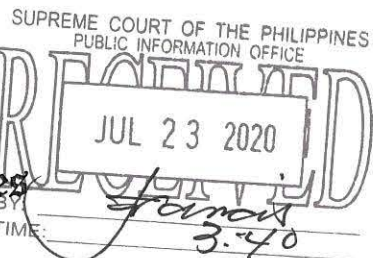




Republic of the Philippines
Supreme Court
Manila



THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **February 3, 2020**, which reads as follows:

“G.R. No. 217667 (*People of The Philippines v. Jhun Jhun Romero, Victor M. Dalisay and John Doe*). – This is an appeal filed by Victor M. Dalisay (Dalisay) assailing the Decision¹ of the Court of Appeals (CA) dated November 27, 2013 in CA-G.R. CR-HC No. 05705, which affirmed his conviction for Robbery with Homicide and modified the award of damages in favor of the Heirs of Jojo Calamagan (Jojo), Michael Belo (Michael), and Arcyl Molano (Arcyl).

Antecedents

The Information² filed with the Regional Trial Court (RTC) of Dagupan City, Branch 44, reads:

That on or about the 24th day of December, 2006 in the City of Dagupan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, JHUN JHUN ROMERO, VICTOR M. DALISAY and JOHN DOE, being then armed with a piece of wood, with intent to gain and by means of violence against or intimidation of persons, confederating together, acting jointly and helping each other, did then and there, willfully, unlawfully, criminally by means of treachery and with intent to kill ARCYL MOLANO, assault, attack and wound the said ARCYL MOLANO with a piece of wood, inflicting upon her fatal wounds which directly caused her death and on occasion or by reason of the robbery attack and assault MICHAEL BELO, JOJO CALAMAGAN and JOROSS ANDRES (*sic*), causing their death, except the latter who sustained serious injuries, forcibly take and carry away P55,077.70, Philippine Currency, to their damage and prejudice and other consequential damages.

¹ Penned by Associate Justice Japar B. Dimaampao, with Associate Justices Elihu A. Ybañez and Victoria Isabel A. Paredes, concurring; *rollo*, pp. 2-12.

² Records, pp. 1-2.

Contrary to Article 294 in relation [to] Article 249 of the Revised Penal Code.³

Dalisay and his co-accused Jhun Jhun Romero (Romero) pleaded not guilty. Trial ensued.

The witnesses for the prosecution testified that the victims and the accused were all employees of Floren Hotel in Dagupan City. Joross Andres (Joross), Jojo, and Michael were room boys and Arcyl was the information desk clerk (collectively, the victims), while Romero was the laundryman and Dalisay was the security guard. All employees celebrated their Christmas party in the hotel's coffee shop from 8:00 p.m. of December 23, 2006 to 2:00 a.m. of December 24, 2006. Arcyl brought her sister Cindy. The victims, Cindy, and the two accused stayed behind and had *videoke*. Afterwards, they went into their respective businesses. Michael got a foam and laid down on the floor of the coffee shop. Jojo and Romero sat on the sofa. Arcyl and Cindy went to the information desk. Joross started to clean the dishes. Dalisay went to his station at the parking area. Joross later saw Romero laughing with Dalisay at the parking area.⁴

After a while, Arcyl asked Joross to check who was knocking on the door at the back of the information section. Upon opening, Joross saw a man wearing a bonnet, black jacket, and black pants. He boxed the man thinking that it was a robber, but the latter asked him to stop while simultaneously removing his bonnet, revealing that it was Romero. Joross inquired why Romero went to work so early. Arcyl then asked Joross to accompany Cindy to get a ride home. Upon his return to the hotel, Joross again saw Romero and Dalisay conversing at the parking area. Joross proceeded to the coffee shop and decided to sleep beside Michael. However, he was jolted from his sleep when he was struck on his left cheek. When he opened his eyes, he saw Romero standing about one meter away from him. He also heard unrecognized voices. He lost consciousness after being hit several times.⁵

At about 4:00 a.m. to 4:30 a.m. of December 24, 2006, PO2 Abraham Cabana (PO2 Cabana) received a radio message from the Police Community Precinct 3 about an alleged robbery in Floren Hotel. He and PO2 Crisostomo Benavente (PO2 Benavente) went to the hotel. From the outside, they saw a man sitting on the sofa at the lobby but the latter did not respond to their knocks. Once inside, they confirmed that the man (later identified as Jojo) was already dead. Jojo's face was unrecognizable and he was hugging a pillow with both legs raised on the coffee table. PO2 Cabana and PO2 Benavente saw two more bodies sprawled on the floor of the coffee shop, who turned out to be Michael and Joross. PO2 Cabana radioed for police back-up. He met Romero when he was about to go outside. Romero

³ Id. at 1.

⁴ *Rollo*, pp. 3-4.

⁵ Id. at 4.

informed him that he was the laundry man and that he came in to work. PO2 Benavente stayed with Romero, while PO2 Cabana fetched the duty investigator, PO2 Elarde Fernandez (PO2 Fernandez).⁶

Upon their return, PO2 Cabana and PO2 Fernandez were led by Romero to the door at the back of the information desk where they saw a dead woman, later identified as Arcyl, lying behind the counter with only her bra on. SPO1 Bernard Arzadon (SPO1 Arzadon), one of the police back-up, noticed that Joross was still alive. Joross was then rushed to the Region I Medical Center, where he was treated for “fracture mandible left, multiple lacerated wound, alveolar fracture, multiple lacerated wound buccal mucosa, upper and lower lips, and R/O anaxillary fracture left.” He was operated on for “debridement and suturing.”⁷ He testified that he spent ₱60,000 plus hospital bills for his injuries and that he stopped working after the incident. Before, he was earning ₱220.00 per day and was working six (6) days a week.⁸

Meanwhile, Marina Molano (Marina), the Supervisor of Floren Hotel, received a message from Romero about the incident. She went to the hotel and noticed that the cash drawer at the counter was forcibly opened. After conducting an inventory, she computed that the amount taken totaled to ₱55,077.70, which consisted of the cash sales of the hotel from December 22 to 23 amounting to ₱37,043.45 and the payroll money amounting to ₱18,034.25.⁹

At around 2:30 p.m. of December 24, 2006, Dalisay surrendered to the Sison Police Station.¹⁰ He was turned over to the Dagupan Police Station where he executed a sworn statement¹¹ with certification and waiver of his rights to remain silent and to counsel. He admitted his complicity to the crime and pointed to Romero as the mastermind. He narrated that Romero convinced him to join him (Romero) and his *kumpare* to rob the hotel. Romero promised to give Dalisay part of the loot. Dalisay was instructed by Romero to go the coffee shop. There, Dalisay repeatedly struck Michael and Joross with a piece of wood. He then proceeded to the lobby where he saw Jojo bloodied at the sofa and no longer moving. He noticed Romero and his *kumpare* looking for something at the counter or front desk, which he surmised to be the money in the drawer. He stated that he went to the faucet near the kitchen to wash his hands and the piece of wood. By then, he noticed that Romero and his *kumpare* already left. He described that Romero’s *kumpare* had a flower tattoo on his right upper arm. Since Romero and his *kumpare* escaped ahead of him, Dalisay averred that he was not given part of the loot.

⁶ CA rollo, p. 49.

⁷ Records, p. 508.

⁸ CA rollo, p. 48.

⁹ Id. at 51; CA rollo, p. 107.

¹⁰ CA rollo, p. 107.

¹¹ Records, pp. 491-492.

On December 27, 2006, Romero was invited for questioning. He stated that he was at the hotel when Dalisay and an unidentified person attacked the victims. On December 28, 2006, he led the police to the location of the weapon used, a piece of wood about 29 inches long, which was hidden under the faucet pipe in the passageway near the coffee shop. The police found the wood smeared with dried blood.¹² Romero executed a sworn statement¹³ implicating Dalisay as the attacker of Michael and Joross, and an unidentified man with a flower tattoo on his right upper arm as the attacker of Arcyl and Jojo.

Only Romero took the witness stand. Dalisay waived his right to be heard. Romero testified in court that after the Christmas party at Floren Hotel, at around 1:00 a.m., he went home and brought gifts and a can of milk for his two-year old child. However, he received a text message from his supervisor, asking him to fix something in the hotel. He went back at the hotel at around 2:00 a.m. He cleaned and fixed the coffee shop, where their Christmas party was held. Afterward, he went to the parking area of the hotel to breathe some fresh air. There, he saw Dalisay talking to someone he did not recognize. Subsequently, Dalisay asked Romero about the wood support of the gate. Romero pointed to where the wood was placed, then he went back inside the hotel. He entered through the back door where the information desk, the bedsheets, and the linen were stored to look for a towel. After wiping his sweat inside the stockroom, he went to the coffee shop and saw Joross and Michael being hit by Dalisay with a piece of wood. Scared, Romero ran away and was able to jump over the gate located at the side of the hotel. He reached home but decided to return to the hotel to check what happened to his co-workers. Upon his return, he saw some policemen in the hotel who asked him if he was working there.¹⁴ Dalisay did not cross-examine Romero on his testimony.

Ruling of the Regional Trial Court

In its Decision¹⁵ dated June 7, 2012, the RTC convicted Romero and Dalisay of Robbery with Homicide, sentencing them each to suffer the penalty of *reclusion perpetua* (since death cannot be imposed in view of Republic Act No. (R.A.) 9346)¹⁶ and to solidarily pay the heirs of Michael, Arcyl, and Jojo the amount of ₱50,000.00 each as civil indemnity and ₱40,000.00 each as temperate damages. Both accused were also ordered to solidarily pay Joross ₱62,500.00 and Floren Hotel ₱55,077.70 as actual damages.¹⁷

The RTC held that Romero never left the hotel, contrary to his claim that he ran away after seeing Dalisay hit Michael at the coffee shop. It ruled

¹² CA rollo, p. 68.

¹³ Records, pp. 489-490.

¹⁴ TSN dated June 21, 2011, pp. 6-10.

¹⁵ Penned by Judge Genoveva Coching-Maramba; CA rollo, pp. 44-58.

¹⁶ An Act Prohibiting the Imposition of Death Penalty in the Philippines.

¹⁷ CA rollo, pp. 57-58.

that Romero revealed his presence to the police authorities, thinking that no one survived among his victims.¹⁸ It concluded that Romero and Dalisay conspired in the commission of the crime, noting that Dalisay did not testify to refute that he was seen several times with Romero after the Christmas party and immediately before the attack. Dalisay also left the scene of the crime only to surrender at the Sison Police Station on the same day. He also admitted his detailed participation in the killing in his validly executed extrajudicial confession.¹⁹

Romero and Dalisay appealed to the CA.

Ruling of the Court of Appeals

In its Decision²⁰ dated November 27, 2013, the CA affirmed the Decision of the RTC with modification as to the damages awarded. Romero and Dalisay were ordered to solidarily pay each of the heirs of the deceased with the increased amount of ₱75,000.00 as civil indemnity and ₱50,000.00 as moral damages.²¹

The CA ruled that the extrajudicial confession of Dalisay was valid and binding, having satisfied all the four fundamental requirements of: (a) being voluntary; (b) made with the assistance of a competent and independent counsel; (c) express; and (d) in writing.²² With respect to Romero, the CA held that he failed to offer a plausible reason for his presence at the hotel. Joross also saw him during the attack and identified him as one of the perpetrators. Romero even guided the police to the location of the weapon used in the crime. Although no prosecution witness testified about the act of robbing, the CA noted that Dalisay, in his sworn confession, admitted that their purpose was to rob the hotel.²³

Only Dalisay appealed his conviction. Hence, a partial entry of judgment²⁴ was entered against Romero on December 25, 2013.

Before Us, Dalisay and the People of the Philippines, through the Office of the Solicitor General (OSG), filed separate Manifestations In Lieu of Supplemental Brief.²⁵

In his Appellant's Brief²⁶ dated May 8, 2013, Dalisay first argued that his extrajudicial confession was void for being obtained in violation of his right to counsel. *Second*, the extrajudicial confession was inconsistent with

¹⁸ Id. at 55.

¹⁹ Id. at 57.

²⁰ *Rollo*, pp. 2-12.

²¹ Id. at 11-12.

²² Id. at 6-7.

²³ Id. at 10.

²⁴ *CA rollo*, p. 174.

²⁵ *Rollo*, pp. 20-25, 26-29.

²⁶ *CA rollo*, pp. 61-78.

the physical evidence and Joross' testimony. The examination on Dalisay's clothing for the presence of blood yielded negative results. Also, contrary to the purported confession of Dalisay, Joross stated that it was Romero who brutally attacked him. The piece of wood used in the attack was furthermore found smeared with blood, which belies the statement in the extrajudicial confession that Dalisay washed it with water. *Third*, the prosecution cannot use Romero's testimony against Dalisay because of the principle of *res inter alios acta*. *Fourth*, conspiracy cannot be proven by the mere fact that Joross saw Dalisay talking to Romero several times after the Christmas party and before the attack. *Fifth*, Dalisay's act of fleeing and surrendering on the same day is not synonymous with guilt.²⁷

The OSG, in its Appellee's Brief²⁸ dated June 4, 2013, countered that: (1) the guilt of Dalisay and Romero for the crime of robbery with homicide were proven beyond reasonable doubt; (2) Dalisay's extrajudicial confession was valid as he was assisted by Atty. Oscar Abalos (Atty. Abalos) during its execution as evidenced by the latter's signature in the sworn statement. Dalisay failed to testify or present any evidence to controvert the regularity of his sworn statement. The issue on the admissibility of his sworn statement was also raised for the first time on appeal; (3) Dalisay's conviction was anchored on the testimonies of the prosecution witnesses especially Joross, the testimony of Romero, and Dalisay's extrajudicial confession; and (4) circumstantial evidence showed that Romero and Dalisay conspired in the commission of the crime. Joross saw them talking several times after the Christmas party and immediately before the attack. Romero identified Dalisay as one of the perpetrators of the crime, which Dalisay also admitted in his extrajudicial confession. Romero knew the exact hiding place of the weapon used, which he could not have known if he was not a conspirator to the crime.²⁹

Issues

The issues before Us are: (1) whether the extrajudicial confession of Dalisay is valid and admissible in evidence; and (2) whether the CA erred in affirming Dalisay's conviction for robbery with homicide.

The Court's Ruling

The appeal is not meritorious.

Section 12, Article III of the 1987 Constitution states that any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. These rights cannot be waived except in writing and in the presence of a counsel. Otherwise, any

²⁷ Id. at 69-76.

²⁸ Id. at 99-121.

²⁹ Id. at 108-118.

confession or admission obtained in violation of this provision shall be inadmissible in evidence against the accused. This principle is reiterated in Section 2(d) and (e) of R.A. 7438,³⁰ which provides the following requirements for an extrajudicial confession to be valid:

X X X X

d) Any extrajudicial confession made by a person arrested, detained or under custodial investigation shall be in writing and signed by such person in the presence of his counsel or in the latter's absence, upon a valid waiver, and in the presence of any of the parents, elder brothers and sisters, his spouse, the municipal mayor, the municipal judge, district school supervisor, or priest or minister of the gospel as chosen by him; otherwise, such extrajudicial confession shall be inadmissible as evidence in any proceeding.

e) Any waiver by a person arrested or detained under the provisions of Article 125 of the Revised Penal Code, or under custodial investigation, shall be in writing and signed by such person in the presence of his counsel; otherwise the waiver shall be null and void and of no effect.

The foregoing constitutional and statutory provisions are safeguards intended to prevent the practice of extracting coerced confessions, no matter how slight, which could lead the accused to make false admissions. They are also mechanisms to insulate the accused from coercive psychological, if not physical, atmosphere of a custodial investigation.³¹

Here, Dalisay, in his Affidavit³² dated March 20, 2007, denied that he was assisted by a counsel of his own choice during the custodial investigation. He alleged that Atty. Abalos did not assist him during the taking of his sworn statement. He met Atty. Abalos for the first time when he was taken to the lawyer's house for the latter to affix his signature in the sworn statement. Significantly, Dalisay's claim was confirmed by one of the prosecution witnesses. During his cross and recross-examinations, SPO1 Pedro Urbano Jr. (SPO1 Urbano Jr.) admitted that when he went to the office of Atty. Abalos with Dalisay, the sworn statement of Dalisay was already prepared for the lawyer's signature. SPO1 Urbano Jr. also answered yes when he was asked if it was the first time that the services of Atty. Abalos was engaged with respect to the sworn statement of Dalisay.³³ Clearly, Atty. Abalos was not present during the taking of Dalisay's confession in violation of the latter's constitutional right. It is also quite

³⁰ An Act Defining Certain Rights of Person Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigating Officers and Providing Penalties for Violations Thereof.

³¹ *Porteria v. People*, G.R. No. 233777, March 20, 2019.

³² Records, p. 604.

³³ TSN dated August 3, 2007, p. 6; TSN dated September 21, 2007, p. 22.

telling that the prosecution failed to present Atty. Abalos in court to testify about his participation in the execution of Dalisay's extrajudicial confession.

In the case of *People v. Quidato, Jr.*,³⁴ We held that the affidavits of the two accused were inadmissible in evidence because they were already prepared when brought to the lawyer for signature. This, notwithstanding that the lawyer explained the contents of the affidavits in Visayan to both the accused who even affirmed the veracity and contents of the same. While the contents of the affidavit were voluntarily given, the manner by which they were taken violated the Constitution.³⁵ Similarly, in the case of *People v. Binamira*,³⁶ We ruled that the constitutional standard is not met when the lawyer's role is reduced to being a mere witness to the signing of a prepared document although indicating compliance with the accused's constitutional rights.³⁷

Applying the cases of *Quidato* and *Binamira* in the case before Us, We rule that Dalisay's extrajudicial confession is inadmissible in evidence for violation of his right to counsel.

The prosecution countered that Dalisay can no longer object to the admissibility of his extrajudicial confession because he raised it for the first time on his Appellant's Brief before the CA.³⁸ However, it is well-settled that an appeal throws the entire case wide open for review. The appellate court can correct errors, although unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors.³⁹ Thus, Dalisay's belated challenge on the admissibility of his extrajudicial confession is of no moment since the Court may even rule on the issue regardless of whether it is raised or not.

Meanwhile, for an accused to be convicted of robbery with homicide under Article 294(1) of the Revised Penal Code (RPC), the prosecution must prove the following elements: (a) the taking of personal property with the use of violence or intimidation against person; (b) the property taken belongs to another; (c) the taking is characterized by intent to gain or *animus lucrandi*; and (d) on the occasion or by reason of the robbery, the crime of homicide, as used in its generic sense, was committed.⁴⁰ The prosecution must further establish that the original criminal design of the accused is to commit robbery and the killing is merely incidental. The intent to commit robbery must precede the killing, but the homicide may take place before, during, or after the robbery.⁴¹

³⁴ 357 Phil. 674 (1998).

³⁵ 448 Phil. 726, 747 (2003).

³⁶ 343 Phil. 1 (1997).

³⁷ Id. at 747-748.

³⁸ CA rollo, p. 116.

³⁹ *Wacoy v. People*, 761 Phil. 570, 576-577 (2015).

⁴⁰ *People v. Labagala*, G.R. No. 221427, July 30, 2018.

⁴¹ Id.

Conversely, conviction for robbery with homicide may rest not only through direct evidence of the malefactor's culpability but also through circumstantial evidence, provided the following concur: (i) there must be more than one circumstance; (ii) the inference must be based on proven facts; and (iii) the combination of all circumstances produces a conviction beyond doubt of the guilt of the accused. Simply put, the circumstances taken together must form an unbroken chain of events leading to one fair and reasonable conclusion that the accused, to the exclusion of all others, is the author of the crime.⁴²

In this case, the testimonies of the prosecution witnesses and Dalisay's co-accused, Romero, lead to a reasonable conclusion that Dalisay was one of the authors of the crime:

1. After the Christmas party of Floren Hotel, at around 2:00 a.m. of December 24, 2006, Joross, Arcyl, Cindy, Jojo, Michael, Romero, and Dalisay stayed behind and had *videoke*.
2. After singing, Michael, Jojo, Joross, and Romero went into their respective businesses in the hotel.
3. Joross saw Dalisay talking with Romero at the parking area twice.
4. Joross slept beside Michael at the coffee shop but he was jolted from his sleep when he was struck with a wood in his left cheek.
5. Joross opened his eyes and saw Romero one meter away from him, then he lost consciousness after being repeatedly struck in the head.
6. At about 4:00 a.m. to 4:30 a.m. of December 24, 2006, PO2 Cabana and PO2 Benavente went to the hotel after they received a radio message about an alleged robbery.
7. Arcyl, Jojo, and Michael were all found dead inside the hotel with their faces unrecognizable, while Joross survived with a disfigured face.
8. PO2 Cabana met Romero outside the hotel where the latter introduced himself as the laundryman, whereas Dalisay was nowhere to be found.
9. Marina testified that around 5:00 a.m. of December 24, 2006 she received a text message from Romero informing her of the killing and the robbery, which she confirmed upon her arrival at the hotel.
10. Marina saw that the cash drawer at the counter table was forcibly opened since the key could no longer be found and the money amounting to a total of ₱55,077.70 (representing the hotel's cash sales from December 22 to 23 and the payroll money which she gave to Arcyl for safekeeping) was already gone.

⁴² *People v. Cariño*, G.R. No. 232624, July 9, 2018.

11. At 2:30 p.m. of December 24, 2006. Dalisay surrendered to the Sison Police Station.
12. On December 27, 2006, Romero was invited for questioning by the police.
13. On December 28, 2006, Romero executed a sworn statement stating that he saw Dalisay attacking Michael and Joross at the coffee shop of the hotel. He also guided the police to the location of the weapon used.
14. During trial, Romero repeated in open court that Dalisay struck Michael and Joross with a piece of wood.
15. Dalisay waived his right to be heard during trial. He neither denied his participation in the crime nor interposed any defense.

Consequently, all the elements of Robbery with Homicide are present. *First*, Romero and Dalisay took personal property, specifically cash in the amount of ₱55,077.70. *Second*, the money belongs to Floren Hotel. *Third*, intent to gain is presumed from the proven unlawful taking.⁴³ *Fourth*, the crime of homicide was committed on the occasion of the robbery as evidenced by the deaths of Arcyl, Jojo, and Michael, and the serious physical injuries sustained by Joross. Case law teaches that homicide in Article 294(1) of the RPC is to be understood in its generic sense, that is, it absorbs not only acts which results in death (such as murder) but also all other acts producing anything short of death (such as physical injuries) committed during the robbery, and regardless of the multiplicity of the victims.⁴⁴

Dalisay contends that the testimony of Romero cannot be used against him because of the rule on *res inter alios acta*, which provides that the “rights of a party cannot be prejudiced by an act, declaration, or omission of another.”⁴⁵ We disagree.

Romero’s statement implicating Dalisay in the commission of the crime was repeated in open court. Dalisay had the opportunity to cross-examine his co-accused but he chose not to. Thus, Romero’s statement may be used in evidence against him.⁴⁶

Under Article 294(1) of the RPC, the penalty for robbery with homicide is *reclusion perpetua* to death. There being no aggravating or mitigating circumstance, the proper imposable penalty is *reclusion perpetua* only.⁴⁷

⁴³ *People v. Reyes*, 447 Phil. 668, 674 (2003).

⁴⁴ *People v. Olivarez, Jr.*, 360 Phil 15, 27 (1998).

⁴⁵ Rule 130, Section 28 of the Rules on Evidence.

⁴⁶ *People v. Baharan*, 654 Phil. 15, 27 (1998).

⁴⁷ REVISED PENAL CODE, Article 63: x x x 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 in the commission of the deed, the lesser penalty shall be applied.

As to the award of damages, We sustain the CA's award of ₱75,000.00 civil indemnity to the heirs of the victims. However, We modify the amount of moral damages granted to the heirs to conform with recent jurisprudence,⁴⁸ such that it is increased to ₱75,000.00. Exemplary damages in the amount of ₱75,000.00 is further awarded to the heirs of the deceased as well as temperate damages in the amount of ₱50,000.00 because although receipts for funeral expenses were submitted in evidence, no prosecution witness identified them in court.⁴⁹

With respect to Joross who sustained mortal wounds and could have died if not for the timely medical intervention, the following shall be awarded: ₱50,000.00 civil indemnity, ₱50,000.00 moral damages, and ₱50,000.00 exemplary damages.⁵⁰ Joross shall also be entitled to actual damages in the amount of ₱62,500.00 representing the hospital bill for his injuries.⁵¹

We also affirm the grant to Floren Hotel of actual damages in the amount of ₱55,077.70 representing the money taken by the accused from the hotel's cash drawer.

All the monetary awards shall earn interest at the rate of 6% *per annum* reckoned from the finality of this resolution until fully paid.⁵²

WHEREFORE, the appeal is **DISMISSED**. The Decision dated November 27, 2013 of the Court of Appeals in CA-G.R. CR-HC No. 05705 finding Jhun Jhun Romero and Victor Dalisay **GUILTY** beyond reasonable doubt of Robbery with Homicide sentencing them to suffer the penalty of *reclusion perpetua* is **AFFIRMED** with the following **MODIFICATIONS**:

(a) Jhun Jhun Romero and Victor Dalisay are **ORDERED** to solidarily pay the heirs of Jojo Calamagan, Michael Belo, and Arcyl Molano the amount of ₱75,000.00 each as civil indemnity, ₱75,000.00 each as moral damages, ₱75,000.00 each as exemplary damages, and ₱50,000.00 each as temperate damages.

(b) Jhun Jhun Romero and Victor Dalisay are also **ORDERED** to solidarily pay Joross Andres ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, ₱50,000.00 as exemplary damages, and ₱62,500.00 as actual damages.

⁴⁸ *People v. Jugueta*, 783 Phil (2016).

⁴⁹ *People v. Macaspac*, 806 Phil. 285 (2017).

⁵⁰ *Supra* note 48.

⁵¹ *CA rollo*, pp. 57-58.

⁵² *Supra* note 49.

(c) Jhun Jhun Romero and Victor Dalisay are furthermore **ORDERED** to solidarily pay Floren Hotel ₱55,077.70 as actual damages.

(d) All damages awarded shall earn interest at the rate of six percent (6%) *per annum* from finality of this Resolution until fully paid.

SO ORDERED.”

Very truly yours,

Misael D C Batt
MISAEAL DOMINGO C. BATTUNG III
Division Clerk of Court

7/15/2020

Special & Appealed Cases Service
PUBLIC ATTORNEY'S OFFICE
DOJ Agencies Building
East Avenue cor. NIA Road
1104 Diliman, Quezon City

COURT OF APPEALS
CA G.R. CR HC No. 05705
1000 Manila

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
Legaspi Village, 1229 Makati City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 44, Dagupan City
2400 Pangasinan
(Crim. Case No. 2006-0736-D)

Mr. Victor M. Dalisay
c/o The Director General
New Bilibid Prison
BUREAU OF CORRECTIONS
1770 Muntinlupa City

PUBLIC INFORMATION OFFICE
Supreme Court, Manila
[For uploading pursuant to A.M. 12-7-1-SC]

LIBRARY SERVICES
Supreme Court, Manila

Judgment Division
JUDICIAL RECORDS OFFICE
Supreme Court, Manila

G.R. No. 217667

/joy

(328)
URES