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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 232339

Present:

- versus -

PERLAS-BERNABE, J.,
Chairperson,
REYES, A., JR.,
HERNANDO,*
INTING, and
ZALAMEDA, JJ.**

JEFFERSON MARON y
EMPLONA, JONATHAN
ALMARIO y CAYGO and
NESTOR BULAHAN y
GUTIERREZ,
Accused-Appellants.

Promulgated:

20 NOV 2019

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DECISION

INTING, J.:

This is an appeal from the Decision¹ dated September 5, 2016 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07451, which affirmed with modification the Decision² dated November 4, 2014, of Branch 32, Regional Trial Court (RTC), San Pablo City, Laguna in Criminal Case No. 17492-SP(10).

* On leave.

** Designated additional member per Special Order No. 2724 dated October 25, 2019.

¹ *Rollo*, pp. 2-13; penned by Associate Justice Carmelita Salandanan Manahan with Associate Justices Japar B. Dimaanpao and Franchito N. Diamante, concurring.

² *CA rollo*, pp. 39-55; rendered by Presiding Judge Agripino G. Morga.

Antecedents

In an Information³ filed on January 6, 2010, Jefferson Maron y Emplona (Maron), Jonathan Almario y Caygo (Almario) and Nestor Bulahan y Gutierrez (Bulahan) (collectively, appellants) were indicted for the crime of Murder under Article 248 of the Revised Penal Code (RPC), allegedly committed as follows:

That on or about January 04, 2010, in the City of San Pablo, Republic of the Philippines and within the jurisdiction of this Honorable Court, the accused above-named, with intent to kill, with evident premeditation and treachery and employing means to weaken the defense, conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully, and feloniously repeatedly stab one MICHAEL A. CLARIANES with three (3) different bladed weapons, with which the accused were then conveniently provided, thereby inflicting stab wounds upon the person of said Michael A. Clarianes which caused his immediate death.

CONTRARY TO LAW.⁴

Upon arraignment, the appellants pleaded not guilty.⁵ Thus, trial ensued.

As culled from the records, the version for the prosecution is as follows:

On 4 January 2010, at around 10:00 p.m., while Michael Clarianes ("Michael") and Alma Exconde ("Alma") were seated on a bench and engaged in a conversation, three (3) male persons on board a motorcycle arrived near the shores of Sampaloc Lake, Brgy. 5-A, San Pablo City. Two (2) of them alighted from the motorcycle, one went in front of Michael and Alma and urinated along the banks of the lake, while the other went behind a coconut tree nearby. The former then told his companions, "pare, tawagan natin si pare." One of his companions replied, "siguro'y tulog na pero tawagan na din natin."

³ Records, p. 1.

⁴ *Id.*

⁵ *Rollo*, p. 3.

Ten minutes later, the man who urinated suddenly approached Alma and pointed a knife to her neck. Likewise, the person who hid behind the coconut tree approached Michael and pointed a knife at him. The men then announced, "holdap ito ilabas na ninyo ang inyong cellphone, pera at alahas at hindi kayo mamamatay wag lang kayong maingay."

Thereafter, the person who stayed at the motorcycle approached Michael and Alma, brandishing a "kawit." Michael cried for help and attempted to fight. The three men, however, repeatedly stabbed Michael until he slumped on the ground lifeless. Alma sought help but nobody came to help them. After stabbing Michael, the three persons scampered away, prompting Alma to once again ask for help. Minutes later, a mobile patrol arrived. Michael was brought to Ace Funeral Homes where he was pronounced dead.

x x x x⁶

As for the version of the defense:

On the other hand, accused-appellants denied the charges against them and interposed their respective alibis.

Maron, a construction worker, testified that in the evening of 4 January 2010, he was at their house at Brgy. San Lucas I, San Pablo City with his parents, aunt, and six siblings. He allegedly watched the television before going to bed at around 11:00 p.m. The following morning, PO2 Sacdalan came to Maron's house and brought the latter to the police station to line up in front of a lady witness who identified him as one of the assailants of Michael.

Almario claims to be a magkakawit ng niyog and a co-worker of the father of his co-accused Bulahan. He testified that on 4 January 2010, at around 7:00 p.m., he and his two children were at their house located near Brion Subdivision, Brgy. San Lucas I, San Pablo City. After dinner, they went to bed and rested. At around 10:00 a.m. of the following day, while he was taking a bath, five police officers led by PO2 Sacdalan went to the house, handcuffed and arrested

⁶ *Id.* at 3-4.

him. He was then brought to the police station where he was told to stand in a police line-up. He was identified by Alma as one of the persons who stabbed Michael.

Bulahan testified that he was a helper at Siete-Tres, a small canteen located in front of Seven Eleven along Maharlika Highway, San Pablo City. On 4 January 2010, he reported for work at 8:00 a.m. and went home together with his wife Andrea Balino at 8:00 p.m. After having dinner at home, he, his wife, and his parents went to sleep. The next day, he went to work at 6:00 a.m. At around 10:00 a.m. of 5 January 2010, several policemen arrived and arrested him. He was brought to a police van where he saw Almario, Maron, his wife and a certain Pale. They proceeded to the police station and were asked to stand in a police line-up.⁷

The Postmortem Examination Report⁸ revealed that Michael A. Clarianes' (Michael) death was caused by the stab wounds in the body involving the left lung and great vessels, to wit:

1. lacerated wound – 5 cm x 1 cm x 0.5 cm, head, parietal area, right
2. lacerated wound – 4 cm x 2.5 cm x 0.5 cm head, mid-frontal area
3. stab wound – 5 cm x 2 cm x 9 cm chest, left, anterior axillary line in between the 2nd and 3rd ribs, directed postero-medially, penetrating the upper lobe of the lung, left and the aorta
4. stab wound – 5 cm x 2 cm x 11 cm chest, lateral axillary line, directed postero-medially, penetrating the upper lobe of the lung, left and the interior vena cava
5. stab wound – 5 cm x 2 cm abdomen, lower quadrant, left, hitting and exposing the small intestines.

CAUSE OF DEATH: STAB WOUNDS IN THE BODY INVOLVING THE LEFT LUNG AND GREAT VESSELS.⁹

⁷ *Id.* at 4-5.

⁸ Exhibit "D," folder of exhibits, p. 5.

⁹ *Id.*

At the time of the incident, Michael was 27 years old and employed on probationary status by Hesper's Garment Corporation, receiving a daily salary of ₱293.00.¹⁰

Ruling of the RTC

In its Decision¹¹ dated November 4, 2014, the RTC found appellants guilty beyond reasonable doubt of the crime of Murder.¹²

The RTC ruled that Alma Exconde (Alma) positively identified the appellants as the persons who repeatedly stabbed Michael in the evening of January 4, 2010, near Sampaloc Lake, Brgy. 5-A, San Pablo City.¹³

The RTC also explained that during cross-examination, Alma further clarified how she was able to recognize the faces of the three assailants and reiterated the details of the incident.¹⁴ Alma narrated the distance of the appellants from her, and what the appellants were wearing, thus:

Q: Madam Witness, in that place where you went together with Michael Clarianes, at 10:00 p.m., were there other people around that place?

A: None, there were other persons who passed by but none actually was there at the place of the incident, sir.

Q: Am I correct to say, Madam Witness, that when you arrived there, the accused were not yet there?

A: Yes, sir.

Q: You mentioned a while ago an electric post, which is eight (8) meters from your place?

A: Yes, sir.

Q: And you also mentioned that there were trees around?

A: Yes, sir.

¹⁰ Rollo, p. 4.

¹¹ CA rollo, pp. 39-55.

¹² Id. at 54.

¹³ Id. at 45.

¹⁴ Id. at 49.

Q: Do you recall which are taller, the electric post or the trees?

A: The trees were taller than the electric post, sir.

Q: What kind of trees are you referring to?

A: I think it is Mahogany, sir.

Q: Do you recall whether these trees have many leaves?

A: Yes, sir.

Q: Madam Witness, you mentioned the first one of the accused in this case urinated, how far from you?

A: One and a half (1 & ½) meters, sir.

Q: How about the second accused whom you mentioned stayed near the motorcycle, how far was he from you?

A: At that post, estimated to be about four (4) meters sir.

Q: How about the other person whom you mentioned, who stayed behind the tree, how far was he from you at that time?

A: About one (1) meter, sir.

Q: The first accused was in front of you, which you said one and a half (1 & ½) meters as you mentioned, do you recall what he wore?

A: A white t-shirt, sir.

Q: Was he wearing short pants?

A: Short pants, sir.

Q: How about the second accused, four (4) meters away from you, and near the motorcycle, do you recall what he wore?

A: White t-shirt and short pants sir.

Q: And how about the third accused?

A: Colored t-shirt and short pants, sir.

Q: Madam Witness, you mentioned a while ago that from the arrival of the three (3) accused, you noticed... I will withdraw that, Your Honor.

You mentioned a while ago that there was something wrong when these three (3) accused arrived, surrounding you and yet you mentioned that you suspected something will happen and you still talking for ten (10) minutes?

A: Yes, sir.

Q: In this case, you were talking, you and Michael Clarianes, did the three (3) persons stay in the place where they positioned themselves in that place they stayed there?

A: The male person who urinated, walked to and fro, the place near us, as if they were bothered by something, sir.

Q: How about the accused in the motorcycle?

A: Almario did not leave and stayed in the motorcycle, sir.

Q: How about the third person?

A: He stayed near the coconut tree, sir.

Q: If he is behind the coconut tree, can you see his face?

A: Yes, sir.¹⁵

The RTC further ruled that the third, fourth, and fifth stab wounds of Michael: two on the chest, and one on the abdomen were fatal as described in the Postmortem Examination Report.¹⁶ It further ruled that the attack on Michael was sudden; thus, it provided him with no opportunity to be able to defend himself from the moment Maron approached Alma and Michael, pointed his knife at Alma, announced "hold-up," and up to the time that Bulahan poked his knife at Michael and appellants repeatedly stabbed Michael.¹⁷

Lastly, based on the evidence presented by the prosecution, the RTC awarded Michael's heirs ₱1,230,600.00 representing his loss of earning capacity and ₱54,000.00 for his funeral and burial expenses.¹⁸ The RTC then awarded civil indemnity, moral damages, and exemplary damages to Michael's heirs.¹⁹

¹⁵ TSN, May 20, 2010, pp. 7-9.

¹⁶ CA rollo, pp. 51-52.

¹⁷ *Id.* at 52.

¹⁸ *Id.* at 53-54.

¹⁹ *Id.* at 54.

The RTC disposed as follows:

WHEREFORE, premises considered, judgment is hereby rendered FINDING all three accused JEFFERSON MARON y EMPLONA, JONATHAN ALMARIO y CAYGO and NESTOR BULAHAN y GUTIERREZ, GUILTY beyond reasonable doubt of the crime of murder as charged in the Information, and hereby IMPOSES on them the penalty of *Reclusion Perpetua*, with all the accessory penalties, and to pay the heirs of victim Michael Clarianes the following:

- a. P50,000.00, as civil indemnity;
- b. P54,000.00, as actual and compensatory damages;
- c. P50,000.00, as moral damages;
- d. P25,000.00, as exemplary damages;
- e. P1,230,600.00, as and for loss of earning capacity of the victim; and
- f. Costs of the suit.

The three accused are hereby ordered committed to the National Bilibid Prisons immediately.

SO ORDERED.²⁰

Ruling of the CA

On appeal, the CA denied the appeal and affirmed the RTC Decision with modification only as to the monetary awards in its Decision²¹ dated September 5, 2016.

The CA disposed as follows:

WHEREFORE, premises considered, the appeal is DISMISSED. The Decision dated 4 November 2014 of the Regional Trial Court, Branch 32 of San Pablo City in Criminal Case No. 17492-SP(10) is AFFIRMED with the following MODIFICATIONS:

All accused-appellants JEFFERSON MARON y EMPLONA, JONATHAN ALMARIO y CAYGO and NESTOR BULAHAN y GUTIERREZ are found

²⁰ *Id.* at 54-55.

²¹ *Rollo*, pp. 2-13.

GUILTY beyond reasonable doubt of the crime of murder defined under Article 248 of the Revised Penal Code, attended by the aggravating circumstance of treachery, and sentences each of them to suffer the penalty of *reclusion perpetua*, without eligibility for parole under RA 9346. They are ordered to pay solidarily the heirs of victim Michael Clarianes the following:

- a. Php 100,000.00 as civil indemnity;
- b. Php 54,000.00 as actual and compensatory damages;
- c. Php 100,000.00 as moral damages;
- d. Php 100,000.00 as exemplary damages;
- e. Php 1,230,600.00 for loss of earning capacity of the victim; and
- f. Costs of the suit.

They are likewise ordered to pay the interest rate of six percent (6%) per annum from the time of finality of this decision until fully paid, to be imposed on all awards and damages.

SO ORDERED.²²

Hence, this appeal.²³

In a Resolution²⁴ dated August 14, 2017, the Court required the parties to file their Supplemental Briefs. However, the parties filed their Manifestation (In Lieu of Supplemental Brief)²⁵ stating therein their intent to adopt their respective Appellant's and Appellee's Briefs filed before the CA as their Supplemental Briefs.

Our Ruling

We deny the appeal.

Article 248 of the Revised Penal Code (RPC) defines the crime of Murder as follows:

²² *Id.* at 11-12.

²³ *Id.* at 14-15.

²⁴ *Id.* at 19.

²⁵ *Id.* at 21-24, 28-30.

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;

X X X X

The elements of Murder are: (1) that a person was killed; (2) that the accused killed him; (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.²⁶

All of the elements of Murder are present in this case. Alma, the prosecution witness, positively identified appellants. She also described in her testimony how appellants ganged up on Michael and stabbed him to death, thus:

DIRECT EXAMINATION BY PROS. OSCAR T. CO:

X X X X

Q: So, after one of them, I will withdraw that. So, while they were doing that, do you recall what happened next, if any?

A: After we were talking for about ten (10) minutes, Jefferson Maron urinated at the lake and then he approached me and poked a knife on my leeg and the person who was near the tree poked a knife to Michael. The person who urinated in front of us told us, hold-up, and demanded for our money. The person who standing before the motorcycle holding a karet and swayed it in front of us, sir.

Q: While doing this, while poking the knife at you and Michael Clarianes, what if any you did?

²⁶ *Aguilar v. Department of Justice*, 717 Phil. 789, 801-802 (2013) citing *People v. Dela Cruz*, 626 Phil. 631, 639 (2010).

A: Michael Clarianes shouted, "tulong", we were being hold-up, so the three (3) accused ganged up on Michael, sir.

Q: What these three (3) accused did to Michael Clarianes?

A: Walang awa po nilang pinagsasaksak at pinatay si Michael Clarianes, sir.

Q: Did you see them stabbed Michael Clarianes, each of them?

A: Yes, sir.

COURT

Q: Who first stabbed Michael Clarianes?

A: I cannot recall who first stabbed Michael Clarianes but what I know that the person who approached me and poked a knife on my neck stabbed Michael Clarianes, Your Honor.

Q: How about the one who went near Michael Clarianes, what did you see him doing?

A: I saw that he hit with his karet Michael's head and slashed his stomach with a karet, Your Honor.

Q: And after you saw the three (3) accused stabbed Michael Clarianes, what else did you do?

A: I shouted for help. I said "tulong" for two (2) times, "my companion was being killed, and there was a man but he was just looking for us, Your Honor."

Q: When the accused ran away, where was Michael Clarianes at that time?

A: He was already lying down and dead, Your Honor.²⁷

In their appeal, appellants questioned the presence of the second element. They argued that Alma could not have seen their faces since, coupled with the suddenness and brevity of the attack, there was no sufficient illumination to allow Alma to identify the perpetrators of the crime.²⁸ They also argued that based on Alma's testimony, the area was covered with mahogany trees, which were heavy with foliage; thus, the

²⁷ TSN, May 20, 2010, pp. 3-4.

²⁸ *CA rillo*, p. 34.

only source of light which came from the overhanging electric post would have cast shadows over the faces of Michael's attackers.²⁹

However, in *Avelino v. People*,³⁰ the Court explained that, "the light from the stars or the moon, an oven, or a wick lamp or *gasera* can give ample illumination to enable a person to identify or recognize another" and that "the headlights of a car or a jeep are sufficient to enable eyewitnesses to identify appellants at the distance of four to ten meters."³¹

Here, Alma's testimony identifying appellants as the perpetrators of the crime is credible since aside from the illumination provided by the electric post, Alma was already aware of appellants' presence who were already near her and Michael while they were still talking for ten minutes.

As to the third element of Murder, the Court needs to clarify the qualifying circumstance present which would qualify the crime committed by appellants to murder.

Contrary to the ruling of the RTC and the CA, the Court finds that the killing of Michael was not attended by treachery.

In *People v. Enriquez, Jr.*,³² the Court explained that, "(t)here is treachery when the offender commits any of the crimes against persons, employing means and methods or forms in the execution thereof which tend to directly and specially ensure its execution x x x."³³ Further, "(t)he essence of treachery is the sudden and unexpected attack by an aggressor on the unsuspecting victim, depriving the latter of any chance to defend himself and thereby ensuring its commission without risk of himself."³⁴

In order for treachery to qualify murder, the following elements must be established: (1) the assailant employed means, methods or forms in the execution of the criminal act which give the person attacked no opportunity to defend himself or to retaliate; and (2) said means,

²⁹ *Id.*

³⁰ 714 Phil. 322 (2013).

³¹ *Id.* at 331-332 (2013) citing *People v. Sabaiones*, 356 Phil. 255, 293 (1998).

³² G.R. No. 238171, June 19, 2019

³³ *Id.*, citing *People v. Duran, Jr.*, G.R. No. 215748, November 20, 2017, 845 SCRA 188, 211.

³⁴ *Id.*, citing *Pepole v. Escote, Jr.*, 448 Phil. 749, 786 (2003).

methods or forms of execution were deliberately or consciously adopted by the assailant.³⁵

Thus, it is not enough for the prosecution to show that the attack was sudden, unexpected and without warning.³⁶ Rather, there must be a showing that the mode of attack was consciously adopted and that the accused made “some preparation to kill the deceased in a manner as to insure the execution of the crime or to make it impossible or hard for the person attacked to defend himself or retaliate.”³⁷

Here, the RTC and the CA erroneously ruled that the killing of Michael was attended by treachery. It cannot be said that Michael did not expect that he would be stabbed by appellants since the latter already announced “hold-up” while Maron and Bulahan were poking their knives at Alma and Michael, and while Almario was brandishing his *kawit*³⁸ in front of them. Michael also had the opportunity to shout for help.³⁹ Further, there is no showing that appellants made some preparations to kill Michael in the said manner since Alma’s testimony shows that appellants originally planned to rob them.⁴⁰

However, the Court finds that appellants are still guilty of murder since the killing of Michael was attended by the qualifying circumstance of employing means to weaken the defense.

Employing means to weaken the defense as a qualifying circumstance in murder is also found under Article 14(15) of the RPC as an aggravating circumstance, to wit:

Art. 14. *Aggravating circumstances.* – The following are aggravating circumstances:

x x x x

15. That advantage be taken of superior strength, or means be employed to weaken the defense.

³⁵ *Id.*, citing *People v. Duran, Jr., supra.*

³⁶ *Id.*, citing *People v. Sabanal*, 254 Phil. 433, 436-437 (1989).

³⁷ *People v. Kalipayan*, G.R. No. 229829, January 22, 2018.

³⁸ Referred to as “karet” in some parts of the TSN.

³⁹ *Rollo*, p. 4.

⁴⁰ *Id.*

In *People v. Revillame*,⁴¹ the Court quoted *People v. Cabling* (*Cabling*),⁴² which in turn explained and adopted Cuello Calon's view on the appreciation of abuse of superior strength or employing means to weaken the defense. The Court in *Cabling* discussed:

To take advantage of superior strength means to purposely use excessive force out of proportion to the means of the defense available to the person attacked. According to Cuello Calon, it is: "*Abuse of superior numbers or employment of means to weaken the defense*" (art. 10, 8.a.). This circumstance greatly resembles *alevosia* when placed in a situation of advantage over those on whom it is employed, such that one is confused for the other. This circumstance should always be considered whenever there is a *notorious inequality of forces* between the victim and the aggressor, assuming a situation of superiority of strength notoriously advantageous for the aggressor selected or taken advantage of by him in the commission of the crime. To properly appreciate it, not only is it necessary to evaluate the physical conditions of the protagonists of opposing forces and the arms or objects employed by both sides, but it is also necessary to analyze the incidents and episodes constituting the development of the event. There is no need for previous agreement among the aggressors." Thus in *People v. Verzo*, this Court held that there was abuse of superior strength which qualified the killing where three of the defendants were wielding bolos, whereas the victim was unarmed and trying to flee.⁴³ (Citations omitted.)

Further, in *People v. Loreto*,⁴⁴ the Court ruled that there are no fixed and invariable rules regarding abuse of superior strength or employing means to weaken the defense.⁴⁵ The Court explained:

x x x Article 14, paragraph 15 of the Revised Penal Code provides that a crime against persons is aggravated by the accused taking advantage of superior strength. *There are no fixed and invariable rules regarding abuse of superior strength or employing*

⁴¹ 300 Phil. 698 (1994).

⁴² 165 Phil. 887 (1976).

⁴³ *Id.* at 906-907.

⁴⁴ 446 Phil. 592 (2003).

⁴⁵ *Id.* at 611.

means to weaken the defense of the victim. Superiority does not always mean numerical superiority. Abuse of superiority depends upon the relative strength of the aggressor *vis-a-vis* the victim. There is abuse of superior strength even if there is only one malefactor and one victim. *Abuse of superiority is determined by the excess of the aggressor's natural strength over that of the victim, considering the position of both and the employment of means to weaken the defense,* although not annulling it. The aggressor must have advantage of his natural strength to insure the commission of the crime.⁴⁶ (Italics supplied.)

Following the discussion of Cuello Calon in *Cabiling*,⁴⁷ abuse of superior strength and employment of means are taken as one and the same aggravating circumstance. Further, it appears that employment of means to weaken the defense is, at the very least, subsumed under the qualifying circumstance of abuse of superior strength.

Thus, in determining whether the qualifying circumstance of employing means to weaken the defense is present in this case, the Court shall be guided by the same standard in determining the presence of abuse of superior strength, *i.e.*, "notorious inequality of forces between the victim and the aggressor/s that is plainly and obviously advantageous to the aggressor's and purposely selected or taken advantage of to facilitate the commission of the crime."⁴⁸

Here, Alma's testimony is clear as to how appellants stabbed Michael successively using their respective weapons. The fact that Michael was unarmed, that he was ganged up by appellants, and that the latter were equipped with and took advantage of their respective knives and *kawit* in inflicting fatal wounds on Michael, show a notorious inequality of forces which was obviously advantageous to the appellants.

Anent the penalty, the Court finds the CA's imposition of the penalty of *reclusion perpetua* correct. However, there is a need to clarify the basis for the penalty because the CA erroneously awarded civil indemnity, moral damages, and exemplary damages in the amount of ₱100,000.00 each.

⁴⁶ *Id.*

⁴⁷ *Supra* note 42.

⁴⁸ *People v. Dimapilit*, G.R. No. 210802, August 9, 2017, 836 SCRA 514, 544.

In *People v. Jugueta (Jugueta)*,⁴⁹ the rule is that civil indemnity, moral damages, and exemplary damages to be awarded shall be ₱100,000.00 each where the penalty imposed is death but reduced to *reclusion perpetua* because of Republic Act No. 9346, otherwise known as “An Act Prohibiting the Imposition of Death Penalty in the Philippines.”⁵⁰

Here, as discussed above, treachery should not be appreciated anymore as an aggravating circumstance. But with the appreciation of the qualifying circumstance of employing means to weaken the defense of the victim, the crime committed is Murder. Thus, in the absence of any aggravating circumstance, the penalty that must be imposed on the appellants is *reclusion perpetua* and not death. Following *Jugueta*, the award of civil indemnity, moral damages, and exemplary damages, where the penalty imposed is *reclusion perpetua* other than the above-stated rule, should be ₱75,000.00 each.⁵¹

There is also a need to modify the loss of earning capacity which is computed as follows:

$$\begin{aligned} \text{Net Earning Capacity} &= \text{Life expectancy} \times [\text{Gross} \\ &\quad \text{Annual Income} - \text{Living Expenses}] \\ &= [2/3 (80 - \text{age at death})] \times [\text{GAI} - \\ &\quad [50\% \text{ of GAI}]]^{52} \end{aligned}$$

Michael’s Contract of Employment⁵³ shows that he was supposed to work for six days a week and eight hours per day. Thus, Michael’s gross income should be computed by multiplying his daily wage of ₱293.00 by 24 days, the number of days Michael is working per month. The resulting gross income per month, *i.e.*, ₱7,032.00, shall then be multiplied by 12 to get the annual gross income which is ₱84,384.00.

Using the settled formula, Michael’s loss of earning capacity is ₱1,490,784.00, computed as follows:

⁴⁹ *People v. Jugueta*, 783 Phil. 806 (2016).

⁵⁰ *Id.* at 847.

⁵¹ *Id.* at 849.

⁵² *Sps. Enriquez v. Isarog Line Transport, Inc., et al.*, 800 Phil. 145, 150 (2016).

⁵³ Exhibit “K,” folder of exhibits, p.11.

Net Earning Capacity = Life expectancy x [Gross Annual Income
- Living Expenses]

$$\begin{aligned}
 &= [2/3 (80 - \text{age at death})] \times [\text{GAI} - [50\% \text{ of} \\
 &\quad \text{GAI}]] \\
 &= [2/3 (80 - 27)] \times \text{P}84,384 - \text{P}42,192 \\
 &= [2/3 (53)] \times \text{P}42,192.00 \\
 &= \text{P}1,490,784.00
 \end{aligned}$$

Lastly, the Court affirms the award of actual or compensatory damages in the amount of ₱54,000.00 since this amount is based on the Funeral Contract of Gliceria Clarianes, Michael's wife, with Ace Funeral Homes.⁵⁴

WHEREFORE, the Court **AFFIRMS** the Decision dated September 5, 2016 of the Court of Appeals in CA-G.R. CR-HC No. 07451 finding appellants Jefferson Maron y Emplona, Jonathan Almario y Caygo and Nestor Bulahan y Gutierrez guilty beyond reasonable doubt of the crime of Murder defined and penalized under Article 248 of the Revised Penal Code, sentencing them to suffer the penalty of *reclusion perpetua*.

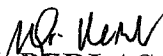
However, the monetary awards of the Court of Appeals are **MODIFIED** such that the appellants are ordered to pay the surviving heirs of Michael A. Clarianes actual and compensatory damages in the amount of ₱54,000.00; civil indemnity, moral damages, and exemplary damages in the amount of ₱75,000.00 each; and for loss of earning capacity of the victim in the amount of ₱1,490,784.00. All monetary awards shall earn legal interest at the rate of 6% *per annum* from the date of finality of the decision until fully paid.

SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice


⁵⁴ Exhibit "H," folder of exhibits, p.7.

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson



ANDRES B. REYES, JR.
Associate Justice

(On Leave)
RAMON PAUL L. HERNANDO
Associate Justice


RODIL V. ZALAMEDA
Associate Justice

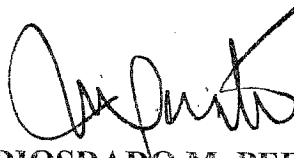
ATTESTATION

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.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

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.


DIOSDADO M. PERALTA
Chief Justice

