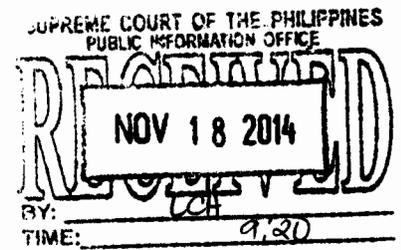




Republic of the Philippines  
**Supreme Court**  
Manila  
**FIRST DIVISION**



**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated September 24, 2014, which reads as follows:*

***"G.R. No. 181634 – PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee, v. BUENAVENTURA BAGCAL, WARLITO BAGCAL, AURELIO ALLADO, FELINO ALLADO, JOEL ALLADO, LUDOVICO ESPINOSA, RODOLFO AGOMO-O, ELMAR PADILLA, ADOLFO LIBO-ON and LORETO HONOFRE,\* Accused, LUDOVICO ESPINOSA, RODOLFO AGOMO-O, ELMAR PADILLA, ADOLFO LIBO-ON and LORETO HONOFRE, Accused-Appellants.***

In two separate Notices of Appeal, accused-appellants Ludovico Espinosa (**Ludovico**), Rodolfo Agomo-o (**Rodolfo**), Elmar Padilla (**Elmar**), Adolfo Libo-on (**Adolfo**), and Loreto Honofre (**Loreto**) challenge the September 14, 2006 Decision<sup>1</sup> of the Court of Appeals in CA-G.R. CR.-H.C. No. 00189, which affirmed the October 4, 2000 Joint Judgment<sup>2</sup> of the Regional Trial Court (RTC), Branch 25, Iloilo City, convicting them of two counts of murder and ordering them to pay the heirs of each of the two victims the amount of ₱50,000.00 as civil indemnity, as well as the costs of suit.

The above-named accused-appellants, along with five others, namely: Buenaventura Bagcal (**Buenaventura**), Warlito Bagcal (**Warlito**),

\* The original enumeration only listed Buenaventura Bagcal, Warlito Bagcal, Aurelio Allado, Felino Allado, and Joel Allado.

<sup>1</sup> *Rollo*, pp. 5-17; penned by Associate Justice Marlene Gonzales-Sison with Associate Justices Arsenio J. Magpale and Antonio L. Villamor, concurring.

<sup>2</sup> *CA rollo*, pp. 309-346.

Aurelio Allado (**Aurelio**), Felino Allado (**Felino**), and Joel Allado (**Joel**), were collectively charged in two Informations both dated September 13, 1979 that respectively read:

Criminal Case No. 11660

That on or about March 6, 1978, in the [M]unicipality of Banate, Province of Iloilo, Philippines, and within the jurisdiction of this Court, the above-named accused, conspiring, confederating and mutually helping one another, armed with guns, bolos and sharp and pointed instrument, taking advantage of the nighttime, with treachery and evident premeditation and with a decided purpose to kill, did then and there willfully, unlawfully and feloniously attack, assault and shot one Arturo Arante with the weapons with which they were provided, thereby inflicting upon the latter wounds on the different parts of his body which caused his death shortly thereafter.<sup>3</sup>

Criminal Case No. 11601

That on or about March 6, 1978, in the [M]unicipality of Banate, Province of Iloilo, Philippines, and within the jurisdiction of this [C]ourt, the above-named accused, conspiring, confederating and mutually helping one another, armed with guns, bolos and sharp and pointed instrument, taking advantage of the nighttime, with treachery and evident premeditation and with a decided purpose to kill, did then and there willfully, unlawfully and feloniously attack, assault and shot one Carlos Arante, Jr. with the weapons with which they were provided, thereby inflicting upon the latter wounds on the different parts of his body which caused his instantaneous death thereafter.<sup>4</sup>

All ten accused pleaded not guilty when arraigned.

As found by the RTC, the circumstances surrounding the crimes charged are as follows:

1) Few minutes before Carlos Arante, Jr. was found dead and cousin Arturo Arante was seen kneeling before and pleading to the accused to spare his life, prosecution witnesses Nestor Arante [younger brother of Carlos, Jr.] and his sister Nenita [younger sister of Carlos, Jr.] were blocked on their way home as they left the house of Jesus Diamante to view the television by the accused [*Aurelio, Buenaventura, Warlito, Felino, Joel, Ludovico, Rudolfo, Elmar, Adolfo, and Loreto*] who sprang out of the canal by the side of the road where said witnesses were walking. Nestor Arante beamed the light of the flashlight at the accused who came out of the canal and even at some distance away from him and his sister they recognized them, besides the night was not very dark.

<sup>3</sup> Id. at 24.

<sup>4</sup> Id. at 25.

2) The accused, after emerging from the canal, approached, searched and frisked the witnesses and finding nothing from them, told them to go.

The accused, having been known to the witnesses for several years before the incident took place and having approached and searched the witnesses enabled the latter to better identify and know them[.]

3) That after walking some one hundred fifty meters away from where they were blocked[,] witnesses Nestor and Nenita heard two big explosions followed by smaller ones which they believed came from the direction where they were blocked earlier or stopped by the accused. Apprehensive and curious to find out that their elder brother Carlos, whom they saw earlier with cousin Arturo Arante near the store of Jesus Diamante and who told them to go home ahead, might or could be the object of an ambush, Nestor left his sister behind, jumped into the canal by the roadside and then crawled back to the direction of the place where the explosion came from[,] which incidentally is the place or road where they were earlier blocked by the accused and there he and his sister, whom he later on noted to have followed him, saw Arturo Arante kneeling before the accused and pleading to them to spare his life as they already killed Carlos. Not far from where Arturo was, Nestor and Nenita also saw their brother Carlos who was already lying dead. Nestor saw accused Warlito Bagcal and Ludovico Espinosa deliver stab blows at Arturo and they likewise heard accused Buenaventura Bagcal telling his son Warlito stab Arturo on the neck and tongue so that he cannot talk anymore. At that time, some of the accused were acting as guards by walking back and forth on the road where the assault occurred with the light of their flashlights beamed towards the direction of the house of Carlos Arante, Jr. and while some of the accused just surrounded or stood around Arturo. Witnesses Nestor and sister Nenita also heard Buenaventura Bagcal telling his co-accused to go home and have some drink as they had already killed the kingpin, referring to Carlos Arante, Jr.

4) The identities of the accused as perpetrators of the crime were duly and positively established by witnesses Nestor Arante and his sister Nenita Arante who were not shown to have been motivated by any ill will to falsify the truth than to see to it that justice is done[.]<sup>5</sup>

The record of the case further shows that Nestor Arante (**Nestor**) testified as to the probable motive in killing Carlos, Jr. and Arturo, *i.e.*, that in 1977, the year prior to the commission of the crimes charged, Carlos, Jr. killed Claudio Allado (**Claudio**) during a fight. Moreover, from the testimonies of the witnesses of both parties, it was revealed that Claudio happened to be the (i) brother of both accused Aurelio and Felino; (ii) father of accused Joel; (iii) nephew-in-law of Buenaventura; (iv) cousin-in-

<sup>5</sup> Id. at 344-345.

*law* of accused Warlito; (v) *uncle* of accused Ludovico and Elmar; and (vi) "*second cousin*" of accused Rodolfo. Loreto, however, was the brother-in-law of Felino.

All the accused denied the charges against them and put forward their respective alibis – accused **Ludovico** testified that on the date and time of the subject incident, he was at home with his family; and that they were asleep by 7:30 p.m. Just like Ludovico, accused **Warlito**, **Elmar**, **Rodolfo** and **Loreto** testified that they were at home and asleep at the time of the occurrence of the subject incident. Accused **Buenaventura**, the father of Warlito, testified that he too was asleep at the time but he was in his store in the marketplace of the *barangay*; and that he was with his grandson and wife. As for **Adolfo**, he claimed to have stayed overnight at the house of his friend, one Sgt. Joelito Babayo, who, in turn, corroborated said declaration, but it was also elicited from Adolfo that Sgt. Babayo's house was a mere 20-minute motorcycle ride from his very own house. Accused **Aurelio**, for his part, claimed that at the time of the occurrence of the subject incident, he was at his house hauling palay, which finished at around one o'clock in the morning. Accused **Felino** testified that at eight o'clock in the evening of March 6, 1978, he was with his four-year old daughter and one Pablo Anildes at the school building of Barangay Banate, watching a movie that ended at around eleven o'clock. And lastly, accused **Joel** narrated that on the date and time of the subject incident and two weeks thereafter he was in another *barangay* with his mother and Barangay Captain Carlos Engada, and they were there to ask the hand of one Evelyn Baylon in marriage.

Lourdes (Rodolfo's wife), Eledelia (Loreto's wife), Faustino Polo (Aurelio's laborer), Sgt. Joelito Babayo (Adolfo's friend), Pablo Anildes (Felino's friend), Aurora (Felino's wife), Carlos Engada (Barangay Captain), Evelyn (Joel's wife), and Rhodora (Ludovico's wife) corroborated the alibis of their respective husbands and/or friends.

In addressing the defense put up by the accused, the RTC held that:

[T]he defense of alibi and denial put up by the accused is denied for the reason that their identities as the perpetrators of the crime have been positively established by the prosecution witnesses who were not shown to have been inspired by malice to concoct a story and falsify the truth. Besides, the accused failed to show that they were in a place far away from the place of the incident as to render it physically improbable for them to be at such place and commit the crime.<sup>6</sup>

---

<sup>6</sup> Id. at 346.



After trial, in a *Joint Judgment* dated October 4, 2000, the RTC ruled that though “there is no direct evidence showing that the accused were the ones who attacked, stabbed, shot and killed Carlos Arante, Jr. unlike in the case involving the death of Arturo Arante where there is direct evidence showing that the accused assaulted and wounded him which ultimately caused his death x x x but circumstances have been shown pointing to them as the only persons who could have logically committed the crime to the exclusion of anyone else.”<sup>7</sup> The dispositive portion of the RTC’s *Joint Judgment* reads:

WHEREFORE, premises considered, there being ample and satisfactory proof showing the guilt beyond reasonable doubt of the accused of the crime [of] two counts of murder, they are each hereby sentenced for each count to suffer an indivisible penalty of reclusion perpetua, not death in view of the fact that death penalty was abolished while the cases were pending trial and that although it was later on restored[,] the benefit of the law in their favor should not be taken away from them. The accused are also ordered to indemnify each of the families of Carlos Arante, Jr. and Arturo Arante the amount of ₱50,000.00 and to pay cost.<sup>8</sup>

Only five of the ten accused filed their respective Notices of Appeal, namely: **Ludovico, Rodolfo, Elmar, Adolfo, and Loreto**. Two of the five other accused, **Warlito and Aurelio**, jumped bail prior to the promulgation of the RTC’s *Joint Judgment*. And the last three accused, **Buenaventura, Felino, and Joel**, died during the pendency of the trial.

On appeal, the Court of Appeals affirmed the decision of the RTC. The dispositive part of the appellate court’s *Decision* dated September 14, 2006 provides:

WHEREFORE, this court **AFFIRMS** the joint judgment of the Regional Trial Court of Iloilo City dated October 4, 2000 finding appellants Ludovico Espinosa, Rodolfo Agomo-o, Elmar Padilla, Adolfo Libo-on and Loreto Honofre (and their co-accused) guilty beyond reasonable doubt on the murder of Carlos Arante, Jr. and Arturo Arante and **ORDERS** them to pay each of the families of the said victims ₱50,000.00 as civil indemnity.<sup>9</sup>

Hence, this final appeal.

In a letter dated December 23, 2008, the Office of the Chief Superintendent, New Bilibid Prison, informed this Court that accused-

---

<sup>7</sup> Id. at 344.

<sup>8</sup> Id. at 346.

<sup>9</sup> *Rollo*, p. 17.

appellants Rodolfo and Loreto already died while incarcerated at the New Bilibid Prison on April 2, 2005 and June 10, 2008, respectively. Thus, in a *Resolution* dated February 18, 2009, this Court dismissed the case against said accused-appellants.

On November 18, 2009, accused-appellant Ludovico filed *A Very Urgent Motion to Withdraw [Appeal]* stating that he has grown old and physically frail, and that he is already eligible to apply for parole pursuant to the Department of Justice Amended Guidelines for Recommending Executive Clemency. But he reasoned that such avenue would not be available to him for as long as his appeal remains pending before this Court. In a *Resolution* dated December 2, 2009, this Court resolved to grant said motion, and considered the case terminated and the appealed judgment final and executory in so far as accused-appellant Ludovico was concerned.

Thus, from the foregoing, only the appeals of Elmar and Adolfo are subsisting and are the subject of this Court's disposition.

Accused-appellants Elmar and Adolfo insist that their guilt have not been proven beyond reasonable doubt. Accused-appellant Elmar, in particular, argues that the trial and appellate courts erred (*i*) in holding that conspiracy existed among all the accused in assaulting and killing Carlos, Jr. and Arturo; (*ii*) in finding that Nenita and Nestor, the eyewitnesses, were not motivated by malice in implicating the accused; and (*iii*) in denying his motion for new trial based on Nestor's *Affidavit of Recantation* made in his favor. And in his *Supplemental Brief* filed before this Court, accused-appellant Elmar presents a copy of the *Police Blotter* of the subject incident stating that the perpetrators of the crimes charged were unknown, which fact alone should have discredited Nestor's testimony.

In contrast, the Office of the Solicitor General (OSG), for the People of the Philippines, maintains that the guilt of all the accused were proven beyond reasonable doubt even on the basis of circumstantial evidence in so far as the death of Carlos, Jr. is concerned, and on the basis of the positive eyewitness accounts of Nestor and Nenita pointing to them as the ones who attacked Arturo. Further, the OSG argues that conspiracy among the accused was duly proven by the facts established by the prosecution, *i.e.*, that the acts of all the accused were aimed towards the accomplishment of one unlawful object – the killing of Carlos, Jr. and Arturo. As to the denial of accused-appellant Elmar's motion for new trial and the issue of the recantation of Nestor implicating the latter, the OSG contends that (*i*) the RTC correctly refused to entertain said motion as it was made after the

perfection of accused-appellant Elmar's appeal; and (ii) Nestor's *Affidavit of Recantation* in favor of accused-appellant Elmar is not sufficient basis for the latter's acquittal because a recantation is usually viewed with disfavor and especially considering that Nenita's positive testimony identifying him as one of the assailants still subsists.

The present appeal is without merit.

Accused-appellants Elmar and Adolfo fundamentally attack the credibility of Nestor and Nenita, as eyewitnesses, and the veracity of their testimonies. As a rule, however, credibility is the sole province of the trial court.<sup>10</sup> Time and again it has been held that –

[W]hen the issues revolve on matters of credibility of witnesses, the findings of fact of the trial court, its calibration of the testimonies of the witnesses, and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings, are accorded high respect, if not conclusive effect. This is so because the trial court has the unique opportunity to observe the demeanor of witnesses and is in the best position to discern whether they are telling the truth. x x x.

And in the absence of any clear showing that the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance that would have affected the result of the case, its findings on the matter of credibility of witnesses will not be disturbed on appeal,<sup>11</sup> especially when such findings have been affirmed by the Court of Appeals.

Nonetheless, this Court has carefully examined the record of this case but found no indication that the trial and appellate courts overlooked or failed to appreciate facts that, if considered, would change the finding that accused-appellants Elmar and Adolfo, along with the rest of their co-accused, are guilty beyond reasonable doubt of two counts of murder.

Nenita and Nestor's testimonies do not suffer from any serious and material inconsistency that could possibly detract from their credibility. The accused and accused-appellants Elmar and Adolfo were directly identified by the two siblings as the perpetrators of the crimes charged. They heard the shots fired and saw Carlos, Jr. dead on the ground; and were frank, straightforward and categorical in their testimonies about how Arturo was attacked. Their testimonies were essentially one and the same

---

<sup>10</sup> *People v. Nelmidia*, G.R. No. 184500, September 11, 2012, 680 SCRA 386, 413.

<sup>11</sup> *Id.*

on the material aspects. This Court is in no doubt, therefore, as to the identity of the perpetrators of the crimes charged.

Further, jurisprudence also tells us that where there is no evidence that the witnesses of the prosecution were actuated by ill motive, it is presumed that they were not so actuated and their testimony is entitled to full faith and credit.<sup>12</sup> In the case at bar, no imputation of improper motive on the part of the prosecution witnesses was made and proved by accused-appellants Elmar and Adolfo.

In view thereof, this Court is one with the trial and appellate courts in ruling that Nestor and Nenita clearly and categorically established the crimes charged and the participation of all the accused, including the accused-appellants Elmar and Adolfo in the perpetration thereof. And in light of the two witnesses' candid, straightforward, and credible testimony, the alibis and denials put forward by accused-appellants Elmar and Adolfo cannot succeed to overturn their conviction. Hence, this Court affirms the ruling of the RTC and the Court of Appeals that accused-appellant Elmar and Adolfo are guilty beyond reasonable doubt of two counts of murder.

The two Informations filed in the RTC charged all the accused with murder for attacking, assaulting and shooting and/or stabbing, and, thus, causing the death of Carlos, Jr. and Arturo; and, which circumstances were said to have been attended by treachery and evident premeditation and taking advantage of nighttime. Under Article 248 of the Revised Penal Code, as amended by Republic Act No. 7659, murder is defined and punished, to wit:

Article 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[.]

In order to successfully prosecute the crime of murder, the following elements must be established: (1) that a person was killed; (2) that the accused killed him or her; (3) that the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the Revised Penal Code; and (4) that the killing is not parricide or infanticide.<sup>13</sup>

<sup>12</sup> *People v. Roman*, G.R. No. 198110, July 31, 2013, 703 SCRA 94, 107.

<sup>13</sup> *People v. Gabrino*, G.R. No. 189981, March 9, 2011, 645 SCRA 187, 196; citing *People v. Dela Cruz*, G.R. No. 188353, February 16, 2010, 612 SCRA 738, 746.

In this case, the prosecution was able to clearly establish that (1) Carlos, Jr. was shot and stabbed/hacked to death, and Arturo was stabbed/hacked to death; (2) all ten accused were the perpetrators who killed the two victims; (3) both killings were attended by a qualifying circumstance – but instead of abuse of superior strength, which circumstance was not alleged in both Informations, this Court is of the view that treachery qualified the killings – which circumstance was correctly alleged in both Informations and actually established by the prosecution during the trial of the cases.

Paragraph 16, Article 14 of the Revised Penal Code defines treachery as the direct employment of means, methods, or forms in the execution of the crime against persons which tend directly and specially to insure its execution, without risk to the offender arising from the defense which the offended party might make. The essence of treachery is that the attack is deliberate and without warning, done in a swift and unexpected way, affording the hapless, unarmed and unsuspecting victim no chance to resist or escape. In order for treachery to be properly appreciated, two elements must be present: (1) at the time of the attack, the victim was not in a position to defend himself; and (2) the accused consciously and deliberately adopted the particular means, methods, or forms of attack employed by him.<sup>14</sup> These elements are extant in the facts of this case and as testified to by the siblings Nenita and Nestor, as well as by Drs. Jose Dueñas (Dr. Dueñas) and Rolando Padilla (Dr. Padilla), the physicians who autopsied Carlos, Jr. and operated on Arturo, respectively.

Nenita and Nestor positively identified all ten of the accused as the persons who waylaid them and who surrounded and attacked a kneeling Arturo, with the latter pleading to the accused to spare his life as they had already killed Carlos, Jr. Dr. Dueñas testified that during his postmortem examination of the body of Carlos, Jr., the latter suffered 14 gunshot wounds to the abdomen damaging his liver and stomach as well as causing his intestinal organs to pop out, and four hack wounds to the face, all of which guaranteed his death. On the other hand, Dr. Padilla testified that Arturo sustained several hack wounds to his head; and that his skull was fractured because of the strength of the blows, which eventually caused his brain to bleed out and lead to his death four days later.

From the preceding discussion, there is no doubt that the attacks on the victims were attended by treachery. The victims were unarmed and had no inkling of the impending attack on their persons when they were

---

<sup>14</sup> *People v. Lagman*, G.R. No. 197807, April 16, 2012, 669 SCRA 512, 524.

intercepted by ten armed men. With respect to the attack on Carlos, Jr., even if no eyewitness could attest to the particulars thereof, but the short period of time from the moment when Nenita and Nestor were intercepted by the accused and the occasion when they heard the gunshots could not have been that long because the two eyewitnesses were still able to witness the attack on Arturo; hence, the suddenness of the attack should be appreciated. Further, the injuries that Carlos, Jr. sustained are categorical proof of the deliberateness and brutality of the assault inflicted upon him by his attackers. Clearly, the execution of the attack made it impossible for Carlos, Jr. to defend himself or to retaliate.

As to the attack on Arturo, the two eyewitnesses saw the latter surrounded by seven of the accused, was kneeling on the ground, and pleading to them to spare his life but to no avail. Obviously, unarmed and already down on his knees, Arturo posed no risk to the accused; hence, his killing was committed with treachery.

Note must be made that after taking treachery as a qualifying circumstance that converted the killings into murder, it now becomes improper to consider nighttime as a generic aggravating circumstance because the latter is generally included or formed part of the treacherous mode of attack subject of these consolidated cases.<sup>15</sup>

From the above, therefore, there is no denying that the collective acts of the accused and the accused-appellants reek of treachery.

And, (4) the killing of Carlos, Jr. and Arturo were neither parricide nor infanticide.

That there was conspiracy among the accused and accused-appellants is a matter not in issue. Both the trial court and the Court of Appeals deduced the conspiracy among the accused/accused-appellants from the mode and manner in which they perpetrated the killings. This Court is satisfied that their deduction was warranted.

The twin defenses of denial and alibi raised by accused-appellants Elmar and Adolfo, as well as the rest of the accused, must fail in light of the positive identification made by Nenita and Nestor. As this Court has invariably held, alibi and denial are inherently weak defenses and must be brushed aside when the prosecution has sufficiently and positively ascertained the identity of the accused as in this case. It is also axiomatic that positive testimony prevails over negative testimony. The alibis posed

---

<sup>15</sup> *People v. Sudoy*, 158 Phil. 380, 389 (1974).

in this case – that they were at different places at the time of the shooting, and that family members and or their friends vouched for their whereabouts – are negative, self-serving and cannot be given more evidentiary value *vis-à-vis* the affirmative testimony of a credible witness. Nenita and Nestor testified that they were both familiar with the accused because they lived in the same area and, are, therefore, familiar with one another. Hence, the two eyewitnesses could not have been mistaken on the identities of the perpetrators of the crimes.

In addition, recall must be made that for the defense of alibi to prosper, the accused must prove the following: (i) that he was present at another place at the time of the perpetration of the crime; and (ii) that it was physically impossible for him to be at the scene of the crime during its commission. Physical impossibility involves the distance and the facility of access between the crime scene and the location of the accused when the crime was committed; the accused must demonstrate that he was so far away and could not have been physically present at the crime scene and its immediate vicinity when the crime was committed.<sup>16</sup> Here, accused-appellants Elmar and Adolfo, including the rest of the accused, utterly failed to satisfy the above-quoted requirements.

Finally, accused-appellants Elmar and Adolfo failed to show any ill motive on the part of Nenita and Nestor to discredit their testimonies. Absent any reason or motive for a prosecution witness to perjure himself, the logical conclusion is that no such motive exists, and his testimony is, thus, worthy of full faith and credit.

On the whole, this Court is fully convinced that there is no ground to reverse accused-appellants Elmar and Adolfo's conviction. They are guilty of two counts of murder beyond any reasonable doubt.

### Penalties

After reviewing the penalty of imprisonment imposed by the trial court and affirmed by the Court of Appeals, this Court declares that the imposition on accused-appellants Elmar and Adolfo of the penalty of *reclusion perpetua* for each count of murder is correct and should be upheld. Article 248 of the Revised Penal Code, as amended by Republic Act No. 7659, provides for the penalty of *reclusion perpetua* to death for the felony of murder. There being no aggravating or mitigating circumstance, the proper penalty is *reclusion perpetua* pursuant to Article 63, paragraph 2 of the Revised Penal Code.

---

<sup>16</sup> *People v. Ramos*. G.R. No. 190340, July 24, 2013, 702 SCRA 204, 217.

The Proper Indemnities

As to the proper monetary awards imposable in each of the two counts of murder, modifications must be made herein. The RTC awarded in each case the amount of ₱50,000.00 as civil indemnity and the costs of suit. This is inaccurate. For each of the murders committed, the award of civil indemnity is mandatory and must be granted to the heirs of the victim without need of proof other than the commission of the crime. However, this Court must modify the amount of civil indemnity awarded by the RTC and affirmed by the Court of Appeals, from ₱50,000.00 to ₱75,000.00 to conform with current jurisprudence.<sup>17</sup>

An award of moral damages for each count of murder is also proper in view of the violent deaths of Carlos, Jr. and Arturo, and the resultant grief to their families. This Court, therefore, awards the amount of ₱75,000.00 based on current jurisprudence.

Further, since the crime was committed with the qualifying circumstance of treachery, an award of exemplary damages is justified under Article 2230<sup>18</sup> of the New Civil Code. Thus, conformably with the above, the legal heirs of each victim are also entitled to an award of exemplary damages in the amount of ₱30,000.00.<sup>19</sup>

Lastly, an interest at the rate of six percent (6%) per annum shall be imposed on all the damages awarded, to earn from the date of the finality of this judgment until fully paid, in line with prevailing jurisprudence.<sup>20</sup>

**WHEREFORE**, premises considered, the Court of Appeals Decision dated September 14, 2006 in CA-G.R. CR.-H.C. No. 00189 affirming the Joint Judgment dated October 4, 2000 promulgated by the Regional Trial Court of Iloilo City, Branch 25, in Criminal Case Nos. 11601 and 11660, finding accused-appellants Elmar Padilla and Adolfo Libo-on **GUILTY** beyond reasonable doubt of two counts of Murder, is hereby **AFFIRMED with MODIFICATION** as follows: For each count of Murder,

- over -

184

<sup>17</sup> *People v. Sanchez*, G.R. No. 188610, June 29, 2010, 622 SCRA 548, 569.

<sup>18</sup> Art. 2230. In criminal offenses, exemplary damages as a part of the civil liability may be imposed when the crime was committed with one or more aggravating circumstances. Such damages are separate and distinct from fines and shall be paid to the offended party.

<sup>19</sup> *People v. Cabungan*, G.R. No. 189355, January 23, 2013, 689 SCRA 236, 248-249.

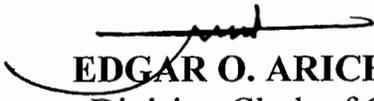
<sup>20</sup> *People v. Domingo*, 599 Phil. 589, 611 (2009).

- (1) the award of civil indemnity is increased to ₱75,000.00;
- (2) moral damages is awarded in the amount of ₱75,000.00; and
- (3) exemplary damages is also awarded in the amount of ₱30,000.00.

The above amounts awarded to the legal heirs of the victims shall earn legal interest at the rate of six percent (6%) per annum from the date of finality of this decision until fully paid.

**SO ORDERED.”**

Very truly yours,

  
**EDGAR O. ARICHETA**  
Division Clerk of Court

184

The Solicitor General (x)  
Makati City

Court of Appeals  
6000 Cebu City  
(CA-G.R. CR H.C. No. 00189)

Public Information Office (x)  
Library Services (x)  
Supreme Court  
(For uploading pursuant to A.M.  
No. 12-1-7-SC)

The Hon. Presiding Judge  
Regional Trial Court, Br. 25  
5000 Iloilo City  
(Crim. Case Nos. 11660 & 11601)

Judgment Division (x)  
Supreme Court

**PUBLIC ATTORNEY'S OFFICE**  
Counsel for Accused-Appellant A. Libo-on  
DOJ Agencies Bldg.  
1128 Diliman, Quezon City

The Director  
Bureau of Corrections  
1770 Muntinlupa City

**DEL ROSARIO LAW OFFICE**  
Counsel for Accused-Appellant  
Elmar Padilla  
16 Libertad St., Jaro  
5000 Iloilo City

Messrs. Elmar Padilla and  
Adolfo Libo-on  
Accused-Appellants  
c/o The Director  
Bureau of Corrections  
1770 Muntinlupa City

SR

