

Republic of the Philippines
Supreme Court
Baguio City

CERTIFIED TRUE COPY
Wilfredo V. Lapitan
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

MAY 25 2018

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 218108

Present:

VELASCO, JR., J.,
Chairperson,
BERSAMIN,
LEONEN,
MARTIRES, and
GISMUNDO, JJ.

- versus -

RODOLFO ADVINCULA y MONDANO,
Accused-Appellant.

Promulgated:

April 11, 2018

X-----
Wilfredo V. Lapitan X

DECISION

MARTIRES, J.:

For resolution is the appeal of accused-appellant Rodolfo Advincula y Mondano (*accused-appellant*) assailing the 29 April 2014 Decision¹ of the Court of Appeals (CA), Eleventh Division in CA-G.R. CR HC No. 06009, which affirmed the 17 December 2012 Decision² of the Regional Trial Court (RTC), Branch 219, Quezon City, finding him guilty of Murder for the death of Reggie Tan y Arañes (*Reggie*).

THE FACTS

Accused-appellant was charged with murder in an Information docketed as Criminal Case No. Q05-136086, the accusatory portion of which reads:

Read

¹ Rollo, pp. 2-11; penned by Associate Justice Jane Aurora C. Lantion and concurred in by Associate Justices Vicente S.E. Veloso and Nina G. Antonio-Valenzuela.

² Records, pp. 250-261; penned by Acting Presiding Judge Maria Filomena D. Singh.

That on or about the 4th day of August 2005 in Quezon City, Philippines, the above-named accused, with intent to kill, qualified by evident premeditation and treachery, did then and there willfully, unlawfully, and feloniously attack, assault, and employ personal violence upon the person of REGGIE TAN y ARAÑES, by then and there stabbing him with a bladed weapon hitting him on the different parts of his body, thereby inflicting upon him serious and mortal wounds which were the direct and immediate cause of his untimely death, to the damage and prejudice of the heirs of said offended party.³

After the accused-appellant pleaded not guilty to the charge against him,⁴ trial proceeded.

Version of the Prosecution

To fortify its case against the accused-appellant, the prosecution called to the witness stand Rollane Enriquez (*Rollane*) who testified that:

On 4 August 2005, at about 6:00 p.m., while Rollane, Reggie, and Joseph delos Santos (*Joseph*) were at a store talking, the accused-appellant suddenly sneaked from Reggie's back, grabbed Reggie's neck with his left arm, and drove a knife at Reggie's side. Reggie was able to push away the accused-appellant causing both of them to fall down. Reggie got to his feet and ran away but when he stumbled the accused-appellant caught up with him and stabbed him twice in his chest while he was in a supine position. Reggie was brought to the hospital where he was pronounced dead on arrival.⁵

The other witnesses of the prosecution were no longer called to the witness stand after the parties agreed as to the nature of their testimony, viz:

SPO1 Salvador Casanova Buenviaje (*Buenviaje*) – (a) that he was the investigating officer of the case; (b) that it was in the performance of his duty that he investigated the case; (c) that he caused the preparation of the necessary documents; (d) that he took the testimonies of the private complainant and the complaining witnesses; and (e) that he has no personal knowledge of the circumstances surrounding the crime.⁶

BSDO Severino C. Yutan (*Yutan*) – (a) that he was one of the arresting officers of the accused; and (b) that in the course of the arrest, one (1) steel knife, about 9 inches in length, was recovered.⁷

P/Chief Inspector Joseph Palmero, M.D. (*Dr. Palmero*) – (a) that he is an accredited medico-legal officer of the Philippine National Police (*PNP*) Crime Laboratory, Camp Crame, Quezon City, who conducted the

³ Id. at 1.

⁴ Id. at 28.

⁵ TSN, 9 October 2008, pp. 5-13.

⁶ Records, pp. 45-47.

⁷ Id. at 57.



post-mortem examination on the body of Reggie; (b) that he reduced his findings and conclusion in writing; and (c) that he will identify and authenticate the medico-legal report number M-2933-05 and the other documents that he prepared in connection with the case.⁸

Teresita Tan (*Teresita*) – (a) that she is the mother and legal heir of Reggie; (b) that as a result of her son's death, she suffered actual damages in the amount of ₱67,460.00; (c) that she will affirm her affidavit attached to the case folder and authenticate the receipts, summary of expenses, and the supporting documents; and (d) that at the time of Reggie's death, he was a regular employee of the Lou Tisay Hog as butcher's helper with a ₱3,500.00 monthly salary.⁹

Version of the Defense

The accused-appellant was at home in the afternoon of 4 August 2005, when Reggie, armed with a kitchen knife, entered the living room and threatened to stab the accused-appellant's two siblings – one a mongoloid and the other mentally ill. When Reggie saw the accused-appellant, he scampered away and went to a nearby store.¹⁰

The accused-appellant followed Reggie to the store intending to hurt him because of the threats he made. Accused-appellant tried to grab the knife from Reggie but while they grappled for its possession, the accused-appellant got hold of it and stabbed the right side of Reggie's body.¹¹

The RTC ruling

The RTC held that Rollane categorically and positively identified the accused-appellant as the one who stabbed Reggie with a knife, which the arresting officers confiscated. The RTC further ruled that treachery and evident premeditation attended the killing of Reggie; thus, it concluded that the accused-appellant should be held liable for murder.¹²

The dispositive portion of the RTC decision reads:

WHEREFORE, judgment is hereby rendered finding the accused Rodolfo Advincula y Mondano GUILTY beyond reasonable doubt of the crime of Murder and is hereby sentenced to suffer the penalty of *reclusion perpetua* for the death of Reggie Tan y Arañes.



⁸ Id. at 77-78.

⁹ Id. at 123.

¹⁰ TSN, 24 September 2012, pp. 5-13 and 20.

¹¹ Id. at 13-16.

¹² Records, pp. 252-260.

Accused Rodolfo Advincula y Mondano is further adjudged to pay the heirs of Reggie Tan y Arañes, represented by his mother, Teresita A. Tan, the following amounts:

- 1) Php75,000.00 as civil indemnity;
- 2) Php50,000.00 as moral damages;
- 3) Php30,000.00 as exemplary damages;
- 4) Php67,460.00 as actual damages; and
- 5) Php413,070.00 by way of lost earnings, plus costs of suit.¹³

Not contented with the RTC resolution of the case, the accused-appellant appealed before the CA.

The Ruling of the CA

The CA sustained the position of the accused-appellant that the qualifying circumstance of evident premeditation was absent in this case since the prosecution failed to show that the accused-appellant planned to kill Reggie. Notwithstanding the absence of evident premeditation, the CA maintained the finding of the RTC that treachery attended the assault upon Reggie; thus, it held the accused-appellant liable for murder. The CA found that the penalty imposed by the RTC was in accordance with law and the award of damages was in conformity with jurisprudence.¹⁴

The *fallo* of the CA decision reads:

WHEREFORE, the instant appeal is **DENIED**. The Decision dated 17 December 2012 of the Regional Trial Court of Quezon City, Branch 219, in Criminal Case No. Q-05-136086 is hereby **AFFIRMED**.¹⁵

ISSUES

I.

THE TRIAL COURT GRAVELY ERRED IN NOT APPRECIATING THE JUSTIFYING CIRCUMSTANCE OF DEFENSE OF A RELATIVE.

II.

THE TRIAL COURT GRAVELY ERRED IN APPRECIATING TREACHERY AND EVIDENT PREMEDITATION.



¹³ Id. at 261.

¹⁴ *Rollo*, pp. 9-10.

¹⁵ Id. at 10.

III.

THE TRIAL COURT GRAVELY ERRED IN IMPOSING ₱75,000.00 AS CIVIL INDEMNITY TO THE HEIRS OF THE VICTIM.¹⁶

OUR RULING

The appeal is without merit.

The justifying circumstance of defense of relative was not proven in this case.

Jurisprudence emphatically maintains that when the issues involve matters of credibility of witnesses, the findings of the trial court, its calibration of the testimonies, and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings, are accorded high respect, if not conclusive effect.¹⁷ Hence, unless some facts or circumstances of weight were overlooked, misapprehended, or misinterpreted as to materially affect the disposition of the case,¹⁸ factual findings of the RTC are accorded the highest degree of respect especially if the CA has adopted and confirmed them.¹⁹

Both the RTC and the CA found the testimony of Rollane credible and straightforward compared to the accused-appellant's claim that he acted in defense of his relatives. The Court found no reason to deviate from this finding considering that the records failed to prove that the RTC and the CA had overlooked a material fact that otherwise would change the outcome of the case or had misunderstood a circumstance of consequence in their evaluation of the credibility of the witnesses.²⁰

The record is bereft of any showing that Rollane had ill motive to testify against the accused-appellant; thus, justifying the application of the well-established jurisprudence that when there is no evidence to show any improper motive on the part of the witness to testify falsely against the accused or to pervert the truth, the logical conclusion is that no such motive exists and that the former's testimony is worthy of full faith and credit.²¹

Equally important was that the testimony of Rollane as to the number of Reggie's wounds and how he sustained these found support in the

¹⁶ CA rollo, p. 28.

¹⁷ *People v. Dayaday*, G.R. No. 213224, 17 January 2017.

¹⁸ *People v. Macaspac*, G.R. No. 198954, 22 February 2017.

¹⁹ *People v. Delector*, G.R. No. 200026, 4 October 2017.

²⁰ *People v. Amar*, G.R. No. 223513, 5 July 2017.

²¹ *Ocampo v. People*, 759 Phil. 423, 433 (2015).

medico-legal report²² and the diagram²³ of Dr. Palmero. Rollane testified that the accused-appellant used his left arm to put a headlock on Reggie, and that with his right hand stabbed Reggie's side. Two more stab blows were delivered by the accused-appellant to Reggie's chest while he was already in a supine position after he stumbled. Dr. Palmero's report indicated that Reggie sustained the following fatal wounds which coincided with Rollane's narration, to wit:

Stab wound, left anterior chest-midclavicular line, measuring 3.2 cm x 1cm, 6 cm from the AML;

Stab wound, left anterior chest-anterior axillary line, measuring 3.2 cm x 1.2 cm, 11 cm from the AML; and

Stab wound, abdomen-right upper quadrant, measuring 4 [cm] x 1.5 cm, 17 cm from the AML.²⁴

Dr. Palmero's findings readily disprove the contention of the accused-appellant that he stabbed Reggie only once. Hence, the legal teaching that where the physical evidence on record runs counter to the testimonies of witnesses and the primacy of the physical evidence must be upheld,²⁵ finds its significance in this case.

On the one hand, Dr. Palmero's findings strengthen Rollane's testimony that Reggie stumbled after he ran away from the accused-appellant, viz:

Scraped (sic) wound, right palm, measuring 1 cm x 0.8 cm

Area of multiple abrasions, right knee, 7 cm x 4 cm

Area of multiple abrasions, left knee, 8 cm x 4 cm²⁶

It must be remembered that an accused who pleads a justifying circumstance under Article (Art.) 11²⁷ of the Revised Penal Code

²² Records, p. 79; Exh. "C."

²³ Id. at 80; Exh. "C-3."

²⁴ Records, p. 79; Exhibit "G."

²⁵ *Ocampo v. People*, supra note 21 at 432.

²⁶ Records, p. 79; Exhibit "G."

²⁷ Article 11. *Justifying circumstances*. - The following do not incur any criminal liability:

1. Anyone who acts in defense of his person or rights, provided that the following circumstances concur;
 - First. Unlawful aggression.
 - Second. Reasonable necessity of the means employed to prevent or repel it.
 - Third. Lack of sufficient provocation on the part of the person defending himself.
2. Anyone who acts in defense of the person or rights of his spouse, ascendants, descendants, or legitimate, natural or adopted brothers or sisters, or his relatives by affinity in the same degrees and those consanguinity within the fourth civil degree, provided that the first and second requisites prescribed in the next preceding circumstance are present, and the further requisite, in case the revocation was given by the person attacked, that the one making defense had no part therein.

(RPC) admits to the commission of acts, which would otherwise engender criminal liability.²⁸ If the accused admits the killing, the burden of evidence, as distinguished from burden of proof, is shifted on him to prove with clear and convincing evidence the essential elements of the justifying circumstance of defense of a relative,²⁹ viz: (1) unlawful aggression by the victim; (2) reasonable necessity of the means employed to prevent or repel the aggression; and (3) in case the provocation was given by the person attacked, that the person making the defense took no part in the provocation.³⁰ The justification for the shift in the assumption of the burden is that the accused, having admitted the killing, is required to rely on the strength of his own evidence, not on the weakness of the prosecution's evidence which, even if it were weak, could not be disbelieved in view of his admission.³¹

The presence of unlawful aggression, which is a condition *sine qua non* for upholding self-defense,³² has been described as follows:

Unlawful aggression on the part of the victim is the primordial element of the justifying circumstance of self-defense. Without unlawful aggression, there can be no justified killing in defense of oneself. The test for the presence of unlawful aggression under the circumstances is whether the aggression from the victim put in real peril the life or personal safety of the person defending himself; the peril must not be an imagined or imaginary threat. Accordingly, the accused must establish the concurrence of three elements of unlawful aggression, namely: (a) there must be a physical or material attack or assault; (b) the attack or assault must be actual, or, at least, imminent; and (c) the attack or assault must be unlawful.

Unlawful aggression is of two kinds: (a) actual or material unlawful aggression; and (b) imminent unlawful aggression. Actual or material unlawful aggression means an attack with physical force or with a weapon, an offensive act that positively determines the intent of the aggressor to cause the injury. Imminent unlawful aggression means an attack that is impending or at the point of happening; it must not consist in a mere threatening attitude, nor must it be merely imaginary, but must be offensive and positively strong (like aiming a revolver at another with intent to shoot or opening a knife and making a motion as if to attack).

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3. Anyone who acts in defense of the person or rights of a stranger, provided that the first and second requisites mentioned in the first circumstance of this Article are present and that the person defending be not induced by revenge, resentment, or other evil motive.
 4. Any person who, in order to avoid an evil or injury, does not act which causes damage to another, provided that the following requisites are present:
 - First. That the evil sought to be avoided actually exists;
 - Second. That the injury feared be greater than that done to avoid it;
 - Third. That there be no other practical and less harmful means of preventing it.
 5. Any person who acts in the fulfillment of a duty or in the lawful exercise of a right or office.
 6. Any person who acts in obedience to an order issued by a superior for some lawful purpose.

²⁸ *Velasquez v. People*, G.R. 195021, 15 March 2017.

²⁹ *People v. Aleta*, 603 Phil. 571, 581 (2009).

³⁰ *Medina v. People*, 724 Phil. 226, 237 (2014).

³¹ *People v. Casas*, 755 Phil. 210, 219 (2015).

³² *People v. Dulin*, 762 Phil. 24, 36-37 (2015).

Imminent unlawful aggression must not be a mere threatening attitude of the victim, such as pressing his right hand to his hip where a revolver was holstered, accompanied by an angry countenance, or like aiming to throw a pot.

The prosecution was able to establish from the testimony of Rollane, which the Court holds as convincing and forthright, that there was no unlawful aggression on the part of Reggie when he was stabbed by the accused-appellant. Records will confirm that the attack by the accused-appellant on Reggie was swift and deliberate and was not preceded by any provocation on the part of the latter.

The accused-appellant contends that the safety of his siblings was compromised because the threat to harm them was not a mere stance but a positively strong act of real danger considering that Reggie has already entered his house.³³

Even granting for the sake of argument that the defense's version of the events be ruled as credible, the Court still cannot find any valid justification to declare that there existed unlawful aggression on the part of Reggie when he was stabbed by the accused-appellant. Unlawful aggression, as defined in the RPC, contemplates assault or at least threatened assault of an immediate and imminent kind.³⁴ The test therefore for the presence of unlawful aggression under the circumstances is whether the aggression from the victim put in real peril the life or personal safety of the person defending himself; the peril must not be imagined or an imaginary threat.³⁵

The accused-appellant admitted that no confrontation between him and Reggie took place inside the house, nor did they talk to each other,³⁶ and nor were his siblings hurt by Reggie.³⁷ These admissions readily negate unlawful aggression on the part of Reggie. But even assuming for the sake of argument that initially there was unlawful aggression on Reggie's part, such unlawful aggression ceased to exist when he left the accused-appellant's house and proceeded to a nearby store.³⁸ At that point, too, it was obvious that there was no longer any aggression from Reggie that put in peril the life of the accused-appellant and his siblings.

Worse, accused-appellant confessed that he followed Reggie to the store with the specific intention of hurting Reggie;³⁹ thus, controverting his claim that he was only defending himself or his siblings from the alleged

³³ CA rollo, pp. 28-29.

³⁴ *People v. Lopez*, 603 Phil. 521, 531-532 (2009).

³⁵ *People v. Cosgafa*, G.R. No. 218250, 10 July 2017.

³⁶ TSN, 24 September 2012, pp. 11-12.

³⁷ Id. at 14.

³⁸ Id. at 13.

³⁹ Id. at 14.

threats of Reggie. Corollarily, when the accused-appellant stabbed Reggie, the former was already the unlawful aggressor retaliating to the alleged earlier unlawful aggression of the latter. Jurisprudence dictates, however, that a person making a defense has no more right to attack an aggressor when the unlawful aggression has ceased,⁴⁰ as is true in this case. Aggression, if not continuous, does not constitute aggression warranting defense of one's self.⁴¹

Retaliation is not the same as self-defense. In retaliation, the aggression that was begun by the injured party already ceased when the accused attacked him, while in self-defense the aggression still existed when the aggressor was injured by the accused.⁴² When unlawful aggression ceases, the defender no longer has any right to kill or wound the former aggressor, otherwise, retaliation and not self-defense is committed.⁴³ As case law puts it, there can be no self-defense unless the victim committed unlawful aggression against the person who resorted to self-defense.⁴⁴

Suffice it to say that a plea of self-defense is belied by the nature, number, and location of the wounds inflicted on the victim since the gravity of said wounds is indicative of a determined effort to kill and not just to defend.⁴⁵ The stab blows delivered by the accused-appellant to Reggie resulted in three fatal wounds that pierced his heart, lung, and liver. These wounds unmistakably support the conclusion as to accused-appellant's intent to kill Reggie.

The claim of the accused-appellant that Reggie entered his house armed with a knife and threatened his siblings miserably failed in view of the absence of evidence, documentary or testimonial, to fortify it. It must be stressed that self-defense cannot be justifiably appreciated when uncorroborated by independent and competent evidence or when it is extremely doubtful by itself.⁴⁶

There can be no self-defense, whether complete or incomplete, unless the victim had committed unlawful aggression against the person who resorted to self-defense.⁴⁷ The absence of any unlawful aggression on the part of Reggie renders ineffectual the accused-appellant's alibi of defense of a relative. Consequently, the two other essential elements of self-defense would have no factual and legal bases without any unlawful aggression to

⁴⁰ *People v. Casas*, supra note 31 at 220.

⁴¹ *People v. Raytos*, G.R. No. 225623, 7 June 2017.

⁴² *Belbis, Jr. v. People*, 698 Phil. 706, 721 (2012).

⁴³ *People v. Casas*, supra note 31 at 220.

⁴⁴ *Id.* at 219.

⁴⁵ *Ocampo v. People*, supra note 21 at 433.

⁴⁶ *Belbis, Jr. v. People*, supra note 42 at 719.

⁴⁷ *People v. Macaraig*, G.R. No. 219848, 7 June 2017.

prevent or repel.⁴⁸ For this reason, it becomes immaterial to further discuss the two other elements of defense of a relative.

The crime committed by the accused-appellant was murder.

The accused-appellant was charged with and convicted of murder under Art. 248⁴⁹ of the RPC.

To warrant a conviction for the crime of murder, the following essential elements must be present: (1) that a person was killed; (2) that the accused killed him or her; (3) that the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the RPC; and (4) that the killing is not parricide or infanticide.⁵⁰

There is no issue that the first, second, and fourth elements are present in this case. On the third element, while the CA upheld the finding of the RTC that treachery attended the killing of Reggie by the accused-appellant, it ruled against the presence of evident premeditation.

Jurisprudence maintains that there is treachery when a victim is set upon by the accused without warning, as when the accused attacks the victim from behind, or when the attack is sudden and unexpected and without the slightest provocation on the part of the victim or is, in any event, so sudden and unexpected that the victim is unable to defend himself, thus insuring the execution of the criminal act without risk to the assailant.⁵¹ “A finding of the existence of treachery should be based on clear and convincing evidence. Such evidence must be as conclusive as the fact of killing itself and its existence cannot be presumed. In the absence of proof

⁴⁸ *People v. Dulin*, supra note 32 at 36.

⁴⁹ 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:

1. 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.
2. In consideration of a price, reward or promise.
3. By means of inundation, fire, poison, explosion, shipwreck, stranding of a vessel, derailment or assault upon a railroad, fall of an airship, or by means of motor vehicles, or with the use of any other means involving great waste and ruin.
4. On occasion of any of the calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic or other public calamity.
5. With evident premeditation.
6. With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse. (As amended by R.A. No. 7659 entitled “An Act to Impose the Death Penalty on Certain Heinous Crimes, Amending for that Purpose the Revised Penal Laws, as amended, Other Special Penal Laws, and for Other Purposes.”)

⁵⁰ *People v. Villanueva*, G.R. No. 226475, 13 March 2017.

⁵¹ *People v. Dayaday*, supra note 17.

beyond reasonable doubt that treachery attended the killing of the victim, the crime is homicide, not murder.”⁵² But regardless of whether it is murder or homicide, the offender must have the intent to kill the victim; otherwise, the offender shall be liable only for physical injuries.⁵³ The evidence to prove intent to kill may consist of, inter alia, the means used; the nature, location, and number of wounds sustained by the victim; and the conduct of the malefactors before, at the time of, or immediately after the killing of the victim.⁵⁴

In order for treachery to be properly appreciated, two elements must be present: (1) at the time of the attack, the victim was not in a position to defend himself; and (2) the accused consciously and deliberately adopted the particular means, methods, or forms of attack employed by him.⁵⁵

The prosecution was able to prove beyond doubt that the accused-appellant had consciously and deliberately adopted the means of execution to ensure his success in killing Reggie, i.e., the accused-appellant surreptitiously sneaked behind Reggie and gave him a headlock that restrained his movement, thus denying him the chance to defend himself or to parry the stab blows the accused-appellant would deliver. It is noteworthy that despite the fact that Reggie tried to escape further aggression by running, he failed because the accused-appellant caught up with him when he stumbled. Obviously, Reggie, who was then bleeding, was no longer in a position to protect himself when the accused-appellant delivered two more fatal blows.

Considering that the elements of treachery attended the killing of Reggie, the CA was correct in convicting the accused-appellant of murder.

The penalty to be imposed upon the accused-appellant

Article 248 of the RPC provides that the penalty for murder is *reclusion perpetua* to death. By applying Art. 63(2)⁵⁶ of the RPC, the lesser

⁵² *People v. Bugarin*, G.R. No. 224900, 15 March 2017.

⁵³ *Cirera v. People*, 739 Phil. 25, 39 (2014).

⁵⁴ *Id.* at 40.

⁵⁵ *People v. Racal*, G.R. No. 224886, 4 September 2017.

⁵⁶ Article 63. *Rules for the application of indivisible penalties.* - In all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed.

In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

x x x x

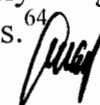
2. When there are neither mitigating nor aggravating circumstances and there is no aggravating circumstance, the lesser penalty shall be applied.

of the two indivisible penalties, i.e., *reclusion perpetua*, shall be imposed upon the accused-appellant in view of the absence of any mitigating or aggravating circumstances.

Following jurisprudence in *People v. Jugueta*,⁵⁷ the accused-appellant shall be held liable for civil indemnity, moral damages, and exemplary damages in the amount of ₱75,000.00 each.

On the temperate damages, Teresita claimed that she spent ₱67,400.00 for the wake and burial of Reggie. Records reveal that only the expenses totalling to ₱29,600.00 were properly receipted, viz: niche for ₱4,000.00;⁵⁸ memorial services for ₱25,000.00;⁵⁹ and burial permit for ₱600.00.⁶⁰ Considering that the damages substantiated by receipts presented during the trial is less than the prescribed ₱50,000.00 temperate damages in *Jugueta*,⁶¹ the award of ₱ 50,000.00 as temperate damages, in lieu of the actual damages for a lesser amount, is justified.⁶²

Article 2206⁶³ of the Civil Code provides that the heirs of the victim are entitled to be indemnified for loss of earning capacity, which partakes of the nature of actual damages to be proven by competent evidence. The general rule is that documentary evidence should be presented to substantiate the claim for damages for loss of earning capacity except in the following instances: (1) the deceased is self-employed and earning less than the minimum wage under current labor laws; in which case, judicial notice may be taken of the fact that in the deceased's line of work, no documentary evidence is available; or (2) the deceased is employed as a daily wage worker earning less than the minimum wage under current labor laws.⁶⁴



x x x

⁵⁷ 783 Phil. 806, 840 (2016).

⁵⁸ Records, p. 134; Exh. "I-6."

⁵⁹ Id. at 135; Exh. "I-7."

⁶⁰ Id. at 136; Exh. "I-9."

⁶¹ *People v. Jugueta*, supra note 57 at 853.

⁶² *Ocampo v. People*, supra note 21 at 435.

⁶³ Article 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;
- (2) If the deceased was obliged to give support according to the provisions of article 291, the recipient who is not an heir called to the decedent's inheritance by the law of testate or intestate succession, may demand support from the person causing the death, for a period not exceeding five years, the exact duration to be fixed by the court;
- (3) The spouse, legitimate and illegitimate descendants and ascendants of the deceased may demand moral damages for mental anguish by reason of the death of the deceased.

⁶⁴ *Da Jose v. Angeles*, 720 Phil. 451, 463 (2013).

Through a certification⁶⁵ issued by Reggie's employer, Teresita was able to prove that her son, who was then 21 years old, was earning a monthly salary of ₱3,500.00 as butcher's helper, and which fact was not disputed by the accused-appellant.

The formula for the computation of loss of earning capacity is as follows:⁶⁶

$$\begin{aligned} \text{Net earning capacity} &= \text{Life Expectancy} \times [\text{Gross Annual Income} - \text{Living} \\ &\quad \text{Expenses (50\% of gross annual income)}], \text{ where} \\ &\quad \text{life expectancy} \\ &= 2/3 (80 - \text{the age of the deceased}). \end{aligned}$$

With the established facts that Reggie was 21 years old at the time he was killed by the accused-appellant, and that he was earning ₱3,500.00 monthly, the loss of earning capacity is computed as follows:

$$\begin{aligned} \text{Net earning capacity} &= [2/3(80-21)] \times [(\text{₱ } 3,500.00 \times 12) - (\text{₱ } 3,500.00 \times \\ &\quad 12) \times 50\%] \\ &= [2/3(59)] \times [\text{₱ } 42,000.00 - \text{₱ } 21,000.00] \\ &= 39.33 \times \text{₱ } 21,000.00 \\ &= \text{₱ } 825,930.00 \end{aligned}$$

In addition, interest at the rate of six percent (6%) per annum shall be imposed on all monetary awards from the date of finality of this decision until fully paid.⁶⁷

WHEREFORE, the appeal is **DISMISSED**. The 29 April 2014 Decision of the Court of Appeals in CA-G.R. CR HC No. 06009 finding the accused-appellant RODOLFO ADVINCULA y MONDANO guilty beyond reasonable doubt of Murder is hereby **AFFIRMED** with **MODIFICATION** that he shall be liable to the heirs of Reggie Tan y Arañes for the following: civil indemnity of ₱75,000.00; moral damages of ₱75,000.00; exemplary damages of ₱75,000.00; temperate damages of ₱50,000.00; and loss of earning capacity of ₱825,930.00. In addition, interest at the rate of six percent (6%) per annum shall be imposed on all monetary awards from the date of finality of this decision until fully paid.

SO ORDERED.



SAMUEL R. MARTIRES
Associate Justice

⁶⁵ Records, p. 132; Exh. "1-2."

⁶⁶ *People v. Casas*, supra note 31.

⁶⁷ *People v. Jugueta*, supra note 57 at 856.

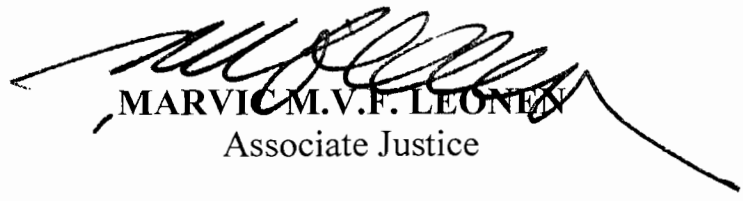
WE CONCUR:



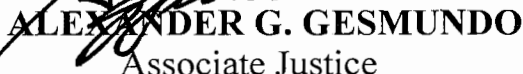
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



LUCAS P. BERSAMIN
Associate Justice




MARVIC M.V.F. LEONEN
Associate Justice



ALEXANDER G. GESMUNDO
Associate Justice

ATTESTATION

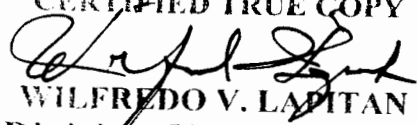
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

CERTIFIED TRUE COPY

WILFREDO V. LAPID
 Division Clerk of Court
 Third Division



ANTONIO T. CARPIO
Acting Chief Justice

MAY 25 2018