



Republic of the Philippines
Supreme Court
Manila

CERTIFIED TRUE COPY
Wilfredo V. Lapidan
WILFREDO V. LAPIDAN
Division Clerk of Court
Third Division
MAR 15 2018

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 215720

Present:

- versus -

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

OSCAR MAT-AN Y ESCAD,
Accused-Appellant.

Promulgated:

February 21, 2018

Wilfredo V. Lapidan

x ----- x

DECISION

MARTIRES, J.:

On appeal is the 25 April 2014 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 05858, which affirmed with modifications the 4 September 2012 Joint Judgment² of the Regional Trial Court of Baguio City, Branch 59, in Criminal Case Nos. 29335-R and 29336-R, finding herein accused-appellant Oscar Mat-An y Escad (*Oscar*) guilty beyond reasonable doubt of the crimes of Slight Physical Injury and Murder, defined and penalized under Article 266 and Article 248 of the Revised Penal Code (RPC).

THE FACTS

On 13 April 2009, Oscar was charged with the crimes of Attempted Homicide and Murder in two Informations, the inculpatory allegations of which respectively read, thus:

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¹ *Rollo*, pp. 2-9; penned by Associate Justice Mario V. Lopez, and concurred in by Associate Justice Jose C. Reyes, Jr., and Associate Justice Socorro B. Inting.

² Records (Crim. Case No. 29335-R), pp. 489-515; penned by Judge Iluminada P. Cabato.

Criminal Case No. 29335-R (Attempted Homicide)

That on or about the 8th day of April 2009, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill, did then and there willfully, unlawfully and feloniously attempt to kill ANTHONETTE EWANGAN, a 1 ½ year old child, by stabbing her with a knife at the nape, thus commencing the commission of the crime of homicide directly by overt acts, but was not able to perform all the acts of execution which would produce the crime of homicide as a consequence by reason of some causes other than his own spontaneous desistance, that is, due to some other causes which prevented the accused from consummating his unlawful purpose.

CONTRARY TO LAW.³

Criminal Case No. 29336-R (Murder)

That on or about the 8th day of April 2009, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and taking advantage of superior strength and with evident premeditation, did then and there willfully, unlawfully and feloniously stab MINDA BABSA-AY, a 61-year old woman, twice on her chest with a knife, thereby inflicting upon the latter: Multiple stab wounds on the chest, and as a result thereof, said MINDA BABSA-AY died.

That the killing was attended by the aggravating circumstance of evident premeditation considering that the killing was planned, deliberated upon and the criminal design carried out by the accused, and abuse of superior strength considering that the accused being then armed with a knife took advantage of his superiority in strength disregarding the sex and age of the victim.

CONTRARY TO LAW.⁴

On 13 May 2009, the RTC granted Oscar's motion to consolidate the two cases.⁵

On 2 June 2009, Oscar, duly assisted by counsel, was arraigned and pleaded not guilty to the charges against him.⁶

On 10 November 2009, pre-trial was conducted wherein the parties entered into stipulations as to the identity of the accused, among others; the minority of Anthonette Ewangan (*Anthonette*)⁷; that Oscar is the husband of

³ Id. at 1.

⁴ Records (Crim. Case No. 29336-R), p. 1.

⁵ Id. at 28.

⁶ Records (Crim. Case No. 29335-R), p. 25.

⁷ Also referred to as "Antonette Ewangan" in some parts of the records.



Ruby Babsa-ay Mat-an (*Ruby*), the daughter of the deceased Minda Babsa-ay (*Minda*); and that Ruby works overseas and sends money remittances through her mother and not to Oscar.⁸

Thereafter, trial on the merits ensued.

Evidence for the Prosecution

The prosecution presented ten (10) witnesses, namely: Norma C. Gulayan (*Norma*), Dr. John L. Tinoyan (*Dr. Tinoyan*), Dr. Samuel P. Daw-as, Jr. (*Dr. Daw-as*), Clyde Bunhian (*Clyde*), Police Senior Inspector Angeline B. Amangan (*PSI Amangan*), Rosemarie B. Ewangan (*Rosemarie*), Police Officer 3 Leo Mojica (*PO3 Mojica*), Police Officer 1 Jose Mana-ar, Jr. (*PO1 Mana-ar*), Robinson B. Babsa-ay (*Robinson*), and Sheyanne Mat-an (*Sheyanne*). Their combined testimonies tended to establish the following:

On 8 April 2009, at around 11:00 a.m., Norma was selling *halo-halo* beside Minda's store at Sunnyside Fairview, Tacay Road, Baguio City; Clyde was in front of the same store. At that time, Minda was inside her store cradling her 18-month-old granddaughter Anthonette in a blanket,⁹ its ends tied behind her back.

Moments later, Oscar entered the store and an argument ensued between him and Minda. Apparently, Oscar was asking Minda why Ruby had not answered his calls. Minda responded by telling Oscar not to create trouble and to return once he was sober. There was silence for a few seconds;¹⁰ after which, Norma and Clyde heard Minda moaning as if her mouth was being covered.¹¹ Norma immediately ran inside the store where she saw Oscar stab Minda twice. Norma pulled him out of the store and away from Minda.¹² Norma then asked Clyde, who followed her inside the store, to look for Sheyanne, Oscar and Ruby's daughter.¹³ Norma also called out to neighbors for help.¹⁴ Before calling Sheyanne, Clyde saw Oscar leaving the vicinity.¹⁵

Sheyanne testified that on 8 April 2009, while she and her sister Desiree Mat-an were doing laundry, Norma suddenly appeared, crying and without her slippers and told them that Minda was stabbed by their father.

⁸ Records (Crim. Case No. 29335-R), pp. 29-30.

⁹ TSN, dated 15 June 2011, pp. 7-8; TSN, dated 10 August 2011, p. 5.

¹⁰ Id. at 9-10.

¹¹ Id. at 10; TSN, dated 10 August 2011, p. 6.

¹² Id. at 10-12; id. at 6-7.

¹³ Id. at 14; id. at 8.

¹⁴ Id. at 14.

¹⁵ TSN, dated 10 August 2011, p. 8.

Upon hearing this, they immediately ran towards Minda's store. Upon reaching the store, they saw Minda in a prone position with blood splattered on the floor. Underneath Minda's body was Anthonette who appeared to be injured as well.¹⁶ Sheyanne then ran to the roadside where her father was being held by some of their neighbors including PO1 Mana-ar, a police officer on vacation in Baguio at that time.¹⁷ Thereafter, PO1 Mana-ar, Sheyanne, and some of the neighbors brought Oscar to the police station and they also turned over the knife used by Oscar to stab Minda.¹⁸ Meanwhile, Minda and Anthonette were rushed to the Baguio General Hospital and Medical Center (*BGHMC*) where Anthonette was admitted for further observation.¹⁹ Minda died on the same day at the age of 61.²⁰

The postmortem examination conducted by Dr. Tinoyan revealed that Minda sustained four (4) stab wounds in her chest – three (3) of which were fatal, while one (1) was superficial.²¹ As regards Anthonette, the medico-legal certificate prepared by Dr. Daw-as of the *BGHMC* revealed that she sustained a superficial stab wound in the nape area.²²

Rosemarie, Anthonette's mother, testified that her daughter was confined in the hospital for a night; and for that they incurred ₱929.00 for her medication and hospitalization,²³ as shown by the receipts she presented.²⁴ The heirs of Minda incurred the amount of ₱83,763.00 as expenses for her wake and burial.²⁵ This amount was admitted by the defense.²⁶

Evidence for the Defense

The defense presented Oscar as its sole witness. In his testimony, he invoked denial as his defense and narrated his version of the incident as follows:

On 8 April 2009, at about 9:00 to 10:00 o'clock in the morning, Oscar was invited by Donato Bunhian for a drink at Donato's house. Later, he went to Minda's store to buy bread, but he was not able to do so because Minda said to him: "*Why are you still coming here? You are even drunk.*" He answered back but could no longer recall what his exact retort was.²⁷ After

¹⁶ TSN, dated 9 November 2011, pp. 9-10.

¹⁷ Id. at 10; TSN, dated 25 October 2011, pp. 3 and 6.

¹⁸ Id.; id. at 7.

¹⁹ TSN, dated 21 June 2011, p. 5.

²⁰ Records (Crim. Case No. 29335-R), p. 70, Exhibit "D"; TSN, dated 6 June 2011, p. 6.

²¹ Id. at 71, Exhibit "E"; id. at 6-14.

²² Id. at 68, Exhibit "B"; TSN, dated 21 June 2011, p. 5.

²³ TSN, dated 6 September 2011, p. 11.

²⁴ Records (Crim. Case No. 29335-R), pp. 82-85; Exhibits "T-1" to "T-4."

²⁵ Id. at 79-80-C; Exhibits "S" to "S-4."

²⁶ TSN, dated 7 February 2012, p. 3.

²⁷ TSN, dated 16 April 2012, pp. 4-5.

that brief exchange, he could no longer recall what transpired next. When he came to his senses, he was already by the roadside, allegedly waiting for a taxi to go to his workplace at Camp 7.²⁸ While waiting for a taxi, however, some persons approached him and brought him to the police station where he was informed that he had inflicted injuries on his mother-in-law. He maintained, however, that he did not kill his mother-in-law and injure Anthonette; and that he was actually surprised by the charges against him.²⁹

The RTC Ruling

In its joint judgment, the RTC found Oscar guilty of attempted homicide and murder.

With respect to the killing of Minda, the trial court was convinced that the prosecution was able to prove beyond reasonable doubt that Oscar had committed the crime. It also appreciated the aggravating circumstance of evident premeditation to qualify the killing to murder. It observed that Oscar decided to commit the crime because of his grudge against Minda as it was to her, and not to him, that his wife remitted money from abroad.

The trial court also appreciated the aggravating circumstance of abuse of superior strength. It noted that Oscar was about 5'10" tall, heavily built, and armed with a deadly weapon; whereas Minda was only 4'11" in height, was already 61 years old, and was carrying a child.

As to the injury inflicted on Anthonette, the trial court ruled that the same constituted attempted homicide. It also opined that abuse of superior strength was present considering her tender age. However, the same could not be appreciated to qualify the crime to attempted murder because the information charged only the crime of attempted homicide.

The dispositive portion of the joint judgment states:

WHEREFORE, in view of the foregoing disquisitions, the Court, finding the guilt of the accused beyond reasonable doubt of the crimes of MURDER and ATTEMPTED HOMICIDE, imposes upon the accused the following penalties:

1. Criminal Case No. 29335-R for Attempted Homicide – the Indeterminate Sentence of six (6) months of *arresto mayor* as the minimum penalty to six (6) years and one (1) day of *prision correccional* as the maximum penalty, to indemnify the private complainant the amount of ₱929.00 as actual and compensatory

²⁸ Id. at 5-6.

²⁹ Id. at 6-7.



damages, ₱25,000.00 as moral damages, and ₱10,000.00 as exemplary damages.

2. Criminal Case No. 29336-R for Murder – reclusion perpetua and to indemnify the heirs of Minda Babsa-ay the amounts of ₱83,763.00 as actual and compensatory damages, ₱50,000.00 as civil indemnity, ₱25,000.00 as moral damages, and ₱25,000.00 as exemplary damages.

In the service of his sentence, accused shall serve them successively. He shall be credited with 4/5 of his preventive imprisonment.

Accused is ordered transferred to the National Bilibid Prisons, Muntinlupa, Metro Manila in view of the nature of the penalties imposed upon him pending any appeal he may undertake.

SO ORDERED.³⁰

Aggrieved, Oscar appealed before the CA.³¹

The CA Ruling

In its appealed decision, the CA affirmed with modification the RTC joint judgment. The appellate court concurred with the trial court in its assessment that the prosecution was able to establish by proof beyond reasonable doubt that Oscar killed Minda and injured Anthonette.

The appellate court, however, ruled that evident premeditation could not be appreciated to qualify the killing of Minda to murder. It explained that the prosecution failed to establish with certainty the time when Oscar decided to commit the felony. Consequently, that he clung to his determination to kill Minda could not also be inferred. Nevertheless, the appellate court ruled that abuse of superior strength attended the killing due to the evident disparity in strength between Oscar and Minda. Thus, Oscar is still guilty of murder for the killing of Minda.

The appellate court also ruled that Oscar could not be held criminally liable for attempted homicide because there was no evidence that he had the intent to kill Anthonette. Thus, Oscar could only be convicted of physical injuries; and considering that the physician who treated Anthonette testified that her injury was only superficial, Oscar is liable only for slight physical injuries therefor.



³⁰ Records (Crim. Case No. 29335-R), pp. 514-515.

³¹ Id. at 518-520.

The *fallo* of the appealed decision provides:

FOR THESE REASONS, the September 4, 2012 Decision of the Regional Trial Court of Baguio City, Branch 59, is AFFIRMED with the following MODIFICATIONS:

1. In Criminal Case No. 29335-R, accused-appellant OSCAR MAT-AN Y ESCAD is found GUILTY of SLIGHT PHYSICAL INJURY and is meted a straight penalty of twenty (20) days of arresto menor, and further ORDERED to pay the victim the amounts of ₱929.00 as actual damages and ₱5,000.00 as moral damages which shall earn interest at the rate of 6% per annum from date of finality of judgment until fully paid.
2. In Criminal Case No. 29336-R, accused-appellant OSCAR MAT-AN Y ESCAD is found GUILTY of MURDER and is sentenced to serve the penalty of reclusion perpetua, and further ORDERED to pay the heirs of the victim the amounts of ₱83,763.00 as actual damages, ₱75,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱30,000.00 as exemplary damages which shall earn interest at the rate of 6% per annum from date of finality of the judgment until fully paid.

SO ORDERED.³²

Hence, this appeal.

ISSUE

WHETHER THE TRIAL AND APPELLATE COURTS ERRED IN ADJUDGING ACCUSED-APPELLANT OSCAR MAT-AN Y ESCAD GUILTY BEYOND REASONABLE DOUBT FOR THE DEATH OF MINDA BABSA-AY AND INJURIES SUSTAINED BY ANTHONETTE EWANGAN.

THE COURT'S RULING

The appeal lacks merit.

***Factual findings of the trial court;
minor inconsistencies between the
testimonies of the witnesses***

Oscar assails the credibility of the prosecution witnesses, particularly Norma's. He claims that Norma's testimony that she had instructed Clyde to

³² Id. at 8-9.

look for Sheyanne is inconsistent with Sheyanne's version that Norma herself appeared before her while doing laundry and related the incident to her. For Oscar, this discrepancy generated perplexity on who between Norma and Sheyanne was telling the truth, thereby putting in question what they actually witnessed on the morning of 8 April 2009.

This argument deserves scant consideration.

The established rule in our criminal jurisprudence is that when the issue is one of credibility of witnesses, the appellate courts will not disturb the findings of the trial court considering that the latter is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial. Unless it can be shown that the trial court plainly overlooked certain facts of substance and value which, if considered, may affect the result of the case; or in instances where the evidence fails to support or substantiate the trial court's findings of fact and conclusions; or where the disputed decision is based on a misapprehension of facts; the trial court's assessment of the credibility of witnesses will be upheld.³³

In this case, no cogent reason exists which would justify the reversal of the trial court's assessment on the credibility of the witnesses. It is well-settled that immaterial and insignificant details do not discredit a testimony on the very material and significant point bearing on the very act of accused-appellants. As long as the testimonies of the witnesses corroborate one another on material points, minor inconsistencies therein cannot destroy their credibility. Inconsistencies on minor details do not undermine the integrity of a prosecution witness.³⁴

While there are inconsistencies between Norma and Sheyanne's testimonies, these refer only to minor details which do not diminish the probative value of the testimonies at issue. Thus, the fact remains that Norma's categorical and positive identification of Oscar as the person who stabbed Minda prevails over his defense of denial. Denial is inherently a weak defense which cannot outweigh positive testimony. As between a categorical statement that has the earmarks of truth on the one hand and bare denial on the other, the former is generally held to prevail.³⁵

Furthermore, Oscar himself could not firmly deny the accusations against him. Oscar himself could not categorically deny the possibility that he stabbed Minda and Anthonette after he "blacked-out." He merely stated

³³ *People v. Balleras*, 432 Phil. 1018, 1024 (2002).

³⁴ *Avelino v. People*, 714 Phil. 322, 334 (2013).

³⁵ *People v. Bitancor*, 441 Phil. 758, 769 (2002).

that he was “shocked” by the aforesaid charges and that he “cannot recall” stabbing Minda and Anthonette, thus:

ATTY. CAMUYOT:

Q. So from the residence of your neighbour Donato Bunhian, where did you proceed, if you can remember?

A. I went to buy bread at the store, Ma’am.

Q. What store are you referring to Mr. Witness?

A. From the store of my mother-in-law, Ma’am.

Q. And what is the name of your mother-in-law?

A. Minda Babsa-ay, Ma’am.

Q. So were you able to buy bread from the store of your mother-in-law?

A. I was not able to buy, Ma’am.

Q. Why?

A. I was about to buy bread, Ma’am, but then my mother-in-law, Minda Babsa-ay, uttered some words on me, Ma’am.

Q. What did she utter to you particularly? What word did your mother-in-law utter against you, if you can still remember?

A. “Why are you still coming here? You are even drunk.”

Q. So how did you answer your mother-in-law, if you did answer?

A. I answered her back, Ma’am, but I cannot recall anymore what I have answered.

Q. So what transpired after that exchange of words with your mother-in-law, if you can still remember?

A. **I cannot recall anymore, Ma’am, I was shocked and I had a black out.**

Q. So when did you come next to your senses during that day if you did, Mr. Witness?

A. I was already at the road located at the upper level, Ma’am.

Q. On the same day, Mr. Witness?

A. Yes, Ma’am.³⁶ (emphasis supplied)

x x x x

ATTY. CAMUYOT:

Q. Now, Mr. Witness, you are being charged of murdering your mother-in-law, Minda Babsa-ay. What can you say about this allegation?

A. **I am shocked, Ma’am.**



³⁶ TSN, dated 16 April 2012, pp. 4-5.

- Q. You are also being charged, Mr. Witness of attempting to kill Ant[h]onette Ewangan. What can you say about this charge?
- A. **I don't know anything about that, Ma'am.**³⁷ (emphases supplied)

x x x x

PROS. BERNABE:

- Q. You do not recall, Mr. Witness, that you stabbed your mother-in-law?
- A. No, ma'am.
- Q. You do not also recall that you stabbed Ant[h]onette Ewangan whom she was carrying at that time?
- A. No, ma'am.³⁸

From the foregoing, it is clear that the trial and appellate courts did not err in convicting Oscar. The prosecution was able to establish his guilt for Minda's death and Anthonette's injury. He cannot escape liability therefor just because he "blacked out" and "could not recall" that he committed said crimes.

Oscar is guilty of murder qualified by abuse of superior strength, and also of slight physical injury.

The Court concurs that the crime committed against Minda is Murder qualified by abuse of superior strength.

The circumstance of abuse of superior strength is present whenever there is inequality of forces between the victim and the aggressor, assuming a situation of superiority of strength notoriously advantageous for the aggressor, and the latter takes advantage of it in the commission of the crime.³⁹ The appreciation of the aggravating circumstance of abuse of superior strength depends on the age, size, and strength of the parties.⁴⁰

In a plethora of cases, the Court has consistently held that the circumstance of abuse of superior strength is present when a man, armed with a deadly weapon, attacks an unarmed and defenseless woman. In such case, the assailant clearly took advantage of the superiority which his sex

³⁷ Id. at 7.

³⁸ TSN, dated 7 May 2012, p. 6.

³⁹ *Espineli v. People*, 735 Phil. 530, 544-545 (2014); *People v. Quisayas*, 731 Phil. 577, 596 (2014).

⁴⁰ *People v. Calpito*, 462 Phil. 172, 179 (2003).

and the weapon used in the act afforded him, and from which the woman was unable to defend herself.⁴¹

In this case, the prosecution was able to establish that Oscar abused his superiority when he killed Minda. Indeed, it was sufficiently shown that Oscar was armed with a knife, a deadly weapon, while Minda was then burdened by a child and had no means to defend and repel the attacks of her assailant. Furthermore, the trial court noted that Oscar was of heavy build and stood at 5'10" in contrast to Minda's 4'11" frame. Clearly, Oscar abused his superiority afforded him by his sex, height, and build and a weapon when he attacked Minda who was then carrying a child. Thus, the trial and appellate courts correctly convicted him of murder.

The Court also concurs that Oscar can be held guilty only of slight physical injuries with respect to Anthonette. The prosecution failed to present any evidence which would show that Oscar also intended to kill Anthonette. Without the element of intent to kill, Oscar could only be convicted for physical injury; and considering that Anthonette's wound was only superficial, the appellate court correctly convicted Oscar of slight physical injury.

***Alternative circumstance
of intoxication***

Oscar disputes that, on the assumption of his guilt, the trial and appellate courts erred in not appreciating the alternative circumstance of intoxication to mitigate his liability. He argues that records would show that he blacked out and could not remember what transpired; thus, his mental faculties were dulled by the alcohol he imbibed.

The Court is not persuaded.

Drunkenness or intoxication is a modifying circumstance which may either aggravate or mitigate the crime. It is aggravating if habitual or intentional; and it is mitigating if not habitual nor intentional, that is, not subsequent to the plan to commit the crime.⁴² Once intoxication is established by satisfactory evidence, then, in the absence of truth to the contrary, it is presumed to be unintentional or not habitual.⁴³ From the foregoing, however, it is clear that the accused must first establish his state of intoxication at the time of the commission of the felony before he may benefit from the presumption that the intoxication was unintentional and not

⁴¹ *People v. Appegu*, 429 Phil. 467, 482 (2002); *People v. Molas*, 291-A Phil. 516, 525 (1993).

⁴² *People v. Baroy*, 431 Phil. 638, 659 (2002).

⁴³ *People v. Fortich*, 346 Phil. 596, 618 (1997).

habitual. He must prove that he took such quantity of alcoholic beverage, prior to the commission of the crime, as would blur his reason.⁴⁴

In this case, other than his bare allegation that he blacked out, Oscar failed to present sufficient evidence that would show that he was in a state of intoxication as would blur his reason. This uncorroborated and self-serving statement as to his state of intoxication is devoid of any probative value.⁴⁵ On the contrary, there is sufficient reason to believe that Oscar recognized the injustice of his acts. After stabbing her mother-in-law to death, Oscar proceeded to the roadside and waited for a taxi in an apparent attempt to escape. His excuse that he was there because he was going to work is not worthy of any belief. Thus, the trial and appellate courts did not err in not appreciating the alternative circumstance of intoxication in favor of Oscar.

Penalties and monetary awards

In Criminal Case No. 29335-R, there being no aggravating or mitigating circumstance present in the commission of the crime, the penalty shall be imposed in its medium period or twenty (20) days of *arresto menor*, following Article 266 of the RPC. The Court further finds the monetary awards consisting of ₱929.00 as actual damages and ₱5,000.00 as moral damages proper in this case.

In Criminal Case No. 29336-R, other than the circumstance of abuse of superior strength which already qualified the crimes to murder, no other modifying circumstance is present, whether aggravating or mitigating. Thus, the penalty of *reclusion perpetua* is imposed in accordance with Article 248 of the RPC, as amended by Section 6 of Republic Act (R.A.) No. 7659, in relation to Article 63(2) of the RPC.

The Court, however, modifies the CA decision with respect to the monetary awards. In *People v. Jugueta*,⁴⁶ the Court summarized the amounts of damages which may be awarded for different crimes. In said case, the Court held that when the penalty imposed is *reclusion perpetua*, the following amounts may be awarded: (1) ₱75,000.00, as civil indemnity; (2) ₱75,000.00, as moral damages; and (3) ₱75,000.00 as exemplary damages. The aforesaid amounts are proper in this case. The Court further retains the award of actual damages in the amount of ₱83,763.00.



⁴⁴ *People v. Fontillas*, 653 Phil. 406, 419 (2010).

⁴⁵ *People v. Aduhan*, 133 Phil. 786, 800 (1968).

⁴⁶ G.R. No. 202124, 05 April 2016, 788 SCRA 331, 373.

WHEREFORE, the present appeal is **DISMISSED** for lack of merit. The 25 April 2014 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 05858 is **AFFIRMED with MODIFICATIONS** as follows:


1. In Criminal Case No. 29335-R, accused-appellant OSCAR MAT-AN Y ESCAD is found **GUILTY** of SLIGHT PHYSICAL INJURY and is meted a straight penalty of twenty (20) days of *arresto menor*, and further **ORDERED** to pay the victim the amounts of ₱929.00 as actual damages and ₱5,000.00 as moral damages which shall earn interest at the rate of six percent (6%) per annum from date of finality of judgment until fully paid.

2. In Criminal Case No. 29336-R, accused-appellant OSCAR MAT-AN Y ESCAD is found **GUILTY** of MURDER and is sentenced to serve the penalty of *reclusion perpetua*, and further **ORDERED** to pay the heirs of the deceased Minda Babsa-ay the following amounts: (1) ₱83,763.00 as actual damages; (2) ₱75,000.00 as civil indemnity; (3) ₱75,000.00 as moral damages; and (4) ₱75,000.00 as exemplary damages. All monetary awards shall earn interest at the rate of six percent (6%) per annum reckoned from the finality of this decision until their full payment.⁴⁷

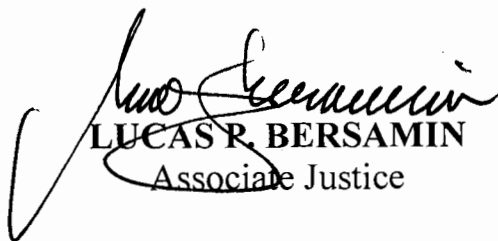
SO ORDERED.



SAMUEL R. MARTIRES
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

⁴⁷ *People v. Combate*, 653 Phil. 487, 517-518 (2010).



LUCAS R. BERSAMIN
 Associate Justice


MARVIC M.V.F. LEONEN
 Associate Justice


ALEXANDER G. GESMUNDO
 Associate Justice

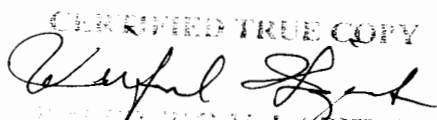
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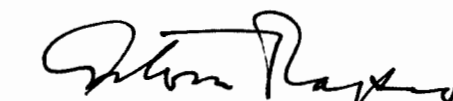
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


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.

CLERKED TRUE COPY

WENDEL V. LAPITAN
 Clerk of Court
 Third Division


ANTONIO T. CARPIO
 Acting Chief Justice

MAR 15 2018