THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. MAYOR ANTONIO L. SANCHEZ, GEORGE MEDIALDEA, ZOILO AMA, BALDWIN BRION, LUIS CORCOLON, ROGELIO CORCOLON, AND PEPITO KAWIT, A...

G.R. Nos. 121039-45. October 18, 2001

Ponente: MELO, J.

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MELO, J.:

Before us is a motion for reconsideration of our January 25, 1999 decision, penned by Justice Antonio M. Martinez, affirming in toto the judgment of conviction rendered by Branch 70 of the Pasig City Regional Trial Court finding accused-appellants Mayor Antonio Sanchez, George Medialdea, Zoilo Ama, Baldwin Brion, Luis Corcolon, Rogelio Corcolon and Pepito Kawit guilty beyond reasonable doubt of the crime of rape with homicide, and additionally, ordering each of them to pay the amount of Seven Hundred Thousand Pesos (P700,000.00) to the heirs of the two victims as additional indemnity. While accused-appellants Antonio Sanchez, Zoilo Ama, Baldwin Brion and Pepito Kawit seasonably filed their respective motions for reconsideration, it was only on December 6, 1999 that the Office of the Solicitor General filed its Comment thereto. And since Justice Martinez had retired earlier on February 2, 1999, in accordance with A.M. No. 99-8-09 promulgated by the Court on February 15, 2000, the motions for reconsideration filed by accused-appellants was assigned by raffle only on September 18, 2001 to herein ponente for study and preparation of the appropriate action.

In his motion for reconsideration, Mayor Antonio Sanchez avers that he is a victim of trial and conviction by publicity and that the principal witnesses Aurelio Centeno and Vicencio Malabanan presented by the prosecution are lacking in credibility. He likewise contends that the testimony of his 13-year old daughter vis-à-vis his whereabouts on the night of the felony should have been given full faith and credit as against the testimony of Centeno and Malabanan. Lastly, Mayor Sanchez seeks the reconsideration of the amount of the "gargantuan" damages awarded on the ground that the same have no factual and legal bases.

In the same vein, accused-appellants Zoilo Ama, Baldwin Brion, and Pepito Kawit, in their motion for reconsideration, maintain that prosecution witnesses Centeno and Malabanan have been sufficiently impeached by prior inconsistent statements allegedly pertaining to material and crucial points of the events at issue. Not only that, they assert that independent and disinterested witnesses have destroyed the prosecution's version of events.

Preliminarily, it may be observed that, except for the issue of civil damages raised by Mayor Sanchez, accused-appellants have not presented any issue new or different from that which they had previously raised before the trial court and this Court. Moreover, the issues they have raised have been discussed at length and passed upon by both the court a quo and by this Court. Thus, on the charge that accused-appellant Sanchez is a victim of trial and conviction by publicity, in our January 25, 1999 decision, citing People vs. Teehankee, Jr. (249 SCRA 54), we declared:

We cannot sustain appellant's claim that he was denied the right to impartial trial due to prejudicial publicity. It is

true that the print and broadcast media gave the case at bar pervasive publicity, just like all high profile and high stake criminal trials. Then and now, we rule that the right of an accused to a fair trial is not incompatible to a free press. To be sure, responsible reporting enhances an accused's right to a fair trial for, as well pointed out, "a responsible press has always been regarded as the handmaiden of effective judicial administration, especially in the criminal field... The press does not simply publish information about trials but guards against the miscarriage of justice by subjecting the police, prosecutors, and judicial processes to extensive public scrutiny and criticism."

Pervasive publicity is not per se prejudicial to the right of an accused to fair trial. The mere fact that the trial of appellant was given a day-to-day, gavel-to-gavel coverage does not by itself prove that publicity so permeated the mind of the trial judge and impaired his impartiality... Our judges are learned in the law and trained to disregard off-court evidence and on-camera performances of parties to a litigation. Their mere exposure to publications and publicity stunts does not per se fatally infect their impartiality.

At best, appellant can only conjure possibility of prejudice on the part of the trial judge due to the barrage of publicity that characterized the investigation and trial of the case. In Martelino et al. vs. Alejandro et al., we rejected this standard of possibility of prejudice and adopted the test of actual prejudice as we ruled that to warrant a finding of prejudicial publicity, there must be allegation and proof that the judges have been unduly influenced, not simply that they might be, by the barrage of publicity. In the case at bar, the records do not show that the trial judge developed actual bias against appellant as a consequence of the extensive media coverage of the pre-trial and trial of his case. The totality of circumstances of the case does not prove that the trial judge acquired a fixed position as a result of prejudicial publicity which is incapable of change even by evidence presented during the trial. Appellant has the burden to prove this actual bias and he has not discharged the burden.

This failure to present proof of actual bias continues to hound accused-appellant Sanchez, having failed, in his motion for reconsideration, to substantiate his claims of actual bias on the part of the trial judge. Not only that, accused-appellant's case has been exhaustively and painstakingly reviewed by the Court itself. Accused-appellant Sanchez has not shown by an iota of proof that the Court, in the examination of his appeal, was unduly swayed by publicity in affirming the sentence of conviction imposed by the trial court. The charge of conviction by publicity leveled by accused-appellant has thus no ground to stand on.

As to the claim that witnesses Centeno and Malabanan lack credibility and that they were sufficiently impeached by prior inconsistent statements, the same is old hat, to say the least. It is hornbook doctrine in criminal jurisprudence that when the issue is one of credibility of witnesses, appellate courts will not disturb the findings of the trial court and the appellate courts will respect these findings considering that trial courts are in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial (People vs. Mendoza, 332 SCRA 485 [2000]). In the instant case, then Judge Harriet Demetriou found both Centeno and Malabanan to have testified in a frank, spontaneous, and straightforward manner; and that despite gruelling cross-examination by a battery of defense lawyers, their testimony never wavered on the substantial matters in issue.

As to the alleged inconsistencies in the testimony of Centeno and Malabanan, suffice it to say that the points raised have all been carefully and assiduously examined, not only by the trial court but also by the Court itself, and that the inconsistencies were found to refer to minor and collateral matters. It is well-settled that so long as the witnesses' declarations agree on substantial matters, the inconsequential inconsistencies and contradictions dilute neither the witnesses' credibility nor the verity of their testimony (People vs. Agomo-o, 334 SCRA 279 [2000]). Accused-appellants have not shown in their motions for reconsideration new evidence to warrant disregard for the above-rule, nor have they shown that the Court has overlooked, misunderstood, or misapplied some fact of weight and circumstance that would have materially affected the outcome of the case.

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Accused-appellant Sanchez's argument that the testimony of his 13-year old daughter, Ave Marie Sanchez, as to his whereabouts on the night of the crime should be given full faith and credence is likewise unavailing. While it is true that statements of children are accorded great probative value, it is likewise true that alibi is the weakest defense an accused can concoct. Where nothing supports the alibi except the testimony of a relative, it deserves but scant consideration (People vs. Waggay, 218 SCRA 742 [1993]). Moreover, accused-appellant Sanchez's alibi cannot prevail over the positive declarations of the prosecution that he was at Erais Farm that fateful night. The alibis of accused-appellants Zoilo Ama, Baldwin Brion, and Pepito Kawit are even worse, not having been corroborated by any other evidence. The assertions of these accused-appellants as to their innocence are thus entitled short shrift from this Court.

Accused-appellant Sanchez's asseverations as to the amount of damages awarded is, however, meritorious. The trial court awarded the Sarmenta family P50,000.00 as civil liability for the wrongful death of Eileen Sarmenta, P106,650.00 for the funeral expenses they incurred, and P3,276,000.00 for the loss of Eileen Sarmenta's earning capacity; or a total of P3,432,650.00 as actual damages. On the other hand, the Gomez family was awarded by the trial court a total of P3,484,000.00 as actual damages, broken down as follows: P50,000.00 for the wrongful death of Allan Gomez, P74,000.00 for the latter's funeral, and P3,360,000.00 for the loss of the latter's earning capacity.

Similarly, the trial court ordered accused-appellants to pay the sum of P2,000,000.00 to the Sarmenta family and another P2,000,000.00 to the Gomez family as moral damages. Lastly, the trial court ordered accused-appellants to pay the Sarmenta and Gomez families the sum of P164,250.00 and 191,000.00, respectively, for litigation expenses incurred.

The Court, in its decision dated January 25, 1999, affirmed in toto the decision of the lower court. However, we also ordered each accused-appellant to pay the respective heirs of Eileen Sarmenta and Allan Gomez an additional indemnity of P350,000.00 each, stating that since each accused-appellant had been found guilty of seven counts of rape with homicide, jurisprudence dictated that for each count, each accused-appellant is liable for civil indemnity of P50,000.00, or a total of P350,000.00.

Since the trial court's award of actual damages to the Gomez and Sarmenta families already included civil indemnity in the amount of P50,000.00, to order each accused-appellant to pay an additional P350,000.00 as civil indemnity would be "double recovery" of damages on the part of the Gomez and Sarmenta families for the same act or omission. Thus, the amount of P50,000.00 awarded by the trial court must each be deducted from the amount of actual damages due to the Gomez and Sarmenta families.

As for funeral expenses, the Court had occasion to declare in People vs. Timon (281 SCRA 577 [1997]) that "burial expenses, which are by nature actual expenses must be proved. Since no proof of burial expenses was ever presented in the instant case, its award will not be allowed." It is a settled rule that there must be proof that actual or compensatory damages have been suffered and evidence of its actual amount (People vs. Nablo, 319 SCRA 784 [1999]). While the funeral expenses incurred by the Sarmenta family were supported by the appropriate receipts, the same is not true for the funeral expenses incurred by the Gomez family. Not having been duly receipted, the amount of P74,000.00 awarded to the Gomez family as funeral expenses must, perforce, be deleted. However, as the heirs of Allan Gomez clearly incurred funeral expenses, P10,000.00 by way of nominal damages should be awarded. This award is adjudicated so that a right which has been violated may be recognized or vindicated, and not for the purpose of indemnification (see People vs. Candare, 333 SCRA 338 [2000]).

The award of P3,276,000.00 and P3,360,000.00, representing the alleged loss of earning capacity of Sarmenta and Gomez, respectively, also merit review. Eileen Sarmenta, at the time of her death, was a graduating student of the College of Agriculture of the University of the Philippines at Los Baños (UPLB), majoring in Food and Nutrition

for Large Animals. Allan Gomez was likewise a senior student of the College of Agriculture of UPLB, majoring in Beef Production. The trial court, using the American Expectancy Table of Mortality, pegged the life expectancy of Sarmenta, 21 years old at the time of her death, and Gomez, 19 years old at the time of his death, at 39.1 and 40.6 years, respectively. Believing that the victims would have earned a monthly salary of P15,000.00 and incurred living expenses of P8,000.00 per month, the trial court awarded P3,276,000.00 and P3,360,000.00 as the amount recoverable by the Sarmenta and Gomez families, respectively, for the loss of the earning capacity of Eileen and Allan.

While accused-appellant Sanchez contends that the awards of P3,276,000.00 and P3,360,000.00 are baseless in fact and law, no evidence having been adduced to prove that the victims had any actual income at the time of their demise, it is well-settled that to be compensated for loss of earning capacity, it is not necessary that the victim, at the time of injury or death, be gainfully employed. Compensation of this nature is awarded not for loss of earnings but for loss of capacity to earn money (People vs. Teehankee, supra). Likewise, the fact that the prosecution did not present documentary evidence to support its claim for damages for loss of earning capacity of the deceased does not preclude recovery of the same (People vs. Quilang, 312 SCRA 314 [1999]; People vs. Verde, 302 SCRA 690 [1999]). On the part of Eileen Sarmenta, her mother testified that Eileen had an offer for employment from Monterey Farms. On the other hand, Allan Gomez's mother testified that her deceased son planned to work on a private farm after graduation.

Moreover, in Cariaga et al. vs. LTB and Manila Railroad Co. (110 Phil. 346 [1960]), the Court awarded compensatory damages for the loss of earning capacity to Edgardo Cariaga, a 4[th] year medical student at UST, stating that while his scholastic record may not have been first rate, it was, nevertheless, sufficient to justify the assumption that he could have finished the course, would have passed the board in due time, and that he could have possibly earned as a medical practitioner the minimum monthly income of P300.00.

Both Sarmenta and Gomez were senior agriculture students at UPLB, the country's leading educational institution in agriculture. As reasonably assumed by the trial court, both victims would have graduated in due course. Undeniably, their untimely death deprived them of their future time and earning capacity. For these deprivation, their heirs are entitled to compensation. Difficulty, however, arises in measuring the value of Sarmenta's and Gomez's lost time and capacity to earn money in the future, both having been unemployed at the time of death. While the law is clear that the deceased has a right to his own time -- which right cannot be taken from him by a tortfeasor without compensation -- the law is also clear that damages cannot be awarded on the speculation, passion, or guess of the judge or the witnesses. In this case, Eileen Sarmenta's mother testified that for a new graduate of UPLB, the basic salary was more or less P15,000.00 per month. Allan Gomez's mother, on the other hand, testified that her son could have easily gotten P10,000.00 to P15,000.00 per month. Clearly, the testimony of said witnesses are speculative, insufficient to prove that in 1993, Sarmenta and Gomez would have indeed earned P15,000.00 a month had they managed to graduate. However, considering that Sarmenta and Gomez would have graduated in due time from a reputable university, it would not be unreasonable to assume that in 1993 they would have earned more than the minimum wage. All factors considered, the Court believes that it is fair and reasonable to fix the monthly income that the two would have earned in 1993 at P8,000.00 per month (or P96,000.00/year) and their deductible living and other incidental expenses at P3,000.00 per month (or P36,000.00/year). Hence, in accordance with the formula adopted by the Court in Villa Rey Transit, Inc. vs. CA (31 SCRA 511 [1970]), and using the American Expectancy Table of Mortality, the loss of Sarmenta and Gomez's earning capacity is to be computed as follows:

> Net earning capacity = Life expectancy x (Gross Annual Income - Living Expenses)
> where: Life expectancy = [2]/3 (80 - the age of the deceased)

Heirs of Eileen Sarmenta:

= [2]/3 (80-21) x (96,000 - 36,000)

= 39.353 x 60,000

= P2,361,180.00

Heirs of Allan Gomez:

= [2]/3 (80-19) x (96,000 - 36,000)

= 40.687 x 60,000

= P2,441,220.00

As to the award of P2,000,000.00 each as moral damages to the Sarmenta and Gomez families, these must also be reduced, the same being excessive. While the assessment of moral damages is left to the discretion of the court according to the circumstances of each case (Article 2216, Civil Code), the purpose of moral damages is essentially indemnity or reparation, not punishment or correction. Moral damages are emphatically not intended to enrich a complainant at the expense of a defendant; they are awarded only to enable the injured party to obtain means, diversions or amusements that will serve to alleviate the moral suffering he has undergone by reason of the defendant's culpable action. In other words, the award of moral damages is aimed at a restoration, within the limits of the possible, of the spiritual status quo ante; and therefore, it must be proportionate to the suffering inflicted (Dela Serna vs. CA, 233 SCRA 325 [1994]). The intensity of the pain experienced by the relatives of the victim is proportionate to the intensity of affection for him and bears no relation whatever with the wealth or the means of the offender. The death caused by a beggar is felt by the parents of the victim as intensely as that caused by the action of a wealthy family. The Court, in the exercise of its discretion, thus reduces the amount of moral damages awarded to the heirs of Eileen Gomez and Allan Sarmenta to P1,000,000.00 each. As to the award of attorney's fees and litigation expenses, the same is reasonable and justified, this case having dragged on for over eight years.

WHEREFORE, premises considered, we AFFIRM the conviction of accused-appellants for seven counts of rape with homicide and the sentence of reclusion perpetua imposed upon them for each of said counts, with MODIFICATION that the accused be ordered to pay the heirs of the victims as follows:

To the heirs of Eileen Sarmenta:

1. Death indemnity

P 350,000.00

2. Moral damages

1,000,000.00

3. Funeral expenses

106,650.00

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4. Loss of earning capacity

2,361,180.00

5. Attorney's fees & litigation expenses

164,250.00

Total P 3,982,080.00

To the heirs of Allan Gomez:

1. Death indemnity

P 350,000.00

2. Moral damages

1,000,000.00

3. Nominal damages

10,000.00

4. Loss of earning capacity

2,441,220.00

5. Attorney's fees & litigation expenses

191,000.00

Total P 3,992,220.00

SO ORDERED.

Davide, Jr., C.J., (Chairman), Kapunan, and Pardo, JJ., concur.

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