

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSEPH ASILAN Y TABORNAL, ACCUSED-APPELLANT.

G.R. No. 188322. April 11, 2012

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

This is an appeal filed by the accused-appellant Joseph Asilan y Tabornal (Asilan) to challenge the February 25, 2009 Decision[1] of the Court of Appeals in CA-G.R. CR.-H.C. No. 02686, which affirmed in toto his Murder conviction, rendered by the Regional Trial Court (RTC), Branch 20 of the City of Manila on January 8, 2007, in Criminal Case No. 06-243060.

On March 31, 2006, Asilan was charged with the complex crime of Direct Assault with Murder in an Information,[2] the pertinent portion of which reads:

That on or about March 27, 2006, in the City of Manila, Philippines, the said accused, conspiring, and confederating with another whose true name, real identity and present whereabouts are still unknown and mutually helping each other, did then and there willfully, unlawfully, and feloniously attack, assault and use personal violence upon the person of PO1 RANDY ADOVAS y PE-CAAT, a member of the Philippine National Police assigned at Camp Bagong Diwa, Bicutan, Taguig, MM, duly qualified, appointed, and acting as such, and therefore an agent of a person in authority, which fact was known to the said accused, while PO1 RANDY ADOVAS y PE-CAAT was in the performance of his official duty, that is, while handcuffing the at-large co-conspirator for illegal possession of deadly weapon, herein accused suddenly appeared and with intent to kill, treachery and evident premeditation, attack, assault, and use personal violence upon said police officer by then and there repeatedly stabbing the latter with a fan knife then grabbing his service firearm and shooting him, thereby inflicting upon the said PO1 RANDY ADOVAS y PE-CAAT mortal stab and gunshot wounds which were the direct and immediate cause of his death thereafter.

Asilan pleaded not guilty upon his arraignment[3] on April 10, 2006. Pre-Trial Conference followed on April 26, 2006, where the counsels agreed to stipulate that Asilan, who was at that time present in the RTC, was the same Asilan named in the Information, and that the victim, Police Officer 1 (PO1) Randy Adovas y Pe-caat (Adovas), was a police officer in active duty at the time of his death.[4] Trial on the merits ensued after the termination of the pre-trial conference.

Below is the prosecution's version, as succinctly summarized by the Office of the Solicitor General (OSG) from the testimony of Joselito Binosa (Binosa)[5]:

In the evening of March 27, 2006, around 10:00 o'clock, Joselito Binosa, a jeepney barker/carwash boy while chatting with his friends at the El Niño Bakery along Teresa Street, Sta. Mesa, Manila, heard a gunshot nearby. He then went to the place where the sound came and from where he was standing which was about three (3) to four (4) meters away, he saw a uniformed policeman, who seemed to be arresting someone and ordering the latter to lay on the ground.

The police officer pushed the man to the wall, poked the gun on him and was about to handcuff the latter when

another man, herein appellant Asilan arrived, drew something from his back and stabbed the police officer on his back several times until the latter fell to the ground.

The man who was being arrested by the police officer held the latter's hand while he was being stabbed repeatedly by [Asilan]. The man who was being arrested then took the officer's gun and shot the latter with it.

The fellow barker of Joselito Binosa then threw stones at the malefactors who subsequently left the place.

Joselito Binosa secretly followed [Asilan] and his companion who walked towards the railroad track taking Teresa St., Sta. Mesa, Manila. [Asilan] entered an alley and thereafter returned to the place of the incident. The other man walked on to the tracks.

At that moment, a policeman passed by and Binosa pointed [Asilan] to him. [Asilan] was arrested and the knife which was used in the

stabbing was confiscated by the policeman.[6] (Citations omitted.)

The above narration of events was largely corroborated by Pol Justine San Diego (San Diego), a student, who also witnessed the events that transpired on March 27, 2006.[7]

The prosecution also submitted as evidence Medico Legal Report No. M-219-06,[8] accomplished and testified to by Dr. Vladimir V. Villaseñor. The pertinent portion of the Medico Legal Report states:

SPECIMEN SUBMITTED:

Cadaver of Randy Pe-caat Adovas, 29 y/o male, married, a policeman, 167 cm in height and a resident of 19 West Bank Road, Floodway, Rosario Pasig City.

PURPOSE OF LABORATORY EXAMINATION:

To determine the cause of death.

FINDINGS:

Body belongs to a fairly nourished, fairly developed male cadaver in rigor mortis with postmortem lividity at the dependent portions of the body. Conjunctivae, lips and nailbeds are pale. With exploratory laparotomy incision at the anterior abdominal wall, measuring 29 cm long, along the anterior midline.

Trunk & Upper Extremity:

- 1) Stab wound, right axillary region, measuring 6 x 4 cm, 16 cm from the anterior midline.
- 2) Stab wound, right hypochondriac region, measuring 2.3 x 0.7 cm, 2cm right of the anterior midline, 9 cm deep, directed posteriorwards, downwards & medialwards, lacerating the right lobe of the liver.

-over-

CONCLUSION:

Cause of death is MULTIPLE STAB WOUNDS & GUNSHOT WOUND OF THE TRUNK AND UPPER EXTREMITIES.

Meanwhile, Asilan, in his Appellants' Brief,[9] summed up his defense as follows:

On March 27, 2006, at around 10:00 o'clock p.m. JOSEPH ASILAN [Asilan] was on board a passenger jeepney on his way to Mandaluyong. As he had to transfer to another jeepney, [Asilan] alighted at Old Sta. Mesa and waited for a jeep bound for Pasig City. Suddenly, three (3) motorcycles stopped in front of him, the passengers of which approached and frisked him. He was thereafter brought to the police station and in a small

room, he was forced to admit to the stabbing of a police officer. Thereafter, he was brought to a nearby hospital and was medically examined. Then he was again taken to the police station where he was confronted with the knife which was allegedly used in stabbing PO1 Adovas. He was mauled for refusing to confess to the stabbing of the said policeman. Afterwards, he was presented to alleged eyewitnesses. However, the supposed eyewitnesses were not the ones presented by the prosecution in court.[10]

The RTC convicted Asilan of Murder in its Decision[11] dated January 8, 2007, the dispositive portion of which reads:

WHEREFORE, premises considered, the Court finds the Prosecution to have failed to establish and prove beyond reasonable doubt the offense of direct assault. Where a complex crime is charged and the evidence fails to support the charge as to one of the component, the accused can be convicted of the other (People v. Roma, 374 SCRA 457).

WHEREFORE, his guilt having been proven beyond reasonable doubt for the crime of murder with the qualifying circumstance of treachery, judgment is hereby rendered finding accused Joseph Asilan y Tabornal GUILTY beyond reasonable doubt of the crime of murder and is hereby imposed the penalty of reclusion perpetua. He is hereby ordered to pay the heirs of PO1 Randy Adovas y Pe-Caat the sum of P84,224.00 as actual damages, P25,000.00 for moral damages and P50,000.00 civil indemnity.[12]

The RTC, in acquitting Asilan of Direct Assault, held that while it was confirmed that Adovas was in his police uniform at the time of his death, the prosecution failed to establish convincingly that he was in the performance of his duty when he was assaulted by Asilan. The RTC explained that there was no evidence to show that Adovas was arresting somebody at the time Asilan stabbed him.[13] The RTC added:

What the framers of the law wanted was to know the reason of the assault upon a person in authority or his agents. The prosecution failed to show why the victim was pushing the man on the wall or why he poked his gun at the latter. That the victim was assaulted while in the performance of his duty or by reason thereof was not conclusively proven.[14]

In convicting Asilan of Murder, the RTC held that his defense of denial could not be “accorded more weight than the categorical assertions of the witnesses who positively identified him as the man who suddenly appeared from behind [Adovas] and stabbed the latter repeatedly.”[15] Moreover, Asilan admitted that he was at the scene of the crime when he was arrested, that he could not give any reason for the witnesses to falsely testify against him, and that he did not know them.

Anent the aggravating circumstances, the RTC found that the killing of Adovas was proven to be attended with treachery since Adovas was attacked from behind, depriving him of the opportunity to defend himself.[16] However, the RTC declared that the aggravating circumstance of evident premeditation “could not be appreciated x x x absent evidence that [Asilan] planned or prepared to kill [Adovas] or of the time when the plot was conceived.”[17]

As to the damages, the RTC found the prosecution’s evidence, which consisted of Adovas’s wife’s testimony, and the receipts of the expenses she incurred in Adovas’s hospitalization, wake, and burial, sufficient to award moral and actual damages.

On January 19, 2007, Asilan appealed[18] his conviction to the Court of Appeals, mainly on the ground that the prosecution failed to prove his guilt beyond reasonable doubt. He subsequently filed a Motion to Litigate as a Pauper, [19] which on February 28, 2007, was granted in an Order[20] by the RTC.

On February 25, 2009, the Court of Appeals rendered its Decision, affirming in toto the RTC’s ruling.

WHEREFORE, premises considered, the assailed Decision dated 08 January 2007 of the Court a quo in Criminal Case No. 06-243060, finding Accused-Appellant JOSEPH ASILAN Y TABORNAL guilty beyond reasonable doubt of Murder, is hereby AFFIRMED in toto.[21]

The Court of Appeals rejected Asilan's arguments and averred that his denial and bare attempt at exculpation by trying to destroy the credibility of the candid, categorical, and trustworthy testimonies of the witnesses must fail.

Aggrieved, Asilan is now appealing[22] his case to this Court, with the same assignment of errors he posited before the Court of Appeals:

ASSIGNMENT OF ERRORS

I

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE OFFENSE CHARGED BY RELYING ON THE INCONSISTENT AND UNNATURAL TESTIMONY OF THE ALLEGED EYEWITNESS.

II

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

III

THE TRIAL COURT GRAVELY ERRED IN APPRECIATING THE QUALIFYING CIRCUMSTANCE OF TREACHERY.[23]

Discussion

Asilan was convicted of the crime of Murder under Article 248 of the Revised Penal Code:

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.

Asilan claims that the testimonies of the witnesses were not only filled with inconsistencies, they were also incredible for being contrary to the common experience and observation that mankind can approve as probable under the circumstance.[24]

Asilan insists that the testimony of Binosa should not be given credence as he was selective in his recollection of the events. Asilan claimed that Binosa seemed to have recalled more details on cross-examination, thus “improving” on the version he gave during his direct examination. Asilan further claims that Binosa’s suggestion that Asilan returned to the scene of the crime after he committed the alleged crime is very unlikely. Asilan avers that San Diego’s testimony was likewise not credible as it was clearly only a more refined version of Binosa’s account of the events. Moreover, Asilan says that San Diego’s testimony is too good to be true as he is unlikely to have a detailed recollection of an event, which according to him happened within a span of two minutes.[25]

Credibility of Witnesses

It is a well-settled rule that the assessment of the trial court regarding the credibility of witnesses will generally not be disturbed on appeal. The rationale for this doctrine is that the trial court is in a better position to decide the issue, as it heard the witnesses themselves and observed their deportment and manner of testifying during the trial.[26] The only exceptions to this rule are the following:

- When patent inconsistencies in the statements of witnesses are ignored by the trial court; or
- When the conclusions arrived at are clearly unsupported by the evidence.[27]

This Court sees no reason to apply the above exceptions and disturb the findings of the RTC, which were affirmed by the Court of Appeals.

Our perusal of the records showed that the RTC was vigilant in its duty to ascertain the truth. The RTC itself propounded clarificatory questions to Binosa and San Diego while they were testifying. At the end of the trial, the RTC found these witnesses credible, and believed their eyewitness accounts because they were categorical in their identification of Asilan as one of Adovas’s assailants. The RTC also pointed out that it could not find any dubious reason for Binosa and San Diego to falsely implicate Asilan in a heinous crime.[28]

Alleged Inconsistencies

The alleged inconsistency in Binosa’s testimony does not render his testimony fictitious. The fact that he was able to provide more details of the events only during cross-examination is not unusual, and on the contrary tends to buttress, rather than weaken, his credibility, since it shows that he was neither coached nor were his answers contrived.[29] After all, “[w]itnesses are not expected to remember every single detail of an incident with perfect or total recall.”[30]

As for San Diego’s testimony, it is not unnatural for him to have a detailed recollection of the incident. “Different persons have different reactions to similar situations. There is no typical reaction to a sudden occurrence.”[31] It is worthy to note that San Diego was only sixteen years old when he witnessed the stabbing of Adovas. It was his first time to witness a person being stabbed right before his very eyes. He testified that three months after that night, the events were still vividly imprinted in his mind.[32] It is thus not improbable that he could, with certainty, identify Asilan as the man who stabbed Adovas that fateful night.

Likewise, our scrutiny of the so-called inconsistencies relied upon by Asilan showed that they only referred to minor details, which did not affect the credibility of the prosecution witnesses.[33] In *People v. Albarido*,[34] this Court said:

It is elementary in the rule of evidence that inconsistencies in the testimonies of prosecution witnesses with respect to minor details and collateral matters do not affect the substance of their declaration nor the veracity or weight of their testimony. In fact, these minor inconsistencies enhance the credibility of the witnesses, for they remove any suspicion that their testimonies were contrived or rehearsed. In *People vs. Maglente*, this Court

ruled that inconsistencies in details which are irrelevant to the elements of the crime are not grounds for acquittal. x x x.[35]

Credibility of the evidence

Asilan further asseverates that it is perplexing how none of the witnesses, who were present during the incident, warned Adovas of the impending danger to his life. He contends that “for evidence to be believed, it must not only proceed from the mouth of a credible witness, but must be credible in itself such as the common experience and observation of mankind can approve as probable under the circumstance.”[36]

This Court would like to reiterate that no standard form of behavior is expected of an individual who witnesses something shocking or gruesome like murder. This is especially true when the assailant is near. It is not unusual that some people would feel reluctant in getting involved in a criminal incident.[37]

In the same manner, it is also not surprising that Asilan returned to the scene of the crime after stabbing Adovas. His “failure to flee and the apparent normalcy of his behavior subsequent to the commission of the crime do not imply his innocence.”[38] This Court, elucidating on this point, declared:

Flight is indicative of guilt, but its converse is not necessarily true. Culprits behave differently and even erratically in externalizing and manifesting their guilt. Some may escape or flee -- a circumstance strongly illustrative of guilt -- while others may remain in the same vicinity so as to create a semblance of regularity, thereby avoiding suspicion from other members of the community.[39]

Defense of Denial

Unfortunately, Asilan’s bare denial, when juxtaposed with the prosecution witnesses’ positive declarations, is not worthy of credence. Denial, which is the usual refuge of offenders, is an inherently weak defense, and must be buttressed by other persuasive evidence of non-culpability to merit credibility. The defense of denial fails even more when the assailant, as in this case, was positively identified by credible witnesses, against whom no ulterior motive could be ascribed.[40]

Asilan not only admitted that he was at the scene of the crime when he was arrested by the police authorities, he also admitted that he did not know any of the prosecution witnesses prior to his trial. Moreover, he had filed no case against the police officers whom he accused of mauling him to make him admit to the stabbing of Adovas. Asilan’s “self-serving statements deserve no weight in law and cannot be given greater evidentiary value over the testimony of the witnesses who testified on positive points.”[41]

Qualifying Circumstance of Treachery

Asilan pleads that treachery cannot be appreciated in the present case as the prosecution failed to establish that he had consciously or deliberately adopted or chosen the mode of attack employed upon Adovas to deprive him of an opportunity to defend himself or retaliate. Asilan argues that mere suddenness of the attack is not enough to constitute treachery. He further posits that while it may be true that he allegedly came from behind, the “mode of attack could have occurred in a spur of the moment.”[42]

The RTC correctly appreciated the qualifying circumstance of treachery in the killing of Adovas.

The prosecution was able to sufficiently establish the attendance of treachery in the case at bar. “It is basic in our penal law that treachery is present when the offender employs means, methods or forms which tend directly and especially to insure the execution of the crime, without risk to himself arising from the defense which the offended party might make.”[43] In *People v. Tan*,[44] this Court expounded on the concept of treachery as follows:

The essence of treachery is the sudden and unexpected attack, without the slightest provocation on the part of the person attacked. Treachery is present when the offender commits any of the crimes against persons, employing means, methods or forms in the execution thereof, which tend directly and especially to insure its execution, without risk arising from the defense which the offended party might make. In the case at bar, the attack on Magdalino Olos was treacherous, because he was caught off guard and was therefore unable to defend himself, as testified to by the prosecution witnesses and as indicated by the wounds inflicted on him.[45]

Both eyewitnesses testified on how Asilan attacked Adovas from behind. Adovas could not have defended himself because Asilan stabbed him at his back repeatedly sans provocation or warning. The deciding factor is that Asilan's execution of his attack made it impossible for Adovas to defend himself or retaliate.[46]

Sufficiency of the Information

Asilan also claims that his constitutional right to be informed of the nature and cause of accusation against him was infringed when he was convicted for Murder, since the manner by which he carried out the killing with the qualifying circumstance of treachery was not alleged in the Information against him. Thus, he asserts, he was effectively only charged with Homicide.[47]

This Court does not find merit in Asilan's contention that he cannot be convicted of murder because his acts of treachery were not alleged with specificity in the Information. Section 6, Rule 110 of the Rules on Criminal Procedure states:

Sec. 6. Sufficiency of complaint or information. – A complaint or information is sufficient if it states the name of the accused; the designation of the offense by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate time of the commission of the offense; and the place wherein the offense was committed.

When the offense is committed by more than one person, all of them shall be included in the complaint or information.

This Court held that “[u]nder Section 6, the Information is sufficient if it contains the full name of the accused, the designation of the offense given by the statute, the acts or omissions constituting the offense, the name of the offended party, the approximate date, and the place of the offense.”[48] The Information herein complied with these conditions. Contrary to Asilan's contention, the qualifying circumstance of “treachery” was specifically alleged in the Information. “The rule is that qualifying circumstances must be properly pleaded in the Information in order not to violate the accused's constitutional right to be properly informed of the nature and cause of the accusation against him.”[49] Asilan never claimed that he was deprived of his right to be fully apprised of the nature of the charges against him due to the insufficiency of the Information.

This Court completely agrees with the Court of Appeals' pronouncement that “since treachery was correctly alleged in the Information and duly established by the prosecution, x x x [Asilan]'s conviction for the crime of murder is proper.”[50]

In any case, it is now too late for Asilan to assail the sufficiency of the Information on the ground that there was failure to specifically allege therein how treachery was carried out. Section 9, Rule 117 of the Rules of Court provides:

SEC. 9. Failure to move to quash or to allege any ground therefor.- The failure of the accused to assert any ground of a motion to quash before he pleads to the complaint or information, either because he did not file a motion to quash or failed to allege the same in said motion, shall be deemed a waiver of any objections except those based on the grounds provided for in paragraphs (a), (b), (g), and (i) of section 3 of this Rule.

Moreover, in *People v. Candaza*,^[51] this Court held that “[a]n Information which lacks essential allegations may still sustain a conviction when the accused fails to object to its sufficiency during the trial, and the deficiency was cured by competent evidence presented therein.”^[52] In this case, Asilan not only failed to question the sufficiency of the Information at any time during the pendency of his case before the RTC, he also allowed the prosecution to present evidence, proving the elements of treachery in the commission of the offense. Asilan is thus deemed to have waived any objections against the sufficiency of the Information.^[53]

Pursuant to prevailing jurisprudence,^[54] this Court is increasing the award of civil indemnity from Fifty Thousand Pesos (P50,000.00) to Seventy-Five Thousand Pesos (P75,000.00), and the moral damages from Twenty-Five Thousand Pesos (P25,000.00) to Fifty Thousand Pesos (P50,000.00). Moreover, in view of the presence of the qualifying circumstance of treachery, an additional award of Thirty Thousand Pesos (P30,000.00), as exemplary damages, in accordance with Article 2230 of the Civil Code,^[55] should be awarded to the heirs of Adovas.^[56]

As to actual damages, Adovas’s widow, Irene Adovas, presented the receipts showing that she paid P25,224.00 to Our Lady of Lourdes Hospital, Inc., as hospital expenses,^[57] P35,000.00 to Marulas Memorial Homes,^[58] and P20,000.00 to Funeraria Saranay as funeral expenses,^[59] or a total of P80,224.00.

Both the RTC and the Court of Appeals failed to consider that under Article 2206 of the Civil Code, Asilan is also liable for the loss of the earning capacity of Adovas, and such indemnity should be paid to his heirs^[60]:

Art. 2206. The amount of damages for death caused by a crime or quasi-delict shall be at least three thousand pesos, even though there may have been mitigating circumstances. In addition:

(1) The defendant shall be liable for the loss of the earning capacity of the deceased, and the indemnity shall be paid to the heirs of the latter; such indemnity shall in every case be assessed and awarded by the court, unless the deceased on account of permanent physical disability not caused by the defendant, had no earning capacity at the time of his death;

Irene Adovas testified^[61] on the amount her husband received as police officer and presented documentary evidence to show that Adovas, who was only 29 years old when he died, ^[62] earned P8,605.00 a month^[63] at the time of his death.

The following are the factors in computing the amount of damages recoverable for the loss of earning capacity of the deceased:

- 1) The number of years on the basis of which the damages shall be computed. This is based on the formula $(\frac{2}{3} \times 80 - \text{age of the deceased at the time of his death} = \text{life expectancy})$, which is adopted from the American Expectancy Table of Mortality; and
- 2) The rate at which the losses sustained by the heirs of the deceased should be fixed.^[64]

Net income is arrived at by deducting the amount of the victim’s living expenses from the amount of his gross income.^[65] The loss of earning capacity of Asilan is thus computed as follows:

Net Earning Capacity = life expectancy x [gross annual income – living expenses]^[66]
= $\frac{2}{3}$ [80-age at time of death] x [gross annual income – 50% of gross annual income]
= $\frac{2}{3}$ [80-29] x [P103,260.00 – P51,630.00]
= 34 x P51,630.00
= P1,755,420.00

WHEREFORE, the decision dated February 25, 2009 of the Court of Appeals in CA-G.R. CR.-H.C. No. 02686 is hereby AFFIRMED insofar as it found accused-appellant Joseph Asilan y Tabornal guilty beyond reasonable doubt of MURDER and sentenced to suffer the penalty of reclusion perpetua, with MODIFICATION as to the damages. Asilan is hereby ordered to indemnify the heirs of Randy Adovas y Pe-caat the following: (a) P75,000.00 as civil indemnity; (b) P50,000.00 as moral damages; (c) P30,000.00 as exemplary damages; (d) P80,224.00 as actual damages; (e) P1,755,420.00 as loss of earning capacity; and (f) interest on all damages awarded at the rate of 6% per annum from the date of finality of this judgment.

SO ORDERED.

Corona, C.J., (Chairperson), Bersamin, Del Castillo, and Perez,[*] JJ., concur.

[*] Per Raffle dated April 11, 2012.

[1] Rollo, pp. 2-25; penned by Associate Justice Myrna Dimaranan Vidal with Associate Justices Martin S. Villarama, Jr. (now a member of this Court) and Rosalinda Asuncion-Vicente concurring.

[2] Records, p. 1.

[3] Id. at 4.

[4] Id. at 13.

[5] TSN, May 31, 2006, pp. 1-30.

[6] CA rollo, pp. 155-156.

[7] TSN, June 14, 2006, pp. 1-10.

[8] Folder of Exhibits, p. 25.

[9] CA rollo, pp. 92-112.

[10] Id. at 97-98.

[11] Records, pp. 76-95.

[12] Id. at 94-95.

[13] Id. at 91.

[14] Id. at 92.

[15] Id. at 93.

[16] Id. at 92.

[17] Id. at 93.

[18] Id. at 98

[19] Id. at 99-101

[20] Id. at 105.

[21] Rollo, p. 24.

- [22] Id. at 26-27.
- [23] CA rollo, p. 94.
- [24] Id. at 98-105.
- [25] Id. at 104-105.
- [26] *People v. Obosa*, 429 Phil. 522, 532-533 (2002).
- [27] Id. at 533.
- [28] Records, p. 94.
- [29] *People v. Orio*, 386 Phil. 786 (2000).
- [30] Id. at 796.
- [31] *People v. Letigio*, 335 Phil. 693, 705 (1997).
- [32] TSN, June 14, 2006, pp. 1-10.
- [33] *People v. Albarido*, 420 Phil. 235, 244 (2001).
- [34] Id.
- [35] Id. at 244-245.
- [36] CA rollo, p. 105.
- [37] *People v. Aliben*, 446 Phil. 349, 373 (2003).
- [38] *People v. Agunias*, 344 Phil. 467, 481 (1997).
- [39] Id. at 481-482.
- [40] *People v. Barona*, 380 Phil. 204 (2000).
- [41] Id. at 212-213.
- [42] CA rollo, p. 107.
- [43] *People v. Isleta*, 332 Phil. 410, 420 (1996).
- [44] 373 Phil. 990 (1999).
- [45] Id. at 1010.
- [46] *People v. Pidoy*, 453 Phil. 221, 230 (2003).
- [47] CA rollo, p. 108.
- [48] *People v. Lab-Eo*, 424 Phil. 482, 497 (2002).
- [49] Id.
- [50] Rollo, pp. 23-24.
- [51] G.R. No. 170474, June 16, 2006, 491 SCRA 280.
- [52] Id. at 289.

[53] Id.

[54] *People v. Asis*, G.R. No. 177573, July 7, 2010, 624 SCRA 509, 530.

[55] Art. 2230. In criminal offenses, exemplary damages as a part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances. Such damages are separate and distinct from fines and shall be paid to the offended party.

[56] *People v. Asis*, supra note 54 at 531.

[57] Folder of Exhibits, p. 31.

[58] Id. at 32.

[59] Id. at 33.

[60] *People v. Lagat*, G.R. No. 187044, September 14, 2011.

[61] TSN, July 10, 2006, p. 17.

[62] Folder of Exhibits, p. 20.

[63] Id. at 28.

[64] *People v. Lagat*, G.R. No. 187044, September 14, 2011.

[65] Id.

[66] *People v. Verde*, 362 Phil. 305, 321 (1999).

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