house in Sitio Tayoman with his wife and children. Being exhausted from work, he did not know what happened to the Cuizons whom he knew, for his house was within the same barangay as theirs. He was suspected of involvement in the commission of the crime, because Ronilo Cuizon had killed his son sometime in 1984.[3]

Rogelio Dince testified that Cesario Osianas was in his (Rogelio's) house at around 9:00 p.m. on 20 October 1989, and left only when the latter's wife called him at daybreak.[4]

Accused-appellant Vicente Cumawas testified that on 18 October 1989, he was harvesting palay owned by a certain Gerry with co-accused-appellants Mario Palabrica, Jose Villarin and Pablito Lariosa. They threshed the palay on 20 October 1989 and had no chance to leave their work from 8:00 a.m. of that day until dawn of 21 October 1989.

RULINGS BY THE RTC AND THE COURT OF APPEALS

On 26 October 1995, the trial court convicted the herein accused-appellants, Cesario Osianas, Pablito Lariosa, Joel Villarin, Mario Palabrica and Vicente Cumawas of the crime of murder, to wit:

WHEREFORE, the accused CESARIO OSIANAS, PABLITO LARIOSA, JOEL VILLARIN, MARIO PALABRICA and VICENTE CUMAWAS are found guilty beyond reasonable doubt of the crime of murder and are each sentenced to suffer the penalty of RECLUSION PERPETUA in Criminal Case No. 727, RECLUSION PERPETUA in Criminal Case No. 727-A, and RECLUSION PERPETUA in Criminal Case No. 727-B; to indemnify the heirs of the victims in each case the sum of Fifty Thousand (P50,000.00) Pesos without subsidiary imprisonment in case of insolvency and to pay the costs of this suit.[5]

The accused-appellants appealed to this Court. On 13 September 2004, however, we transferred[6] the appeal to the Court of Appeals in conformity with our decision in *People v. Mateo*.^[7] The appeal was docketed as CA-G.R. CR HC No. 00511.

On 13 November 2007, the Court of Appeals promulgated its Decision affirming the Decision of the RTC. The Court of Appeals disposed of the case as follows:

WHEREFORE, premises considered, the Decision dated October 26, 1995 of the Regional Trial Court ("RTC"), 6th Judicial Region, Branch 61, in Kabankalan, Negros Occidental, in Criminal Case Nos. 727, 727-A and 727-B, entitled "*People of the Philippines vs. Cesario Osianas y Laredo alias 'Egoy', et. al.*", is **AFFIRMED** with modification in that appellants are ordered to pay the heirs of each of the victims the amount of P50,000.00 as moral damages.[8]

On 6 December 2007, accused-appellants filed a Notice of Appeal with the Court of Appeals.

THIS COURT'S RULING

Identification of the Assailants

Accused-appellants argue that since Teresita Cuerpo had not seen the killing of the victims, it was an error for the lower courts to rule that she had positively identified the accused-appellants as the perpetrators of the crime. Such conclusion, according to the accused-appellants, was based on surmises, speculations and conjectures.[9]

Accused-appellants likewise point out that Dionisio Palmero merely testified that he saw the victims passing with the accused-appellants near his (Dionisio's) house. He did not see the killing, either.

While accused-appellants are correct that there was no direct evidence that they killed the victims, circumstantial evidence can always be resorted to. Hence, we have consistently held that:

Direct evidence of the commission of a crime is not the only matrix wherefrom a trial court may draw its conclusion and finding of guilt. The prosecution is not always tasked to present direct evidence to sustain a judgment of conviction; the absence of direct evidence does not necessarily absolve an accused from any criminal liability. Even in the absence of direct evidence, conviction can be had on the basis of circumstantial evidence, provided that the established circumstances constitute an unbroken chain which leads one to one fair and reasonable conclusion which points to the accused, to the exclusion of all others, as the guilty person, i.e., the circumstances proved must be consistent with each other, consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with any other hypothesis except that of guilty.[10] (Emphasis supplied.)

Circumstantial evidence is defined as that which indirectly proves a fact in issue through an inference which the fact-finder draws from the evidence established. Such evidence is founded on experience and observed facts and coincidences establishing a connection between the known and proven facts and the facts sought to be proved.[11] Section 4, Rule 133 of the Rules of Court provides that circumstantial evidence is sufficient for conviction if the following requisites are complied with:

- (1) there is more than one circumstance;
- (2) the facts from where the inferences are derived are proven; and
- (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

A review of what has been and has not been proven in the case at bar reminds us of *People v. Bionat*.^[12] In said case, the Court held that the following proven facts constitute circumstantial evidence sufficient to prove the guilt of the accused therein beyond reasonable doubt:

- Accused was positively identified by both Myrna and Joseph Romay, the wife and son of the victim, as one of the five armed men who called on their home and invited her husband to come down as their commander was waiting for him downstairs.
- Her husband was tied-up upon going downstairs.
- Accused was pinpointed by Myrna Romay as the one who pointed a gun at her and told her to go upstairs and not cry or shout or else her family would be killed as his other companions searched the house for guns prior to taking her husband away.
- The five men, one of whom was the accused, brought the victim out of the house. That was the last time Myrna and her family saw the victim alive.

- Ernesto Romay was found dead the next day, 50 meters from the road and 20 meters from his house, bearing stab wounds on different part of his body.

In the case at bar, accused-appellants were identified by Teresita as the persons with various firearms and weapons who tied the victims and took the victims away, allegedly to ask them questions. Accused-appellants were seen by yet another witness, Dionisio Palmero, walking with the victims, who were still hog-tied, on the night prior to the discovery of their dead bodies.[13] Finally, the victims were found dead the following day, still hog-tied.

Accused-appellants, however, counter that the identification of the accused-appellants by Teresita and Dionisio was shaky. Accused-appellants underscore the portion of Teresita Cuerpo's testimony wherein she admitted that there was no electricity in their house at the time the victims were taken away. Accused-appellants quote Teresita's testimony, as follows:

Q

Am I correct to say that in your barangay there is no electricity?

A

Not yet.

Q

And you will agree with me that at 10:00 P.M. especially when you put up the light, it is dark?

A

Yes, sir.

x x x x

Q

And there was no light in your house during that time?

A

No light, sir.

Q

So how did you see that Ronillo wanted to jump through the window when there was no light in your house?

A

Because only two of us were left.

Q

But there was no light inside?

A

There was no light.[14]

Accused-appellants also draw attention to Teresita's admission that she had not seen the accused-appellants clearly:

Q

But actually, you had not seen them clearly?

A

Yes, sir.[15]

Dionisio's testimony allegedly shows the same "defect":

Q

During that time, at 10:00 o'clock in the evening on October 20, 1989, is it not a fact that your house was already dark because you were preparing to sleep?

A

Yes, sir.

Q

And there was electric light around Sangke?

A

No, sir.

Q

And the street along the way from your house to the house of Teresita Cuerpo was not lighted with lamp?

A

No, sir.

Q

And it is very dark during that evening?

A

At that time the moon was on its rising position and its light reflected on those persons.

Q

And you will agree with me that during the rising of the moon, its light was not so bright?

A

Yes, sir.[16]

According to accused-appellants, all these admissions create reasonable doubt as to the identification of the accused-appellants.

We are not convinced. As found by the trial court, Teresita was familiar not only with the appearances, but also with the voices of the accused-appellants, since she had known them and was familiar with them since her childhood days. Teresita maintained this fact even through her cross-examination, when she testified:

Q

You said that you all know the accused from your childhood up to the time of the incident, is that correct?

A

Yes, sir.

Q

And you often see them in that place?

A

Yes, sir.

Q

And you also conversed with him?

A

Yes, sir.

Q

And they also visit your house?

A

Yes, sir.

Q

In other words, you know them for quite a time and you can recognize their voice?

A

Yes, sir.

Q

Now, when private prosecutor asked you to identify each accused, you were able to identify them because you know them from the past?

A

Yes, sir.

Q

Now, when you were able to hear the voice in the evening of October 20, 1989 calling for your father "Tay, bangon", were you able to recognize the voice?

A

Yes, sir. Vicente Cumawas.

x x x x

Q

In other words, when there's no light, you could not identify who were you talking to because it is dark?

A

From their voice and the way they appear and their figures I can identify them already.[17]

The same is true as regards Dionisio's testimony. Dionisio thus testified in the following manner when asked during cross-examination:

ATTY. DITCHING -

Q

By the way, Mr. Palmero, you said you have known these persons mentioned a while ago - for how long have you known these persons?

WITNESS -

A:

I have known these persons since our childhood days because we were neighbors.

ATTY. DITCHING -

Q

And because of that you can definitely be sure that you know them?

A

Yes, sir.[18]

This Court has held that once a person has gained familiarity with another, identification becomes quite an easy task.[19] This Court has also ruled that identification by the sound of a person's voice,[20] as well as the physical build of such person,[21] is a sufficient and acceptable means of identification, when it is established that the witness and the accused had known each other personally and closely for a number of years.

In the case at bar, witnesses Teresita and Dionisio had known the accused-appellants since childhood. Identifying them, even considering the relative darkness of the place, would have surely been effortless on their part. Neither do we see any ill motive on the part of these witnesses which could have caused them to testify falsely against accused-appellants. As regards Teresita, moreover, it would also be unnatural for her, being interested in vindicating the crime against her father, brother and uncle, to prosecute persons other than the real culprits.[22]

Accused-appellants' defense of alibi is furthermore unconvincing. Alibi is the plea of having been elsewhere than at the scene of the crime at the time of the commission of the felony. Aside from the inherent weakness of alibi in the face of positive identification of the accused, the lack of corroboration and inconsistency in the defense witnesses' statements buries the version of the defense even more. Accused-appellant Osianas did not present any member of his family to confirm his presence in his house at the time of the incident. Accused-appellant Vicente Cumawas's testimony that he and co-accused-appellants Mario Palabrica, Jose Villarin and Pablito Lariosa were threshing palay on 20 October 1989 is self-serving and deserves no probative value. No corroborative evidence was presented to back up Cumawas's statements. There is also the glaring inconsistency between the testimonies of Rogelio Dince and accused-appellant Osianas. Osianas claims that he was at home sleeping in the evening of 20 October 1989. Rogelio Dince, on the other hand, testified that in that same evening, accused-appellant Osianas was at his (Rogelio's) house and left only at dawn.

Besides, the above testimonies do not even show that it was physically impossible for the accused-appellants to

have been at the scene of the crime at the time when it occurred. As held by the trial court, accused-appellants Osianas and Cumawas declared they were in a place situated within the barangay where the incident took place. Accused-appellant Osianas claims to have been asleep, while accused-appellant Cumawas claims to have been threshing palay with the other accused-appellants at the time of the incident. To be valid for purposes of exoneration from a criminal charge, the defense of alibi must be such that it would have been physically impossible for the person charged with the crime to be at the locus criminis at the time of its commission, the reason being that no person can be in two places at the same time. The excuse must be so airtight that it would admit of no exception. Where there is the least possibility of accused's presence at the crime scene, the alibi will not hold water.[23]

It is well-entrenched that the findings of the trial court on the credibility of witness deserve great weight, given the clear advantage of a trial judge in the appreciation of testimonial evidence. We have recognized that the trial court is in the best position to assess the credibility of witnesses and their testimonies because of its unique opportunity to observe the witnesses first-hand; and to note their demeanor, conduct and attitude under grueling examination. These are significant factors in evaluating the sincerity of witnesses, in the process of unearthing the truth.[24] The rule finds an even more stringent application where the said findings are sustained by the Court of Appeals.[25] Thus, except for compelling reasons, we are doctrinally bound by the trial court's assessment of the credibility of witnesses.[26] In this case, there was no cogent reason to deviate from the findings of both lower courts.

Qualifying Circumstances

The circumstances alleged in the Informations to qualify the killing to murder are evident premeditation, treachery, and taking advantage of their superior strength. The only qualifying circumstance discussed by the trial court is that of treachery:

There is no question that the victims' bodies, when found, had still their hands tied, with Reymundo Cuizon having three (3) wounds and a hematoma at the right side of his body (Exhibits "A" to "A-3"); with five (5) stab and hack wounds on Ronilo Cuizon (Exhibits "B" to "B-3"), and four (4) stab wounds on Jose Cuizon (Exhibits "C" to "C-5").

This situation of the victims when found shows without doubt that they were killed when they were tied, so that, the qualifying aggravating circumstance of treachery was present.[27]

Treachery is defined in Article 14, No. 16 of the Revised Penal Code:

There is treachery when the offender commits any of the crimes against the person, employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might make.

We agree with the trial court. While we are aware of doctrinal pronouncements of this Court that the manner of attack must be proven in order to appreciate treachery,[28] such is only applicable when it is the suddenness and the unexpectedness of the attack which were considered as the means used by the assailant to insure its execution, without risk to assailant arising from the defense which the offended party might make. In the case at bar, the means used by the accused-appellants to insure the execution of the killing of the victims so as to afford the victims no opportunity to defend themselves was the act of tying the hands of the victims. Teresita saw the accused-appellants hog-tie the victims and take them away with them. Later that night, Dionisio Palmero saw the victims, still hog-tied, walking with the accused-appellants. The following day, the victims were found dead, still hog-tied. Thus, no matter how the stab and hack wounds had been inflicted on the victims in the case at bar, we are sure beyond a reasonable doubt that Jose, Ronilo and Reymundo Cuizon had no opportunity to defend

themselves because the accused-appellants had earlier tied their hands. The fact that there were twelve persons who took and killed the Cuizons further assured the attainment of accused-appellants' plans without risk to themselves.

The other qualifying circumstances alleged in the Information, evident premeditation and abuse of superior strength, cannot be appreciated in the case at bar.

The following elements must be established in order that evident premeditation may be appreciated: (1) the time when the accused decided to commit the crime; (2) an overt act manifestly indicating that he has clung to his determination; and (3) sufficient lapse of time between decision and execution to allow the accused to reflect upon the consequences of his act.[29] The essence of premeditation is that the execution of the criminal act was preceded by cool thought and reflection upon the resolution to carry out the criminal intent during a space of time sufficient to arrive at a calm judgment.[30] Like any other circumstance that qualifies a killing as murder, evident premeditation must be established by clear and positive proof; that is, by proof beyond reasonable doubt.[31] In this case at bar, the record is bereft of any evidence to show evident premeditation. It was not shown that the accused-appellants meditated and reflected upon their decision to kill the victim. We have held that the premeditation to kill must be plain, notorious and sufficiently proven by evidence of outward acts showing the intent to kill.[32]

As regards the qualifying circumstance of abuse of superior strength, this Court has held that such is already absorbed in treachery,[33] and therefore cannot be separately considered.

Conspiracy

Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.[34] The agreement may be deduced from the manner in which the offense was committed; or from the acts of the accused before, during and after the commission of the crime indubitably pointing to and indicating a joint purpose, a concert of action and a community of interest. It is not essential that there be proof of the previous agreement to commit the crime. It is sufficient that the form and manner in which the attack was accomplished clearly indicate unity of action and purpose.[35]

As found by the trial court, the facts of the case at bar clearly show that the accused-appellants conspired in the commission of the crime. Their gathering together at the house of Teresita, armed with different kinds of weapons; the tying of the victims by some of the accused in the presence of the others; and their leaving the place together, bringing with them the victims, clearly show the agreement among the accused-appellants to commit the crime.

Conspiracy having been established in the case at bar, the act of one is considered the act of all, and all accused-appellants should therefore be held guilty of three counts of murder.

Civil Liability

When death occurs due to a crime, the following damages may be recovered: (1) civil indemnity ex delicto for the death of the victim; (2) actual or compensatory damages; (3) moral damages; (4) exemplary damages; (5) attorney's fees and expenses of litigation; and (6) interest, in proper cases.[36]

Civil indemnity is mandatory and granted to the heirs of the victims without need of proof other than the commission of the crime.[37] We affirm the award of civil indemnity given by the trial court and the Court of Appeals. Under prevailing jurisprudence,[38] the award of P50,000.00 to the heirs of each of the victims as civil indemnity is proper.

Moral damages are also mandatory in cases of murder and homicide, without need of allegation and proof other than the death of the victim.[39] The award by the Court of Appeals of P50,000.00 is therefore proper.

As to actual damages, the heirs of the victims are not entitled thereto, because said damages were not duly proved with reasonable degree of certainty.[40] Similarly, the heirs of the victims are not entitled to exemplary damages. Exemplary damages may be imposed when the crime was committed with one or more aggravating circumstances.[41] In the instant case, treachery may no longer be considered as an aggravating circumstance since it was already taken as a qualifying circumstance in the murder.

The award of P25,000.00 as temperate damages in homicide or murder cases is proper when no evidence of burial and funeral expenses is presented in the trial court.[42] Under Article 2224 of the Civil Code, temperate damages may be recovered, because the heirs of the victims suffered pecuniary loss although the exact amount was not proved.[43] Thus, this Court awards P25,000.00 as temperate damages to the heirs of the deceased victims.

WHEREFORE, the Decision of the Court of Appeals in CA-G.R. CR HC No. 00511 dated 13 November 2007, which affirmed with modification the Decision of the Regional Trial Court of Kabankalan, Negros Occidental, in Criminal Cases No. 727, No. 727-A and No. 727-B, is hereby **AFFIRMED**, with the **MODIFICATION** that accused-appellants are further ordered to pay the heirs of each of the victims the amount of P25,000.00 as temperate damages.No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Nachura, and Reyes, JJ., concur.

[1] Penned by Associate Justice Antonio L. Villamor with Associate Justices Stephen C. Cruz and Amy C. Lazaro-Javier concurring; Rollo, pp. 5-22.

[2] Rollo, pp. 6-8.

[3]TSN, 6 December 1994, pp. 4-6.

[4] TSN, 6 July 1995, pp. 6-7.

[5] CA rollo, p. 37.

[6] Id. at 209.

[7] G.R. No. 147678-87, 7 July 2004, 433 SCRA 640.

[8] Rollo, p. 21.

[9] Appellants' Brief, CA rollo, p. 139.

[10] People v. Gallarde, 382 Phil. 718, 733 (2000), citing ; People v. Lopez, 371 Phil. 852, 859-860 (1999); People v. Danao, 323 Phil. 178, 184-185 (1996); People v. Alvero, Jr., G.R. No. 72319, 30 June 1993, 224 SCRA 16, 27; People v. Garcia, G.R. No. 94187, 4 November 1992, 215 SCRA 349, 360; People v. Tiozon, G.R. No. 89823, 19 June 1991, 198 SCRA 368, 380.

[11] People v. Pascual, Jr., 432 Phil. 224, 231 (2002), citing People v. Mansueto, 391 Phil. 611, 628-629 (2000); People v. Fabon, 384 Phil. 860, 875 (2000); People v. Rondero, 378 Phil. 123, 137 (1999); People v. Raganas, 374 Phil. 810, 822 (1999); People v. Caparas, Jr., 352 Phil. 686, 698 (1998).

[12] 343 Phil. 981 (1997).

- [13] TSN, 30 October 1991, p. 7.
- [14] TSN, 14 August 1991, pp. 16-20.
- [15] Id.
- [16] TSN, 30 October 1991, pp. 19-20.
- [17] TSN, 14 August 1991, pp. 17-20
- [18] TSN, 30 October 1991, pp. 23-24.
- [19] *People v. Cañete*, 448 Phil. 127, 142 (2003); *People v. Delgado*, 351 Phil. 451, 463 (1998); *People v. Castillo*, 330 Phil. 205, 213-214 (1996).
- [20] *People v. Prieto*, 454 Phil. 389, 401 (2003); *People v. Reynaldo*, 353 Phil. 883, 893 (1998);
- [21] *People v. Cañete*, supra note 19.
- [22] *People v. Viente*, G.R. No. 103299, 17 August, 1993, 225 SCRA 361, 368-369.
- [23] *People v. Bracamonte*, 327 Phil. 160, 162 (1996).
- [24] *People v. Benito*, 363 Phil. 90, 97-98 (1999).
- [25] *People v. Cabugatan*, G.R. No. 172019, 12 February 2007, 515 SCRA 537, 547.
- [26] *People v. Benito*, 363 Phil. 90, 97-98 (1999).
- [27] CA rollo, p. 37.
- [28] *People v. Samudio*, 406 Phil. 318, 329 (2001).
- [29] *People v. PO3 Tan*, 411 Phil. 813, 836-837 (2001).
- [30] *People v. Rivera*, 458 Phil. 856, 879 (2003).
- [31] *People v. Manes*, 362 Phil. 569, 579 (1999).
- [32] *People v. Tan*, 373 Phil. 190, 200 (1999); *People v. Mahinay*, 364 Phil. 423, 436 (1999); *People v. Chua*, 357 Phil. 907, 921 (1998).
- [33] *People v. Villanueva*, G.R. No. 98468, 17 August 1993, 225 SCRA 353, 360; *People v. Borja*, 180 Phil. 280 (1979); *People v. Pasilan*, 122 Phil. 46 (1965); *People v. Escalona*, 111 Phil. 502 (1961).
- [34] Revised Penal Code, Article 8.
- [35] *People v. Fuertes*, 383 Phil. 277, 307 (2000).
- [36] *Nueva España v. People*, G.R. No. 163351, June 21, 2005, 547 SCRA 555.
- [37] *People v. Tubongbanua*, G.R. No. 171271, 31 August 2006, 500 SCRA 727, 742.
- [38] *People v. Pascual*, G.R. No. 173309, 23 January 2007, 512 SCRA 385, 400; *People v. Cabinan*, G.R. No. 176158, 27 March 2007, 519 SCRA 133, 141.
- [39] *People v. Bajar*, 460 Phil. 683, 700 (2003).
- [40] *People v. Tubongbanua*, supra note 37.

[41] Civil Code, Article 2230.

[42] *People v. Dacillo*, G.R. No. 149368, 14 April 2004, 427 SCRA 528, 538.

[43] *People v. Surongon*, G.R. No. 173478, 12 July 2007, 527 SCRA 577, 588.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.