

JOAQUIN E. DAVID, PETITIONER, VS. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. Nos. 111168-69. June 17, 1998

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition for review on certiorari of the decision of the Court of Appeals. Petitioner Joaquin E. David was charged, in two separate informations, with homicide and frustrated homicide for the fatal shooting of Noel Nora and the serious wounding of the latter's brother, Narciso Nora, Jr., on March 28, 1981, in Malabon, Metro Manila.

After trial, petitioner was found guilty as charged. The dispositive portion of the decision, dated August 17, 1988, of the Regional Trial Court of Kalookan City reads:[1]

WHEREFORE, the Court finds the accused guilty beyond reasonable doubt of the crime of Homicide under Articles 249 and 64(1) of the Revised Penal Code, and for the crime of Frustrated Homicide under Articles 249 and 50, without any mitigating or aggravating circumstance in both cases, and hereby sentences the accused,

For the crime of Homicide, to suffer an indeterminate sentence of EIGHT (8) YEARS and ONE (1) DAY of prision mayor medium, as minimum, to SIXTEEN (16) YEARS of reclusion temporal medium, as maximum;

For the crime of Frustrated Homicide, to suffer an indeterminate sentence of TWO (2) YEARS and ONE (1) DAY of prision correccional as minimum, to EIGHT (8) YEARS and ONE (1) DAY of prision mayor, as maximum.

And ordering the accused:

- To indemnify the heirs of Noel Nora the sum of -
P30,000.00 for the death of Noel Nora
P37,000.00 for actual damages
P30,000.00 for moral damages
P20,000.00 for and as attorney's fees

or a total sum of P117,000.00;

- Further, to indemnify Narciso Nora the sum of -
P8,728.00 for actual damages
P20,000.00 for moral damages

or a total sum of P28,000.00

SO ORDERED.

On appeal, the Court of Appeals, in its decision[2] rendered on October 29, 1992, modified the sentence after crediting petitioner with the mitigating circumstance of voluntary surrender:[3]

The penalty prescribed by law for homicide is reclusion temporal. Since there is one (1) mitigating and no aggravating circumstance, the penalty should be imposed in the [sic] its minimum period. Applying the Indeterminate Sentence Law, the range of penalty next lower to that prescribed by the Revised Penal Code for the offense is prision mayor. For the crime of Homicide, the penalty is therefore modified to a minimum of 10 years and 1 day of prision mayor to a maximum of 14 years and 8 months of reclusion temporal.

As to the crime of Frustrated Homicide, the same is likewise modified to a minimum of 4 years and 1 day of prision correccional to a maximum of 6 years and 1 day of prision mayor.

WHEREFORE, except for the modifications above indicated, the rest of the appealed judgment is hereby AFFIRMED in all respects.

SO ORDERED.

On July 29, 1992, the appellate court further modified the sentence on petitioner on the ground that the evidence did not show that he had a police record or that he was incorrigible. The dispositive portion of the court's resolution[4] stated:

WHEREFORE, except for the penalties imposed which is hereby modified to read as follows: 1) for the crime of Homicide with one mitigating circumstance - the penalty ranging from six (6) years and one (1) day of prision mayor as minimum and twelve (12) years and one (1) day of reclusion temporal as maximum; and 2) for the crime of frustrated homicide with one mitigating circumstance - six (6) months and one (1) day of prision correccional as minimum to six (6) years and one (1) day of prision mayor as maximum, the motion for reconsideration is DENIED for lack of merit.

SO ORDERED.

Still not satisfied, petitioner brought this appeal from the decision, as modified, of the Court of Appeals. Petitioner contends that[5]-

I.

THE PUBLIC RESPONDENT COURT OF APPEALS GRIEVOUSLY ERRED IN NOT HOLDING THAT THE ELEMENTS OF SELF-DEFENSE HAVE BEEN ESTABLISHED BY PETITIONER BY EVIDENCE WHICH IS CLEAR, SUFFICIENT, SATISFACTORY, CREDIBLE, CONVINCING, COMPETENT AND PERSUASIVE.

II.

THE PUBLIC RESPONDENT COURT OF APPEALS SERIOUSLY ERRED IN FAILING TO CONSIDER THE EXCULPATORY FACTS IN FAVOR OF THE PETITIONER WHICH IF DULY CONSIDERED WOULD HAVE COMPLETELY EXONERATED PETITIONER FROM THE CRIMES CHARGED.

III.

THE PUBLIC RESPONDENT COURT OF APPEALS GRAVELY ERRED IN NOT HOLDING THAT IF THERE WAS NO COMPLETE SELF-DEFENSE, THEN AT THE VERY LEAST THERE IS IN THIS CASE AN INCOMPLETE SELF-DEFENSE. STILL, IF PETITIONER'S DEFENSE IS DISBELIEVED, OTHER MITIGATING CIRCUMSTANCES SHOULD BE APPRECIATED IN PETITIONER'S FAVOR.

IV.

THE DECISION OF THE PUBLIC RESPONDENT COURT OF APPEALS IS NOT IN ACCORDANCE WITH THE CONSTITUTIONAL PRESUMPTION OF INNOCENCE.

The prosecution evidence in this case is as follows:

On March 28, 1981, at about 10:00 p.m., while the Nora brothers Arturo, Arnel, Noel and Narciso were walking along Florida Street in Malabon, Metro Manila on their way home to Capitan Tiago Street, they saw petitioner near the compound of his house. Noel Nora, the deceased, confronted him about derogatory remarks allegedly made by the latter. Petitioner ran to his house to get a gun. When the Nora brothers reached the intersection of Florida and Capitan Tiago Streets, he shouted at them “Putang ina ninyo (You sons of a bitch)” and other epithets, and then fired four times at them. One shot hit Noel, killing him. Another shot hit Narciso Nora on the ankle. Another nearly hit the zipper of Arturo Nora.

Petitioner claimed self-defense. He alleged that on the night in question, he went to the corner of Florida and Capitan Tiago Streets because Noel Nora had earlier challenged him to a fight. However, upon reaching the place, he found that Noel had brought along his three (3) brothers and other companions who ganged up on him. Petitioner claimed that Noel Nora stabbed him with a knife, hitting him on the left arm and that the group could have stabbed him several times more had he not been able to dodge their blows. He said when he tried to run away, the victim’s brothers held both his arms while Narciso hit him with a piece of wood on the thighs and buttocks and the others boxed him on the abdomen. Petitioner said he was able to run away, but the Nora brothers chased him, shouting, “We will enter your house and we will kill you.” Petitioner therefore took the .38 caliber gun of his father (who was a policeman) from the cabinet on the ground floor of their house.

Petitioner went out of the house. The Nora brothers, who were just five (5) steps away from the door of their house, ran after seeing that petitioner had a gun. But after running to the other side of the street, they hurled stones at petitioner and shouted derogatory words at him. Petitioner claimed he afterward went inside the compound, but he slipped, whereupon the Nora brothers advanced toward him. He warned them not to get near, but they kept coming closer, for which reason petitioner fired at them. Petitioner was then from four (4) to five (5) meters away from the group. Petitioner afterward went inside their house and gave the gun to his mother.

In rejecting petitioner’s claim of self-defense, the Court of Appeals said:[6]

The bone of contention in this case centers on the issue of self-defense. The trial court, in denying the same, ruled that since there was no unlawful aggression immediately preceeding [sic] the shooting of the victims, the claim of self-defense to justify the acts of the accused is unavailing.

For its part, the appellant contends that the lower court erred in its appreciation of the evidence and testimony of witnesses relative to the locus of the shooting incident. The appellant claims that notwithstanding the direct contradiction made by defense witnesses regarding the locus of the crime, the same does not in any way diminish the credibility of appellant’s story and his claim of self-defense.

The contention is devoid of merit. In this case, the issue with respect to the locus of the crime is determinative not only of the place of its commission. More importantly, it is decisive in determining the existence of unlawful aggression as justification for appellant’s claim of self-defense.

The facts of the case and the evidence presented during the trial reveal that the shooting of the victims happened outside the residential compound of the accused. No matter how the defense try to belabour the issue by claiming in its reply brief that there were in fact two (2) compounds - the residence of the accused being a small compound within the bigger compound of his relatives’ residence and that the victims were shot inside this big section albeit outside the residential compound of the accused, the evident fact remains that the victims were shot not in the vicinity of appellant’s residence as claimed by the defense but in the streets, after the accused has taken his father’s gun from their house. Noteworthy is the testimony of defendant’s mother to the effect that:

Court: The Court would like to ask. Was your son outside or inside the gate of your compound when you went to verify the shots?

Witness: He was about to enter the gate of our compound.

Court: When you say he was about to enter the gate of the compound, he was coming from the outside of the compound of course?

Witness: He was outside the gate of our compound.

(TSN, 11 November 1987 p. 13)

The accused who claims self-defense must prove its elements clearly and convincingly. The rationale is because such proceeds from the admission of the accused that he killed or wounded another, which is a felony, for which he should be criminally liable unless he established to the satisfaction of the Court the fact of legitimate defense (Castanares v. Court of Appeals, 92 SCRA 567)

As correctly appreciated by the trial court, the evidence established that there was in fact no immediate unlawful aggression to warrant the acts of the accused in shooting the victims. While the accused was indeed mauled and beaten up by the deceased and his companions, the aggression stopped when the accused was able to free himself from the assault of the group and thereafter sought refuge in their house. An act of aggression, when its author does not persist in his purpose or when he discontinues his attitude to the extent that the object of his attack is no longer in peril is not unlawful aggression warranting self-defense (People v. Macariola, 120 SCRA 92)

Having sought refuge in their house after the aggression had ceased, the accused should have desisted from stepping out of their abode with his father's gun. In going after the deceased and his companions after the unlawful aggression ceased to exist, the act of the accused became retaliatory in nature, done for the purpose of avenging whatever pain and injuries he had suffered from the hands of the victims. Consequently, the same cannot be considered as constituting self-defense for the act to repel the unlawful aggression must immediately follow such unlawful aggression (US v. Ferrer, 1 Phil. 56).

First. Petitioner contends that the unlawful aggression of the Noras and their group did not cease and that the finding of the Court of Appeals that it did is contrary to the evidence, particularly the testimonies of Inocencio Antonio and Florthelito Vergara.

Petitioner omits to mention the testimonies of his two other witnesses, Eduardo Bartolo and Pilar David, on which the trial court and the Court of Appeals relied for their finding that there was no longer any unlawful aggression when petitioner shot the victims. Bartolo testified that on March 28, 1981, he heard shots and the sound of stones being hurled. When he stepped out of his house to find out what was going on, he saw petitioner near the gate of their compound, aiming his gun at the Nora brothers. For her part, Pilar David, mother of petitioner, told the court that because she heard gunshots, she went to the gate of their compound to see what was going on. She said she saw petitioner getting inside the gate of the compound.

Another defense witness, Inocencio Antonio, testified that the victims were rushing toward petitioner when they were at the corner of Florida and Kapitan Tiago Streets. Antonio said:

ATTY. CRESCINI: [Defense Lawyer]

Q Where were those teenagers numbering 5 to 6 at that time that Jake David was about to fire those two (2) last shots?

A At the corner of Florida and Kapitan Tiago Streets and they were rushing towards Jake David, sir.[7]

The testimonies of these witnesses belie petitioner's claim that he shot the Nora brothers because they had come dangerously close to getting inside their house, having in fact entered their compound. Indeed, only Florthelito Vergara corroborated petitioner's testimony that he shot the victims because they had come close to their house by getting inside their compound.

The defense tries to explain the contrary testimonies of the witnesses by pointing out that there are actually two compounds - a big compound fronting Florida Street, which is occupied by his uncles' houses, and a small one in which petitioner's parents live. It claims that petitioner shot the Noras outside the small, but inside the big, compound. But, as the Court of Appeals held:[8]

. . . . No matter how the defense try to belabor the issue by claiming in its reply brief that there were in fact two (2) compounds . . . the evident fact remains that the victims were shot not in the vicinity of appellant's residence as claimed by the defense but in the streets . . .

Petitioner contends that between the prosecution testimony and his testimony which is corroborated by two disinterested witnesses for the defense, their testimonies should be preferred. He cites the ruling in *People v. Quiritan*:[9]

In a serious charge of murder, the guilt of the accused cannot be predicated on delayed and even inconclusive testimonies of alleged eyewitnesses which manifest signs of fabrication.

But, in that case, the delay in producing the witnesses (two years), coupled with the generally weak and confusing testimonies given by them, showed that their statements had been concocted. There is nothing to show that the testimonies of prosecution witnesses in this case were fabricated. The *Quiritan* case is a very different case from that at bar.

Findings of the trial court on the credibility of witnesses are entitled to great respect because it has the opportunity to observe the deportment of the witnesses and their manner of testifying.[10] The decision of the trial court in this case is notable for its painstaking analysis of the evidence of the parties. Its conclusion that the prosecution witnesses were more credible than the defense witnesses should be upheld in the absence of proof that it has overlooked certain important matters as to the credibility of the witnesses.

In shooting the victims, petitioner was not acting to protect himself but retaliating for the insult and physical violence he had received at the hands of the victims and their group. In retaliation, the aggression that was begun by the injured party has already ceased when the accused attacks him. In self-defense, the aggression still exists when the aggressor is injured or disabled by the person making the defense.[11]

In this case, defense witness Inocencio Antonio said that the victims and their companions were already running away because they saw petitioner armed with a gun. The unlawful aggression had thus already ceased when the latter fired at them. As Antonio testified:

ATTY. CRESCINI:

Q: Now, what did those teenagers, do after Jake David fired two (2) warning shots in the air?

A: They were frightened and retreated towards Florida Street and some at Kapitan Tiago Street, sir.

Q: How about Jake David, what did he do when those teenagers ran some to Florida Street and other [sic] at Kapitan Tiago Street?

A: He advanced up to the corner of Florida and Capitan Tiago Street, sir.[12]

An act of aggression, when its author does not persist in his purpose, or when he discontinues his attitude to the

extent that the object of his attack is no longer in peril, is not unlawful aggression warranting self-defense.[13]

Second. Petitioner claims that the appellate court failed to consider exculpatory facts in his favor.

1. Petitioner claims he was injured and that his injuries, although minor, show that he was attacked by the Noras, for which reason he filed a complaint for frustrated homicide against them in the fiscal's office.

This fact was not overlooked by the appellate court. However, it found that "While the accused was indeed mauled and beaten up by the deceased and his companions, the aggression stopped when the accused was able to free himself from the assault of the group and thereafter sought refuge in his house." [14]

2. Petitioner felt depressed after the shooting. He vomited and could not eat and had to be hospitalized. These circumstances show that he is not a killer at heart and certainly not the villain that the lower court pictured him to be. Furthermore, petitioner was so afraid he had to close his eyes in firing his gun. Proof of this is that Narciso Nora was only hit at the ankle.

The undisputed fact is that the petitioner fired four shots, one a warning shot and three others directed at the victims. Two (2) of the three (3) shots directed against the victims hit their marks. One bullet killed Noel Nora and the other almost killed Narciso Nora, Jr. If the testimony of the prosecution witnesses is to be believed, the third bullet almost hit the zipper of Arturo Nora. This fact belies petitioner's assertion that he fired the gun with his eyes closed and only to defend himself.

The fact that one shot hit Noel Nora on the chest, while the other hit Narciso, Jr. only on the ankle, could be due to petitioner's nervousness and unsteady hand, but not to the fact that he did not really mean to shoot them.

Petitioner said he fired warning shots even as he warned them not to come near because, up to the last moment, he did not want to shoot the victims. Both the trial court and the Court of Appeals gave no weight to this claim, apparently because of the inconsistency in the testimonies of the defense witnesses. Petitioner said he fired only one warning shot:

ATTY. CRESCINI:

Q: You declared that when you saw them approaching and taking advantage of your having slipped, they were armed and you felt very afraid and nervous, what did you do when you saw them approaching?

WITNESS JOAQUIN DAVID

A: I fired the gun upwards.[15]

But defense witness Inocencio Antonio said petitioner fired two warning shots:

ATTY. CRESCINI:

Q: Now according to you, he came out with a gun and fired two (2) shots, in what direction, did he fire those two (2) shots?

A: In the air, warning shots.

Q: Now what did those teenagers, do after Jake David fired two (2) warning shots in the air?

A: They were frightened and retreated towards Florida Street and some at Kapitan Tiago Street, sir.[16]

Antonio later tried to correct his mistake but in doing so, only succeeded in showing that he had lied. Testifying again on October 29, 1985, Antonio said:

ATTY. CRESCINI:

Q: You testified during the last hearing that you heard two (2) warning shots on the evening of March 28, 1981, do you remember that?

A: Yes, sir.

Q: What made you say that there were, I am referring to the first two (2) warning shots, what made you say that they were warning shots?

A: I remember that I did not hear two (2) shots but only one, sir.

Q: What made you say that the one (1) shot was a warning shot?

A: Because the gun was pointing upward, sir.[17]

The inconsistency in the testimonies of the defense witnesses so undermined their credibility that both trial court and the Court of Appeals disregarded the testimonies.

3. It is claimed that petitioner is effeminate while in contrast, the deceased Noel Nora, his brother Lito, and a John Doe were bullies who, even at a very young age, had already been charged with slight physical injuries in two cases filed in the Municipal Court of Malabon.

The purpose is apparently to show the bad moral character and troublesome nature of the deceased and his brothers, and thereby to show the improbability of the offenses charged pursuant to Rule 130, §51 of the Revised Rules on Evidence. It is true that where self-defense is claimed and the character of the slaying is doubtful, evidence of the violent and dangerous character of the deceased is admissible for the purpose of determining whether the deceased or the accused was the aggressor.[18] The fact, however, is that the cases filed against the deceased had been dismissed. No inference of the violent character of the victims can be drawn from the mere fact that criminal cases had been filed against one of them.

Third. It is argued that, at any rate, petitioner should have been given credit for incomplete self-defense. It is not stated what element of self-defense is absent to make it incomplete. Be that as it may, our finding that there was no longer any unlawful aggression when petitioner shot the victims rules out the possibility of self-defense, whether complete or incomplete.

Petitioner further contends that certain mitigating circumstances, besides voluntary surrender, should have been considered in his favor, to wit: (a) that sufficient provocation or threat on the part of the offended party immediately preceded the act;[19] (b) that he acted in the immediate vindication of a grave offense committed against him;[20] (c) that he acted upon an impulse so powerful as to produce passion or obfuscation.[21]

The mitigating circumstance of having acted in the immediate vindication of a grave offense may be appreciated. As the trial court and the Court of Appeals found, the petitioner had been beaten up by the Noras and their companions. Although the unlawful aggression had ceased when petitioner shot the Nora brothers, it was nonetheless a grave offense for the vindication of which petitioner may be given the benefit of a mitigating circumstance. As petitioner's mother testified:[22]

ATTY. RODRIGUEZ: [Private Prosecutor]

Q: Did you ask your son who fired the shots?

A: I told him, "Ikaw ba, Jake?" I told him, "Are you the one?" "Pinagtulung-tulungan nila po ako kasi."

But the mitigating circumstances of passion or obfuscation and sufficient provocation cannot be considered apart from the circumstance of vindication of a grave offense. These circumstances all arose from one and the same

incident, i.e., the attack on the petitioner by the victims and their companions, so that they should be considered as one mitigating circumstance.[23]

Nor is the fact that petitioner has not shown himself to be incorrigible a ground for reducing the penalty on him, as the Court of Appeals held in its resolution on the motion for reconsideration. This is a ground for suspension of judgment of youthful offenders, i.e., those over 9 but under 18 years of age,[24] which of course could no longer be ordered since at the time the trial court rendered its decision petitioner was already over 18 years of age. Clearly, this is not a mitigating circumstance and should not be used as basis for reducing the penalty.

One circumstance not raised by the defense but evident from the record of this case is minority. In his statement to the police given on April 2, 1981, petitioner gave his personal circumstances as follows: "Joaquin David y Ejercito, 17 taong gulang, 2nd year college, binata at naninirahan sa 12-C Florida St., Acacia, Malabon, Metro Manila." [25] At the hearing on November 11, 1987, petitioner's mother stated that he was 16 or 17 years old when the shooting incident happened:

ATTY. RODRIGUEZ:

Q: You know for a fact that your son Jake being only 17 on March . . .

A: 16 or 17.

Q: Because he was only 16 or 17, as a young man and quite curious, you know for a fact that sometimes your son got hold of it?

A: I never saw him hold the gun of his father. I never for an instance saw him hold the gun of his father.[26]

When the petitioner testified on March 11, 1987, he gave his age at that time as 22 years old.[27]

It is thus clear that on March 28, 1981, when the crime was committed, he was only 17 years old. We have held in many cases[28] that if the accused alleges minority and the prosecution does not disprove his claim by contrary evidence, such allegation can be accepted as a fact. Thus, in *United States v. Bergantino*, [29] the accused testified that she was below 15 when the crime was committed. This was corroborated by her mother and her husband. No other evidence, such as the baptismal certificate, was presented to support this claim. The prosecution did not offer any contradictory evidence. This Court held:

While the evidence upon this point is not entirely satisfactory, yet it is sufficient to raise a reasonable doubt upon this material question in the case, to the benefit of which the defendant is entitled. The baptismal certificate or other evidence of this character would have been much more satisfactory to the court, and, if obtainable, should have been introduced. Neither the prosecution nor the defendant saw fit to introduce such evidence.

Any doubt in respect of the age of the accused is resolved in his favor. In *United States v. Barbicho*, [30] it was held:

In regard to the doubt as to whether the accused is over or under 18 years of age, and in the absence of proof that on the day he committed the crime he was 18 years old, he must perforce be considered as still under that age, and therefore, the mitigating circumstance mentioned in paragraph No. 2 of article 9 of the code should be applied in his favor . . .

In *United States v. Agadas*, [31] this Court similarly held:

While it is true that in the instant case Rosario testified that he was 17 years of age, yet the trial court reached the conclusion, judging from the personal appearance of Rosario, that "he is a youth 18 or 19 years old." Applying the rule enunciated in the case just cited, we must conclude that there exists a reasonable doubt, at

least, with reference to the question whether Rosario was, in fact, 18 years of age at the time the robbery was committed. This doubt must be resolved in favor of the defendant. . . .

There are therefore present in this case the privileged mitigating circumstance of minority and two ordinary mitigating circumstances (voluntary surrender and immediate vindication of a grave offense). Because of the presence of the privileged mitigating circumstance of minority, the penalty of reclusion temporal should be reduced by one degree to prision mayor, pursuant to Art. 68 of the Revised Penal Code. The penalty of prision mayor should further be reduced to prision correccional because of the presence of two ordinary mitigating circumstances without any aggravating circumstance, pursuant to Art. 64, par. 5 of the same Code. Applying the Indeterminate Sentence Law, petitioner should be made to suffer imprisonment, the minimum of which should be within the range of arresto mayor and the maximum of which within the range of prision correccional.

On the other hand, for the crime of frustrated homicide, the penalty imposable for the consummated crime of homicide should be reduced by one degree, i.e., to prision mayor. Because of the presence of one privileged mitigating circumstance and two ordinary mitigating circumstances and no aggravating circumstance, the penalty of prision mayor should be reduced by two degrees, i.e., to arresto mayor.

With respect to the award of damages, the amount of P30,000 awarded as indemnity for the death of Noel Nora should be increased to P50,000.00 pursuant to current rulings.[32] But the award of P37,000.00 for actual damages should be reduced to P22,000.00. As held in *Fuentes, Jr. v. Court of Appeals*,[33] only expenses supported by receipts and which appear to have been actually expended in connection with the death of the victim should be allowed. The award of actual damages cannot be based on the allegation of a witness without any tangible document to support such claim. In this case, only P22,000.00 is supported by a receipt (Exh. X) for funeral expenses.

The amount of moral damages (P30,000.00) and attorney's fees (P20,000.00) appear to be reasonable and may therefore be allowed.

With respect to the damages awarded for the shooting of Narciso Nora, Jr., the award of P8,728 as actual damages should be reduced to P1,928.65 as the receipts (Exhs. Y and Z) presented show the payment of this amount only to the National Orthopedic Hospital.

The award of P20,000.00 as moral damages appears to be just and reasonable and therefore should be allowed under the circumstances.

WHEREFORE, the decision of the Court of Appeals is AFFIRMED with the MODIFICATION that, for the crime of homicide, the petitioner is sentenced to suffer an indeterminate penalty of 6 months of arresto mayor, as minimum, to 6 years of prision correccional, as maximum, and, for the crime of frustrated homicide, he is sentenced to suffer the penalty of 6 months of arresto mayor.

In addition, petitioner is hereby ordered to pay the following:

- To the heirs of the deceased Noel Nora, the sums of P50,000.00, as indemnity for the death of Noel Nora; P22,000.00, as actual damages; P30,000.00, as moral damages, and P20,000.00, as attorney's fees;
- The sums of P1,928.65, as actual damages, and P20,000.00, as moral damages and P20,000.00, as attorney's fees to Narciso Nora, Jr. for wounding the latter.

SO ORDERED.

Regalado (Chairman), Melo, Puno, and Martinez, JJ., concur.

[1] CA Rollo, pp. 289-290.

[2] Per Justice Eduardo R. Bengzon and concurred in by Justice Lorna S. Lombos-de la Fuente (chairman) and Justice Quirino D. Abad Santos, Jr.

[3] Rollo, pp. 43-44.

[4] Per Justice Quirino D. Abad Santos, Jr. and concurred in by Justice Manuel Herrera, and Justice Ricardo J. Francisco.

[5] Id., p. 21.

[6] Rollo, pp. 41-42.

[7] TSN, p. 6, Oct. 29, 1985.

[8] Rollo, p. 41.

[9] 197 SCRA 32, 43 (1991).

[10] *People v. Cabiles*, 248 SCRA 207 (1995).

[11] 1 LUIS B. REYES, THE REVISED PENAL CODE 153-154 (1993).

[12] TSN, p. 14, July 29, 1985.

[13] *People v. Macariola*, 120 SCRA 92 (1983).

[14] Rollo, p. 42.

[15] TSN, pp. 28-29, March 25, 1987.

[16] TSN, p. 14, July 29, 1985.

[17] TSN, p. 3, Oct. 29, 1985.

[18] See Ricardo J. Francisco, *Evidence: Rules of Court in the Philippines* 377 (1994).

[19] Revised Penal Code, Art. 13, par. 4.

[20] Id., par. 5.

[21] Id., par. 6.

[22] TSN, pp. 26-27, Nov. 11, 1987.

[23] See *People v. De los Santos*, 85 Phil. 870 (1950); *People v. Dagatan*, 106 Phil. 88 (1959).

[24] Formerly Art. 80 of the Revised Penal Code and now Art. 192 of the Child and Youth Welfare Code (P.D. No. 603, as amended).

[25] Exh. 1 for the Defense - Sworn Statement of Joaquin David.

[26] TSN, p. 25, Nov. 11, 1987.

[27] TSN, p. 2, March 11, 1987.

[28] E.g., *People v. Villagrancia*, 226 SCRA 374 (1993); *People v. Regalario*, 220 SCRA 368 (1993).

[29] 3 Phil. 118 (1903).

[30] 13 Phil. 616, 621 (1909).

[31] 36 Phil. 246 (1917).

[32] *People v. Sumaoy*, 263 SCRA 460 (1996).

[33] 253 SCRA 430 (1996).

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