Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **January 14, 2015** *which reads as follows:*

"G.R. No. 167105 – *MICHAEL FRAC RAMOSO, Petitioner, v. PEOPLE OF THE PHILIPPINES, Respondent.*

"In the judgment promulgated on October 29, 2004,[1] the Court of Appeals (CA) affirmed the conviction of the petitioner for attempted murder under the decision rendered on July 22, 2002 by the Regional Trial Court, Branch 14, in Manila (RTC), but modified the penalty imposed therefor. He appeals, still insisting that the State failed to establish his guilt beyond reasonable doubt.

Antecedents

The Office of the City Prosecutor of Manila charged the petitioner in the RTC with frustrated murder under the information dated August 18, 1997, alleging thusly:

> That on or about February 23, 1996 in the City of Manila, Philippines, the said accused, armed with their respective bladed weapons, conspiring and confederating together with others whose true names, real identities and present whereabouts are still unknown and helping one another, with intent to kill, with treachery and evident

- over - thirteen (13) pages .....

[1] *Rollo*, pp. 31-46; penned by Associate Justice Eugenio S. Labitoria (retired), with Associate Justice Bienvenido L. Reyes (now a Member of this Court) and Associate Justice Rosalinda Asuncion-Vicente (retired) concurring.

premeditation and by the used (*sic*) of superior strength, did then and there willfully, unlawfully and feloniously attack, assault and use personal violence upon the person of JOSEPH NATHANIEL CUEVA Y OMADTO[2] by then and there repeatedly stabbing the latter with their respective bladed weapons one after the other, hitting him in the chest and in the different parts of his body, thereby inflicting upon him physical injuries which are necessarily fatal and mortal, thus, performing all the acts of execution which would have produced the crime of Murder as a consequence but nevertheless did not produce it by reason or causes independent of their will, that is, said JOSEPH NATHANIEL CUEVA Y OMADTO was able to free himself from their holds and ran for his life, and by the timely and able medical assistance rendered to said JOSEPH NATHANIEL CUEVA Y OMADTO which prevented his death.

Contrary to law.[3]

The evidence of the Prosecution was summarized by the CA, as follows:

On 23 February 1996, at around 8:00 o'clock in the evening, the victim, Joseph Nathaniel Cueva, together with his classmates, were walking towards the PMI Manufacturers Building to attend their next class. While they were traversing the Dasmarinas bridge in Sta. Cruz, Manila, somebody put his arms *(sic)* around his (Joseph) shoulders and pulled him away from his friends and said, *"Pare, halika mag-usap tayo."* Joseph looked at him and said, *"Anong pag-uusapan natin?"* When he saw that his eyes were tense, Joseph pushed him forward and slipped under his arm. However, he was able to grab Joseph's wrist and, at that instance, his companion stabbed him under his arm. Fortunately, he was not hit because it hit the backpack he was carrying at that time. The companion again stabbed him this time aiming at his chest, but the latter parried the thrust with his right hand hitting him on his right shoulder instead. He felt something snap inside his forearm, so he freed himself from his assailant and ran towards the PMI Manufacturers Building. While passing through parked cars along Dasmarinas, somebody emerged from behind those parked cars and stabbed him hitting on *(sic)* his breast. Despite his injuries, he continued to run and went to the fifth floor where the PMI Clinic is located. Upon seeing him, his classmates brought him to the Philippine General Hospital, where he was confined for two (2) days for the treatment of the following injuries:

a) puncture wound, side of chest (8^{th} psb MAL)
b) stab wound, arm, radial side, D3

2 "Omadio" in some parts of the records.
3 Records, p. 1.

> Almost a month after the stabbing incident happened, sometime between March 18 and March 22, 1996, while Joseph was taking his final exam he met one of his assailants, the one who put his arms *(sic)* around his shoulder, at the ground floor of the PMI Manufacturers Building. The unknown assailant avoided his glance and when he was aware that the latter was looking at him, he looked back and said to him, *"O, Pare kamusta ka na?"* He was surprised at the gesture, then his mother said, *"Iyan si Kuya Mike ng student council."* At the elevator, Joseph asked his mother to find out Kuya Mike's real name. After finding that the real name of Kuya Mike is Michael Ramoso, he proceeded to the National Bureau of Investigation to file charges against him.[4]

On the other hand, the CA rendered the version of the Defense thusly:

> In his defense accused-appellant denied having a hand in the stabbing incident. He testified that during the incident he was with his friends exchanging stories inside the Student Council room at the 5th floor of PMI Manufacturers Building when they heard somebody shouted, "*May nasaksak.*" At that instance, Jonathan Reyes, the president of the student council, instructed them to stay put, then he went out to find out what had happened. Jonathan Reyes returned to the student council's room together with Jacquiline Osma who witnessed the stabbing incident.
>
> To buttress his defense, accused-appellant presented witnesses Jacquiline Osma and Jonathan Reyes who corroborated accused-appellant's testimony.[5]

The RTC rendered its decision on July 22, 2002,[6] convicting the petitioner of attempted murder, decreeing as follows:

> WHEREFORE, all premises considered, this Court hereby resolves and finds the accused Michael Frac Ramoso to be "GUILTY" beyond reasonable doubt, of the crime of Attempted Murder. In the absence of any other circumstance that may modify the penalty, and applying the Indeterminate Sentence Law, this Court hereby sentences the herein accused to suffer the indeterminate prison term of Four (4) Years and One (1) day of ***Prision Correccional*** medium as minimum, to Eight (8) Years of ***Prison Mayor* (sic)** medium as maximum.

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4 *Rollo*, pp. 33-34.
5 Id. at 34-35.
6 Id. at 47-54.

The period of this preventive imprisonment in the pendency of this proceedings shall be deducted for the aforesaid prison term.

Further, the accused is hereby ordered to indemnify the offended party Joseph Nathaniel Cueva, in the sum of Php15,000.00.

With costs against the accused.

SO ORDERED.[7]

The RTC ruled that victim Cueva had been able to recognize the petitioner as the person who had first accosted him on the bridge; that Cueva, having seen the petitioner at least twice in the student council room of PMI, credibly identified the latter through his picture on his school ID and during the trial although he did not at first know the petitioner by name; that the petitioner's denial of his complicity, and his alibi of being inside the PMI student council room at the time of the stabbing incident did not prevail over his positive identification by the victim; that conspiracy among the three attackers of Cueva was competently established, the petitioner being shown to be the person who had placed his arm over Cueva's shoulder and tightly held Cueva's wrist just before the second attacker stabbed the victim twice; that the overt acts of the three attackers indicated their acting in concert with one another; that the crime committed was attempted murder because the injuries inflicted on Cueva were not fatal, for he had been able to free himself from his attackers and had been able to still climb the stairs of the PMI Manufacturers Bank Building up to the fifth floor, and considering also that his ensuing confinement at the Philippine General Hospital had barely lasted two days, being only for exploratory examination instead of a surgical operation; that no medico-legal testimony was adduced to prove the extent or seriousness of the injuries; and that, as such, the records only showed a commencement of the commission of the taking of Cueva's life directly by overt acts without yet going beyond the subjective phase of execution.

The RTC declared that treachery attended the attack on Cueva because its being sudden and unexpected was consciously adopted to ensure that the unsuspecting victim had no chance to resist or even escape; and concluded that their superiority in number was absorbed by treachery.

On appeal, the petitioner assigned the following errors to the RTC, namely:

[7] Id. at 54.

I.
THE LOWER COURT ERRED IN ACCORDING FULL EVIDENTIARY WEIGHT ON COMPLAINANT'S IDENTIFICATION OF THE ACCUSED AS AMONG THE ALLEGED PERPETRATORS OF THE OFFENSE CHARGED.

II.
THE LOWER COURT ERRED IN FINDING THAT THERE WAS CONSPIRACY AMONG THE ALLEGED ASSAILANTS OF COMPLAINANT.

III.
THE LOWER COURT ERRED IN DISREGARDING TOTALLY THE TESTIMONIES OF DEFENSE WITNESSES JACQUILINE OSMA AND JONATHAN REYES WHOSE TESTIMONIES WERE POSITIVE, CATEGORICAL, CLEAR AND REMAINED UNASSAILED AFTER CROSS-EXAMINATION AND UNREBUTTED BY THE PROSECUTION AND THEREFORE ENTITLED TO FULL FAITH AND CREDENCE.

IV.
THE LOWER COURT COMMITTED GRAVE ABUSE OF DISCRETION IN MAKING VITAL ASSUMPTIONS NOT BASED ON ACTUAL PROOF/EVIDENCE ON RECORD.[8]

On October 29, 2004,[9] the CA promulgated its judgment upholding the conviction, *viz*:

> WHEREFORE, premises considered, the assailed decision dated 22 July 2000 of the Regional Trial Court, Branch 14, Manila is **AFFIRMED** with **MODIFICATION**. Accused-appellant is hereby sentenced to suffer the indeterminate prison term of four (4) years and one (1) day of prision correccional medium as minimum, to eight (8) years and one (1) day of prision mayor medium as maximum.
>
> SO ORDERED.

The CA denied the petitioner's motion for reconsideration, prompting the petitioner to appeal to the Court.

8 CA *rollo*, pp. 39-40.
9 Supra note 1.

Issue

In his petition for review on *certiorari*, the petitioner contends that the CA erred in giving full evidentiary weight to Cueva's identification of him in disregard of his denial that was corroborated by his defense witnesses.[10]

Did the State establish the guilt of the petitioner for attempted murder beyond reasonable doubt?

Ruling of the Court

The appeal is without merit.

Firstly, the petitioner continues to assail the trial and appellate courts' appreciation of the evidence and their assessment of the credibility of the witnesses of both parties. Although an appeal in a criminal case opens the records for review, and allows the Court to revisit the findings of fact of the trial and appellate courts with a view to correcting any errors that could alter the outcome in favor of the accused, the petitioner has not advanced anything to persuade us to reach a result in his favor. He has not shown that the findings and conclusions by the RTC and the CA were speculative or conjectural; or that their inferences were manifestly mistaken; or that they gravely abused their discretion; or that their respective findings were in conflict; or that any of their findings of fact was contrary to the records; or that the CA plainly overlooked any fact or circumstance that if properly considered could have justified a different outcome in his favor.[11]

In any event, we stress that the factual findings of the trial court and its assessment of the witnesses' credibility are entitled to great weight and respect by this Court, particularly because the CA affirmed such findings and assessment.[12] It will be unwarranted and arbitrary for the Court to disregard said findings and substitute them with its own, considering that the trial judge had the opportunity to directly hear and observe the

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10 *Rollo*, p. 8.
11 *Pelonia v. People*, G.R. No. 168997, April 13, 2007, 521 SCRA 207, 219.
12 *Perez v. People*, G.R. No. 150443, January 20, 2006, 479 SCRA 209, 219-220.

witnesses and their testimonies. Such a unique advantage of observing and monitoring at close range the demeanor and conduct of witnesses places the trial judge in the better position to pass judgment on the credibility of witnesses and the probative weight of their testimonies.[13] Furthermore, the Court is not a trier of facts.

Secondly, the petitioner discredits the identification by Cueva, pointing out that "the victim was only able to identify him through coaching and assistance by one of the NBI agents which took place more than two (2) years and eleven (11) months after the incident occurred when he was detained at the NBI detention center."[14] The CA already ruled, however, that the "contention deserves no merit in the light of the positive identification of the accused-appellant by the victim himself,"[15] and the records further bore out that the "victim had the opportunity to see accused-appellant's face at the time the latter accosted him and said, '*Pare halika mag-usap tayo*,' and when he replied, '*Anong pag-uusapan natin?*"[16] Both lower courts noted that Cueva had been quite familiar with the face of the petitioner,[17] because the latter had frequented the PMI student council room where Cueva had also used to go to, and that Cueva had been able to confirm the latter's identity "almost a month after the incident when he saw the latter at the ground floor of the PMI Manufacturers Building sometime between March 18 to March 22 of 1996."[18]

Cueva's identification of the petitioner as one of the assailants, describing the overt acts the latter precisely committed, was considered by the trial and appellate courts as competent and credible. We concur. Such identification proceeded from Cueva's recognition, if not familiarity with, his assailants, and, in the case of the petitioner, his identification by Cueva alone as the assailant who had firmly held him by the shoulder and by the wrist prior to the stabbing thrust by one of the assailants, being credible, was sufficient basis for his conviction. Verily, the testimony of a single yet credible and trustworthy witness suffices to support a conviction.[19] This

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[13] *Amora v. People*, G.R. No. 154466, January 28, 2008, 542 SCRA 485-491.
[14] *Rollo*, p. 37.
[15] Id.
[16] Id.
[17] Id.
[18] Id.
[19] *Ureta. v. People*, G.R. No. 135308, August 15, 2002, 387 SCRA 359, 372; *People v. Hinault*, G.R. No. 143764, February 15, 2002, 377 SCRA 241, 253; *People v. Toyco, Sr.*, G.R. No. 138609, January 17, 2001, 349 SCRA 385, 399; *People v. Pascual*, G.R. No. 127761, 331 SCRA 252, April 28, 2000; *People v. Pirame*, G.R. No. 121998, March 9, 2000, 327 SCRA 552, 563.

sufficiency finds more compelling application when the lone witness is himself the victim whose direct and positive identification of his assailants is almost always regarded with indubitable acceptance owing to the natural tendency of victims to seek justice, and to strive to remember the faces of their attackers and the manner in which they committed the crime.[20] In contrast, the Defense adduced no evidence that would put into serious doubt or impute an improper motive to the victim to move him to falsely incriminate the petitioner.

Thirdly, the petitioner's denial and alibi, albeit corroborated by Osma and Reyes, did not overcome the positive identification by the victim because of their being negative in nature. The corroboration was actually held to be suspect by the trial court because the petitioner, like Reyes and Osma, was a member of the Bicol Student Organization within the PMI, with Reyes being the PMI Student Council President in 1995, and the petitioner being also the Acting President in 1994 of the Bicol Student Congress, the umbrella organization of student and non-student organizations in Metro Manila.[21] In that regard, the RTC cogently observed as follows:

> To summarize in a nutshell, the defense evidence tended towards proof of denial and alibi. Unfortunately, in the face of Ramoso's positive identification as one of the perpetrators, they are the weakest of evidence, since they can easily be concocted or fabricated (People v. Macahia, 307 SCRA 404). But of course as in any rule, there may be exceptions. Thus, there could be a question if the witnesses to sustain these defenses, are not flawed with relationship or partiality. In the case of Jacqueline, who testified that she did not know who the three attackers were, the Court, however, is reminded that she and Ramoso both belonged to the Bicol student organization, whereas Jonathan, like Ramoso were both officers of the Bicol Student Congress. On the other hand, Cueva was being recruited by the Youth Forum Organization, headed by Shalimar Lopez. Given the intense rivalries that obtain in a school organization, it is believed that these witnesses on behalf of the accused could not be free of bias.[22]

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[20] *People v. Hampton,* G.R. Nos. 134823-25, January 14, 2003, 395 SCRA 156, 177, *People v. Bacungay,* G.R. No. 125017, March 12, 2002,379 SCRA 22, 34; *People v. Garcia*, G.R. Nos. 133489 & 143970, January 15, 2002, 373 SCRA 134, 151; *People v. Listerio*, G.R. No. 122099, July 5, 2000, 335 SCRA 40, 57; *People v. Aquino*, G.R. No. 129288, March 30, 2000, 329 SCRA 247, 262; *People v. Candelario*, G.R. No. 125550, July 28, 1999, 311 SCRA 475; *People v. Teves*, G.R. No. 115067, 321 Phil. 837, 854 (1995); *People v. Teehankee*, G.R. No. 111206-08, October 6, 1995, 249 SCRA 54.

[21] TSN, June 26, 2002, p. 4.

[22] *Rollo*, p. 52.

Worthy to stress is that in order for alibi to exculpate, the accused must clearly and convincingly establish not only that he was in another place when the crime was committed, but also that it was physically impossible for him to be at the crime scene or its immediate vicinity at the time of its commission.[23] Without such clear and convincing proof, alibi and denial are negative and self-serving evidence undeserving of weight in law.[24] Here, the petitioner did not establish that his alibi met these requirements, for, as the trial court stated:

> Further, the allegation that Ramoso was not at the scene of the crime, but rather up in the room of the Student Council in the fifth floor of Manufacturer's Bank Building, at 8:00 or 8:30 p.m. of February 23, 1996 could not hold water as alibi. The reason being in order that such defense would prosper, it must be shown that it was physically impossible for Ramoso to be at the bridge in Dasmarinas Street, when the crime was committed. Be that as it may, it is a matter which the Court can take judicial notice that the distance between the two places, as described by witness herein, to be just three blocks away. With that as yardstick, in addition to the ruling in People v. Canete, 287 SCRA 490 that 'the accused must show that he was so far away that he could not be physically present at the place of the crime, or its immediate vicinity, at the time of its commission," Ramoso's alibi is simply unavailing.[25]

Fourthly, the finding that the murder was attempted, not frustrated, was warranted. "There is an attempt when the offender commences the commission of a felony directly by overt acts, and does not perform all the acts of execution which should produce the felony by reason of some cause or accident other than his own spontaneous desistance."[26] In other words, the essential elements of an attempted felony are that: (1) the offender commences the commission of the felony directly by overt acts; (2) he does not perform all the acts of execution which should produce the felony; (3) his act is not stopped by his own spontaneous desistance; and (4) the non-performance of all acts of execution was due to a cause or accident other than his spontaneous desistance.[27] The first requisite of an attempted felony consists of two elements, namely, that there be external acts; and that such external acts have a direct connection with the crime intended to be committed.[28] Here, the petitioner and his cohorts had commenced the

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[23] *People v. Bernardo*, G.R. No. 198789, June 3, 2013, 697 SCRA 121, 128; *People v. Garte*, G.R. No. 176152, November 25, 2008, 571 SCRA 570, 583; *Campos v. People*, G.R. No. 175275, February 19, 2008, 546 SCRA 334, 335.

[24] *People v. Togahan*, G.R. No. 174064, June 8, 2007, 524 SCRA 557, 574.

[25] *Rollo*, p. 52.

[26] *Revised Penal Code*, Art. 6, par. 3.

[27] *People v. Lizada*, G.R. No. 143468-71, January 24, 2003, 396 SCRA 62, 94.

[28] 1 Luis B. Reyes, *The Revised Penal Code* 98 (1981).

intended crime of killing Cueva by their overt acts of holding him down and stabbing him, but did not perform all the acts of execution necessary to accomplish the killing because the victim had been able to free himself from the hold of the petitioner and to escape from them by running towards the building.

With the Prosecution having alleged the attendance of treachery and having showed beyond reasonable doubt that "the attack on the victim was sudden, unprovoked, unexpected and done in a manner which directly insured the execution of the act without any risk to the accused-appellant and his companions arising from the defense which the victim may have made,"[29] the RTC properly held that the crime, if consummated, would be murder. The crime was only attempted murder because the wounds inflicted on the victim were not sufficient to cause his death, indicating that the accused and his cohorts had not yet performed all the acts of execution that would have brought about the victim's death.[30] Upon considering the character of the injuries sustained by the victim, and because of the absence of medico-legal testimony to show the extent and the seriousness of the injuries, the trial court rightly concluded that the subjective phase of execution had not been passed, proving the murder to be only in its attempted stage of execution.[31] Indeed, because nothing in the evidence showed that the wound would have been fatal without medical intervention, the character of the wound entered the realm of doubt, and the doubt should be resolved in favor of the accused.[32]

Fifthly, the RTC and the CA properly concluded that the petitioner conspired with his cohorts. The CA observed that "at the time of the attack, the victim was accosted by accused-appellant by putting his arms *(sic)* around his shoulders and later, his wrist, and at that instance his companion stabbed him hitting him on his right shoulder;"[33] and found that "[t]he totality of the acts of the assailants, which demonstrates a concerted action towards the accomplishment of an unlawful purpose is tantamount to conspiracy."[34] The CA explained that "although [the petitioner's] participation in the stabbing incident was [only] the putting of his arms

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29 *Rollo*, pp. 43-44.
30 *People v. Gutierrez*, G.R. No. 188602, February 4, 2010, 611 SCRA 633, 645.
31 *Rollo*, p. 44.
32 *Epifanio v. People,* G.R. No. 157057, June 26, 2007, 525 SCRA 552, 563-564; *Paddayuman v. People*, G.R. No. 120344, January 23, 2002, 374 SCRA 278, 288.
33 *Rollo*, p. 41.
34 Id.

(sic) around the victim's shoulder, the same act does not necessarily exculpate him,"[35] inasmuch as the victim had been thereby rendered "immobile or defenseless enabling his co-conspirator to relentlessly attack him."[36] There can be no doubt about conspiracy being manifested in the acts done before, during and after the commission of the crime that made evident a joint purpose, concerted action and concurrence of sentiments.[37] The several acts of the assailants during and after the stabbing disclosed a unison of objectives, for not one of them tried to stop the other in the perpetration of the attack. Their separate acts were coordinated, and were geared towards a common objective. For that reason, the act of one was the act of all.

Sixthly, the CA considered as erroneous the maximum of eight years imposed by the RTC, and pointed out instead that the maximum of the indeterminate sentence should be eight years and one day of *prision mayor* because the range of the medium period of *prision mayor* was eight years and one day to 10 years. We agree. Under Article 248 of the *Revised Penal Code*, the penalty for murder is *reclusion perpetua* to death. With the crime committed being attempted murder, the proper penalty is two degrees lower than that prescribed for murder.[38] Under paragraph 2 of Article 61,[39] in relation to Article 71 of the *Revised Penal Code*,[40] the penalty two degrees lower is *prision mayor*. There being no modifying circumstances, the maximum of the indeterminate penalty should come

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35 Id. at 42.

36 Id.

37 *People v. Bolivar*, G.R. No. 130597, February 21, 2001, 352 SCRA 438.

38 Article 51 of the *Revised Penal Code* states:

Art. 51. *Penalty to be imposed upon principals of an attempted crime.* – The penalty lower by two degrees than that prescribed by law for the consummated felony shall be imposed upon the principals in an attempt to commit a felony.

39 Art. 61. *Rules for graduating penalties.* – For the purpose of graduating the penalties which, according to the provisions of Articles 50-57, inclusive, of this Code, are to be imposed upon persons guilty as principals of any frustrated or attempted felony, or as accomplices or accessories, the following rules shall be observed:

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2. When the penalty prescribed for the crime is composed of two indivisible penalties, or of one or more divisible penalties to be imposed to their full extent, the penalty next lower in degree shall be that immediately following the lesser of the penalties prescribed in the respective graduated scale.

40 Art. 71. *Graduated scales.* – In the cases in which the law prescribes a penalty lower or higher by one or more degrees than another given penalty, the rules prescribed in Article 61 shall be observed in graduating such penalty.

The lower or higher penalty shall be taken from the graduated scale in which is comprised the given penalty.

The courts, in applying such lower or higher penalty, shall observe the following graduated scales:

SCALE NO. 1

1. Death
2. *Reclusion perpetua*
3. *Reclusion temporal*
4. *Prision mayor*
5. *Prision correccional*
6. *Arresto mayor*
7. *Destierro*
8. *Arresto menor*
9. Public censure
10. Fine.

x x x x

from the medium period of *prision mayor*, which ranges from eight years and one day to 10 years.[41] Hence, the petitioner should be sentenced to suffer an indeterminate penalty of from four years of *prision correccional*, as minimum, to eight years and one day of *prision mayor* in its medium period, as maximum.

And, lastly, the RTC and the CA granted to Cueva only ₱15,000.00 as indemnity. The amount was presumably for actual damages. Ostensibly, however, the lower courts disregarded Cueva's right as the victim of a felony to other kinds of civil liability arising from the crime under the *Revised Penal Code*. Their omission was unjust. The victim should be allowed whatever he deserved under the law. For sure, Cueva was entitled to moral damages because of the injuries and pain suffered from the assault. To assuage his moral sufferings, therefore, we award to him ₱30,000.00 as moral damages. Also, Article 2230 of the *Civil Code* requires only the presence of any aggravating circumstance to warrant the grant of exemplary damages. He should be granted exemplary damages of ₱15,000.00 in view of the attendance of treachery, although that circumstance qualified the crime, for, as clarified in *People v. Catubig*:[42]

> The term "aggravating circumstances" used by the Civil Code, the law not having specified otherwise, is to be understood in its broad or generic sense. The commission of an offense has a two-pronged effect, one on the public as it breaches the social order and the other upon the private victim as it causes personal sufferings, each of which is addressed by, respectively, the prescription of heavier punishment for the accused and by an award of additional damages to the victim. The increase of the penalty or a shift to a graver felony underscores the exacerbation of the offense by the attendance of aggravating circumstances, whether ordinary or qualifying, in its commission. Unlike the criminal liability which is basically a State concern, the award of damages, however, is likewise, if not primarily, intended for the offended party who suffers thereby. It would make little sense for an award of exemplary damages to be due the private offended party when the aggravating circumstance is ordinary but to be withheld when it is qualifying. Withal, the ordinary or qualifying nature of an aggravating circumstance is a distinction that should only be of consequence to the criminal, rather than to the civil, liability of the offender. In fine, relative to the civil aspect of the case, an aggravating circumstance, whether ordinary or qualifying, should entitle the offended party to an award of exemplary damages within the unbridled meaning of Article 2230 of the *Civil Code*.[43]

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41 *People v. Lacaden*, G.R. No. 187682, November 25, 2009, 605 SCRA 784, 805.
42 G.R. No. 137842, August 23, 2001, 363 SCRA 621.
43 Id. at 635.

In addition, interest at the legal rate of 6% *per annum* is imposed on all items of civil liability in conformity with current judicial policy,[44] to be reckoned from the finality of this decision until its full payment.

WHEREFORE, the Court **AFFIRMS** the judgment promulgated on October 29, 2004 in all respects, subject to the **MODIFICATION** that the petitioner shall further pay to Joseph Nathaniel Cueva *y* Omadto: (1) the sums of ₱30,000.00 as moral damages, and ₱15,000.00 as exemplary damages; (2) interest at the legal rate of 6% *per annum* on all items of civil liability reckoned from the finality of this decision until full payment; and (3) the costs of suit.

SO ORDERED."

Very truly yours,

EDGAR O. ARICHETA
Division Clerk of Court
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[44] *Sison v. People*, G.R. No. 187229, February 22, 2012, 666 SCRA 645, 667.