Republic of the Philippines
Supreme Court
Manila

EN BANC

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

- *versus* -

MARIANO OANDASAN, JR.,
Accused-Appellant.

G.R. No. 194605

Present:

SERENO, *C.J.*,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
*BRION,
**PERALTA,
BERSAMIN,
***DEL CASTILLO,
PEREZ,
MENDOZA,
REYES,
PERLAS-BERNABE,
LEONEN,
****JARDELEZA, and
CAGUIOA, *JJ.*:

Promulgated:

June 14, 2016

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DECISION

BERSAMIN, *J.*

This case involves a shooting incident that resulted in the deaths of two victims and the frustrated killing of a third victim. Although the trial court properly appreciated the attendance of treachery and pronounced the accused guilty of murder for the fatal shooting of the first victim, it erroneously pronounced the accused guilty of homicide and frustrated

* On official leave.
** On official leave.
*** On wellness leave.
**** On official leave.

homicide as to the second and third victims on the basis that treachery was not shown to be attendant. The Court of Appeals (CA) concurred with the trial court's characterization of the felonies.

We disagree with both lower courts because treachery was competently shown to be attendant in the shooting of each of the three victims. Thus, we pronounce the accused guilty of two counts of murder and one count of frustrated murder.

Antecedents

Three informations were filed against the accused, two of which were for murder involving the fatal shooting of Edgardo Tamanu and Danilo Montegrico, and the third was for frustrated homicide involving the near-fatal shooting of Mario Paleg.

The informations, docketed as Criminal Case No. II-9259, Criminal Case No. II-9260, and Criminal Case No. II-9261 of the Regional Trial Court in Tuguegarao City (RTC), averred as follows:

Criminal Case No. II-9259[1]

> That on or about July 29, 2003, in the municipality of Gattaran, province of Cagayan, and within the jurisdiction of this Honorable Court, the above-named accused armed with a gun, with intent to kill, with evident premeditation and with treachery, conspiring together and helping one another, did then and there willfully, unlawfully and feloniously assault, attack and shot (sic) one Edgardo Tamanu y Palattao, inflicting upon the latter a gunshot wound which caused his death.

Criminal Case No. II-9260[2]

> That on or about July 29, 2003, in the municipality of Gattaran, province of Cagayan, and within the jurisdiction of this Honorable Court, the above-named accused armed with a gun, with intent to kill, with evident premeditation and with treachery, conspiring together and helping one another, did then and there willfully, unlawfully and feloniously assault, attack and shot (sic) one Danilo Montegrico, inflicting upon the latter a gunshot wound which caused his death.

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1 *Rollo*, pp. 3-4.
2 Id. at 4.

Criminal Case No. II-9261[3]

That on or about July 29, 2003, in the municipality of Gattaran, province of Cagayan, and within the jurisdiction of this Honorable Court, the above-named accused armed with a gun, with intent to kill, with evident premeditation and with treacher[y], conspiring together and helping one another, did then and there willfully, unlawfully and feloniously assault, attack and shot (sic) one Engr. Mario Paleg y Ballad, inflicting upon the latter a gunshot wound.

That the accused had performed all the acts of execution which would have produce (sic) the crime of Homicide as a consequence, but which, nevertheless, did not produce it by reason of causes independent of his own will.

The CA summarized the facts in its assailed judgment, to wit:

Ferdinand Cutaran, 37 years old, driver at Navarro Construction, testified that on July 29, 2003 between 8:00 to 9:00 in the evening, he and his companions Jose Ifurung, Arthur Cutaran and victim Danny Montegrico were having a drinking spree outside the bunkhouse of Navarro Construction at Barangay Peña Weste, Gattaran, Cagayan. Suddenly, appellant who appeared from back of a dump truck, aimed and fired his gun at Montegrico. Cutaran ran away after seeing the appellant shoot Mentegrico. He did not witness the shooting of the other two victims Edgar Tamanu and Mario Paleg. When he returned to the crime scene, he saw the bodies of Montegrico, Tamanu and Paleg lying on the ground. Cutaran and his companions rushed the victims to Lyceum of Aparri Hospital.

As a result of the shooting incident, Danilo Montegrico, 34, and Edgardo Tamanu, 33, died; while Mario Paleg survived. The Medical Certificate dated August 13, 2003 issued by Lyceum of Aparri Hospital disclosed that Paleg was confined from July 29-30, 2003 for treatment of a gun shot wound on his right anterior hind spine.

Prudencio Bueno, 68 years old, a checker at Navarro Construction and a resident of Centro 14 Aparri, Cagayan, stated that after having dinner with Cutaran and the others on the date and time in question, he went inside the bunkhouse to drink water. Suddenly, he heard successive gun reports (sic). When he peeped through a window he saw the accused approaching from the back of a dump truck holding something, and going to the table where they were eating. He confessed that he did not actually see the appellant fire his gun at the victims.

Dr. Nida Rosales, Municipal Health Officer of Gattaran, Cagayan testified that she conduced a post-mortem examination on the body of Montegrico; that Montegrico sustained a single gunshot wound below the ribs; and that the injury caused his death.

The accused-appellant raised the defense of denial and alibi. Accused-appellant, 38 years old, a native of Bulala Sur, Aparri, Cagayan,

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[3] Id.

testified that from July up to October 2003, he was staying at his sister's house in Imus, Cavite. He was hired by SERG Construction, Inc. as a mason to work on a subdivision project in Rosario, Cavite. On that fateful day of July 29, 2003, he reported for work from 7:00 a.m. up to 5:00 p.m. To bolster his claim, he presented an Employment Certificate dated January 20, 2007 issued by Engr. Renato Bustamante of SERG Construction and a time record sheet dated July 29, 2003. He went back to Aparri in October 2003 after the completion of his project in Cavite. He further stated that he worked at Navarro Construction in February, 2003; that he had a previous misunderstanding with his former co-workers witnesses Cutaran and Bueno when he caught the two stealing sacks of cement from the company; that as a result, Cutaran and Bueno were transferred to another project and their employer assigned him as checker in replacement of Bueno; that the two planned to kill him as he prevented them from doing their fraudulent act; and that he resigned between the months of March and May 2003 because the two kept on disturbing him.

Fred Escobar, 48 years old, a resident of Pallagao, Baggao, Cagayan, testified that on July 29, 2003, he was having a drink with Montegrico and three other men whom he did not know; that when he was about to go home at around 8:00 p.m., a stranger appeared and fired his gun at Montegrico; that the assailant whom he did not know fired his gun several times. He asserted that appellant was not the assailant since the latter was shorter in stature.[4]

Judgment of the RTC

On June 1, 2009, the RTC rendered its judgment,[5] to wit:

WHEREFORE, the Court finds the accused Mariano Oandasan, Jr. *guilty beyond reasonable doubt as principal:*

a) in Criminal Case No. II-9260, for Murder for killing Danilo Montegrico and sentences accused with the penalty of reclusion perpetua and to pay the heirs of Danilo Montegrico the sum of One Hundred Fifty Thousand Pesos (₱150,000.00);

b) in Criminal Case No. II-9259, for Homicide for killing Edgardo Tamanu and sentences accused with the indeterminate penalty of six (6) years and one (1) day of prision mayor as minimum to seventeen (17) years and four (4) months of reclusion temporal as maximum and to pay the heirs of Edgardo Tamanu the sum of Fifty Thousand Pesos (₱50,000.00); and

c) in Criminal Case No. II-9261, for Frustrated Homicide for wounding Mario Paleg, and sentences the accused with the penalty of two (2) years and one (1) day of prision correccional as minimum to eight (8) years and one (1) day of prision mayor as maximum.

SO ORDERED.[6]

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4 Id. at 5-7.

5 CA *rollo*, pp. 13-20; penned by Presiding Judge Roland R. Velasco.

6 Id. at 20.

Decision of the CA

On appeal, the CA affirmed the judgment of the RTC through its decision promulgated on June 29, 2010,[7] to wit:

> **WHEREFORE,** premises considered, the appeal is **DENIED.** The Judgment dated June 1, 2009 of the RTC, Branch 6 of Aparri, Cagayan is **AFFIRMED with MODIFICATION** in that appellant is **ORDERED** to pay the heirs of Edgardo Tamanu the amounts of ₱75,000.00 as civil indemnity and ₱75,000.00 as moral damages, and Mario Paleg, the sum of ₱50,000.00 as moral damages.
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> SO ORDERED.[8]

Hence, this ultimate appeal, with the accused still insisting on the reversal of his convictions.

Ruling of the Court

This appeal opens the entire record to determine whether or not the findings against the accused should be upheld or struck down in his favor. Nonetheless, he bears the burden to show that the trial and the appellate courts had overlooked, misapprehended or misinterpreted facts or circumstances that, if properly considered and appreciated, would significantly shift the outcome of the case in his favor. His failure to discharge this burden notwithstanding, the Court still reviewed the record conformably with the tenet that every appeal in a criminal case opens the record for review.[9] Thus, after evaluating the record, the Court affirms the finding of his being criminally responsible for the killing of Montegrico and Tamanu, and the frustrated killing of Paleg, subject to the rectification of the characterization of the felonies as to Tamanu and Paleg.

I
Denial and alibi do not overcome positive identification of the accused

There is no doubt that Prosecution witness Ferdinand Cutaran positively identified the accused as the person who had shot Montegrico. Considering that Cutaran's credibility as an eyewitness was unassailable in the absence of any showing or hint of ill motive on his part to falsely incriminate the accused, such identification of the accused as the assailant of Montegrico prevailed over the accused's weak denial and alibi. As such, the

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[7] *Rollo,* pp. 2-13; penned by Associate Justice Portia Aliño-Hormachuelos (retired), with the concurrence of Associate Justice Japar B. Dimaampao and Associate Justice Jane Aurora C. Lantion.

[8] Id. at 12.

[9] *People v. Bongalon*, G.R. No. 169533, March 20, 2013, 694 SCRA 12, 21.

CA properly rejected the denial and alibi of the accused as unworthy, and we adopt the following stated reasons of the CA for the rejection, to wit:

> As for the defense of alibi, for it to prosper, it must be established by positive, clear and satisfactory proof that it was physically impossible for the accused to have been at the scene of the crime at the time of its commission, and not merely that the accused was somewhere else. Physical impossibility refers to the distance between the place where the accused was when the crime happened and the place where it was committed, as well as the facility of the access betwee the two places. In the case at bar, appellant failed to prove the element of physical impossibility for him to be at the scene of the crime at the time it took place. His alibi that he was in Cavite and the employment certificate and time record sheet which he presented cannot prevail over the positive and categorical testimonies of the prosecution witnesses. Alibi is the weakest defense not only because it is inherently weak and unreliable, but also because it is easy to fabricate. It is generally rejected when the accused is positively identified by a witness.[10]

We reiterate that denial and alibi do not prevail over the positive identification of the accused by the State's witnesses who are categorical and consistent and bereft of ill motive towards the accused. Denial, unless substantiated by clear and convincing evidence, is undeserving of weight in law for being negative and self-serving. Moreover, denial and alibi cannot be given greater evidentiary value than the testimony of credible witnesses who testify on affirmative matters.[11]

II
Treachery also attended the shooting of Tamanu and Paleg; hence, the accused is guilty of two counts of murder and one count of frustrated murder

The CA and the RTC appreciated the attendance of treachery only in the fatal shooting of Montegrico (Criminal Case No. II-9260). Although no witness positively identified the accused as the person who had also shot Tamanu and Paleg, the record contained sufficient circumstantial evidence to establish that the accused was also criminally responsible for the fatal shooting of Tamanu and the near-fatal shooting of Paleg. Indeed, the CA declared the accused as "the lone assailant" of the victims based on its following analytical appreciation, to wit:

> The evidence in this case shows that the attack was unexpected and swift. Montegrico and his friends were just drinking outside the bunkhouse when the appellant suddenly appeared from the back of a dump truck, walked towards their table and, without any warning, fired at

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10 *Rollo*, pp. 10-11.

11 *People v. Agcanas*, G.R. No. 174476, October 11, 2011, 658 SCRA 842, 847.

> Montegrico. This shot was followed by more shots directed at Montegrico's friends, Tamanu and Paleg. Indisputably, Montegrico was caught off guard by the sudden and deliberate attack coming from the appellant, leaving him with no opportunity to raise any defense against the attack. Also, appellant deliberately and consciously adopted his mode of attack by using a gun and made sure that Montegrico, who was unarmed, would have no chance to defend himself.
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> We hold that the circumstantial evidence available was enough to convict accused-appellant. Circumstantial evidence is competent to establish guilt as long as it is sufficient to establish beyond a reasonable doubt that the accused, and not someone else, was responsible for the killing. For circumstantial evidence to suffice to convict an accused, the following requisites must concur: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt. In this case, these requisites for circumstantial evidence to sustain a conviction are present. ***First,*** the witnesses unanimously said that they saw appellant coming from the back of a dump truck and shoot Montegrico pointblank. ***Second,*** appellant fired his gun several times. ***Third,*** immediately after the shooting incident, three victims were found lying on the ground and rushed to the hospital. ***Fourth,*** the Certificates of Death of Montegrico and Tamanu and the Medical Certificate of Paleg revealed that they all sustained gun shot wounds. Thus, it can be said with certitude that appellant was the lone assailant. The foregoing circumstances are proven facts, and the Court finds no reason to discredit the testimonies of the prosecution's witnesses. Well-entrenched is the rule that the trial court's assessment of the credibility of witnesses is accorded great respect and will not be disturbed on appeal, inasmuch as the court *a quo* was in a position to observe the demeanor of the witnesses while testifying. The Court does not find any arbitrariness or error on the part of the RTC as would warrant a deviation from this rule.[12]

Although the CA and the RTC correctly concluded that the accused had been directly responsible for the shooting of Tamanu and Paleg, we are perplexed why both lower courts only characterized the killing of Tamanu and the near-killing of Paleg as homicide and frustrated homicide while characterizing the killing of Montegrico as murder because of the attendance of treachery. The distinctions were unwarranted. The fact that the shooting of the three victims had occurred *in quick succession* fully called for a finding of the attendance of treachery in the attacks against *all* the victims. Montegrico, Tamanu and Paleg were drinking together outside their bunkhouse prior to the shooting when the accused suddenly appeared from the rear of the dump truck, walked towards their table and shot Montegrico without any warning. That first shot was quickly followed by more shots. In that situation, none of the three victims was aware of the imminent deadly assault by the accused, for they were just enjoying their drinks outside their bunkhouse. They were unarmed, and did not expect to be shot, when the accused came and shot them.

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[12] *Rollo*, pp. 9-10.

The attack was mounted with treachery because the two conditions in order for this circumstance to be appreciated concurred, namely: (*a*) that the means, methods and forms of execution employed gave the person attacked no opportunity to defend themselves or to retaliate; and (*b*) that such means, methods and forms of execution were deliberately and consciously adopted by the accused without danger to his person.[13] The essence of treachery lay in the attack that came without warning, and was swift, deliberate and unexpected, affording the hapless, unarmed and unsuspecting victims no chance to resist, or retaliate, or escape, thereby ensuring the accomplishment of the deadly design without risk to the aggressor, and without the slightest provocation on the part of the victims.

What was decisive is that the execution of the attack made it impossible for the victims to defend themselves or to retaliate. Jurisprudence has been illustrative of this proposition. In *People v. Flora*,[14] for instance, treachery was appreciated as an attendant circumstance in the killing of two victims, and in the attempted killing of a third victim, warranting the conviction of the accused for two murders and attempted murder, notwithstanding that although the accused had first fired at his *intended* victim, he had missed and had instead hit the two other victims, with the Court observing that the three victims were all nonetheless "helpless to defend themselves." In a nother illustrative ruling, *People v. Pinto, Jr.*,[15] treachery was held to attend the three killings and the wounding of a fourth victim because the attack was sudden and the victims were defenseless; hence, the killings were murders, and the wounding frustrated murder.

Treachery as an aggravating or attendant circumstance must be established beyond reasonable doubt. This quantum is hardly achieved if there is no testimony showing *how* the accused actually commenced the assault against the victim. But to absolutely require such testimony in all cases would cause some murders committed without eyewitnesses to go unpunished by the law. To avoid that most undesirable situation, the *Rules of Court* permits a resort not only to direct evidence but also to circumstantial evidence. Indeed, the proof competent to achieve the quantum is not confined to direct evidence from an eyewitness, who may be unavailable. Circumstantial evidence can just as efficiently and competently achieve the quantum. The *Rules of Court* nowhere expresses a preference for direct evidence of a fact to evidence of circumstances from which the existence of a fact may be properly inferred. The *Rules of Court* has not also required a greater degree of certainty when the evidence is circumstantial than when it is direct, for, in either case, the trier of fact must still be convinced beyond a

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[13] *Luces v. People*, G.R. No. 149492, January 20, 2003, 395 SCRA 524, 532-533.
[14] G.R. No. 125909, June 23, 2000, 334 SCRA 262, 275-276.
[15] G.R. No. L-39519, November 21, 1991, 204 SCRA 9, 35.

reasonable doubt of the guilt of the accused.[16] The quantity of circumstances sufficient to convict an accused has not been fixed as to be reduced into some definite standard to be followed in every instance. As the Court has observed in *People v. Modesto*:[17]

> The standard postulated by this Court in the appreciation of circumstantial evidence is well set out in the following passage from *People vs. Ludday*:[18] "No general rule can be laid down as to the quantity of circumstantial evidence which in any case will suffice. All the circumstances proved must be consistent with each other, consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with the hypothesis that he is innocent, and with every other rational hypothesis except that of guilt."

It is of no consequence, therefore, that Cutaran, who had meanwhile fled to safety upon hearing the shot that had felled Montegrico, did not witness the actual shooting of Tamanu and Paleg; or that Paleg, although surviving the assault against him and Tamanu, did not testify during the trial. What is of consequence is that the records unquestionably and reliably showed that Tamanu and Paleg were already prostrate on the ground when Cutaran returned to the scene; and that the gunshots had been fired in quick succession, thereby proving with moral certainty that the accused was the same person who also shot Tamanu and Paleg.

The averment in the second paragraph of the information filed Criminal Case No. II-9261 (in relation to the shooting of Paleg) that *homicide was the consequence of the acts of execution by the appellant*[19] does not prevent finding the accused guilty of frustrated murder. The rule is that the allegations of the information on the nature of the offense charged, not the nomenclature given it by the Office of the Public Prosecutor, are controlling in the determination of the offense charged. Accordingly, considering that the information stated in its first paragraph that the accused, "armed with a gun, with intent to kill, with evident premeditation and with treacher[y], conspiring together and helping one another, did then and there willfully, unlawfully and feloniously assault, attack and shot (sic) one Engr. Mario Paleg y Ballad, inflicting upon the latter a gunshot wound," the accused can be properly found guilty of frustrated murder, a crime sufficiently averred in the information.

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[16] *People v. Ramos*, G.R. No. 104497, January 18, 1995, 240 SCRA 191, 199, citing *Robinson v. State*, 18 Md. App. 678, 308 A2d 734 (1973).

[17] G.R. No. L-25484, September 21, 1968, 25 SCRA 36, 41.

[18] 61 Phil. 216, 221-222 (1935).

[19] The second paragraph of the information reads:

> **That the accused had performed all the acts of execution which would have produce (sic) the crime of Homicide as a consequence, but which, nevertheless, did not produce it by reason of causes independent of his own will.** (*Rollo*, p. 3)

II
Criminal Liabilities

As a consequence, the accused was criminally liable for two counts of murder for the fatal shooting of Montegrico and Tamanu, and for frustrated murder for the near-fatal shooting of Paleg. In the absence of any modifying circumstances, *reclusion perpetua* is the penalty for each count of murder, while *reclusion temporal* in its medium period is the penalty for frustrated murder. The indeterminate sentence for the frustrated murder is eight years of *prision mayor*, as the minimum, to 14 years, eight months and one day of *reclusion temporal*, as the maximum.

IV
Civil Liability

For death caused by a crime or quasi-delict, Article 2206 of the *Civil Code* enumerates the damages that may be recovered from the accused or defendant, to wit:

> Article 2206. The amount of damages for death caused by a crime or quasi-delict shall be at least three thousand pesos, even though there may have been mitigating circumstances. In addition:
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> (1) The defendant shall be liable for the loss of the earning capacity of the deceased, and the indemnity shall be paid to the heirs of the latter; such indemnity shall in every case be assessed and awarded by the court, unless the deceased on account of permanent physical disability not caused by the defendant, had no earning capacity at the time of his death;
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> (2) If the deceased was obliged to give support according to the provisions of article 291, the recipient who is not an heir called to the decedent's inheritance by the law of testate or intestate succession, may demand support from the person causing the death, for a period not exceeding five years, the exact duration to be fixed by the court;
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> (3) The spouse, legitimate and illegitimate descendants and ascendants of the deceased may demand moral damages for mental anguish by reason of the death of the deceased.

The first item of civil liability is the civil indemnity for death, or death indemnity.

Civil indemnity comes under the general provisions of the *Civil Code* on damages, and refers to the award given to the heirs of the deceased as a form of monetary restitution or compensation for the death of the victim at the hands of the accused. Its grant is mandatory and a matter of course, and without need of proof other than the fact of death as the result of the crime

or quasi-delict,[20] and the fact that the accused was responsible therefor. The mandatory character of civil indemnity in case of death from crime or quasi-delict derives from the legal obligation of the accused or the defendant to fully compensate the heirs of the deceased for his death as the natural consequence of the criminal or quasi-delictual act or omission. This legal obligation is set in Article 2202 of the *Civil Code*, *viz.*:

> Article 2202. In crimes and quasi-delicts, the defendant shall be liable for all damages which are the natural and probable consequences of the act or omission complained of. It is not necessary that such damages have been foreseen or could have reasonably been foreseen by the defendant.

Article 2206 of the *Civil Code*, *supra*, has fixed the death indemnity to be "at least three thousand pesos, even though there may have been mitigating circumstances." Yet, the granting of civil indemnity was not introduced by the *Civil Code*, for the courts had granted death indemnity to the heirs of the victims even long prior to August 30, 1950, the date of the effectivity of the *Civil Code*. The award of civil indemnity dated back to the early years of the Court.[21] There was also legislation on the matter, starting with Commonwealth Act No. 284, approved on June 3, 1938, which provided in its Section 1 the following:

> Section 1. — The civil liability or the death of a person shall be fixed by the competent court at a reasonable sum, upon consideration of the pecuniary situation of the party liable and other circumstances, but it shall in no case be less than two thousand pesos.

In fixing the civil indemnity, the Legislature thereby set a minimum. The *Civil Code*, in Article 2206, took the same approach by specifying the amount to be *at least* ₱3,000.00, which was directly manifesting the legislative intent of enabling the courts to increase the amount *whenever the circumstances would warrant.*

Civil indemnity for death has been increased through the years from the minimum of ₱2,000.00 to as high as ₱100,000.00. The increases have been made to consider the economic conditions, primarily the purchasing power of the peso as the Philippine currency. In 1948, in *People v. Amansec*,[22] the Court awarded to the heirs of the victim of homicide the amount of ₱6,000.00 as death indemnity, raising the ₱2,000.00 allowed by

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[20] *People v. Molina*, G.R. No. 184173, March 13, 2009, 581 SCRA 519, 542.

[21] In 1905, civil indemnity in the amount of ₱500.00 was allowed for death in *United States v. Bastas*, 5 Phil. 251 (1905), a murder case. In 1908, the amount of ₱1,000.00 was awarded to the heirs of the deceased in *United States v. Indon*, 11 Phil. 64 (1908).

[22] 80 Phil. 424 (1948).

the trial court, the legal minimum at the time, and justified the increase by adverting to the "difference between the value of the present currency and that at the time when the law fixing a minimum indemnity of ₱2,000.00 was enacted."[23] Later on, in 1968, the Court, in *People v. Pantoja*,[24] saw a significant need to further upgrade the civil indemnity for death to ₱12,000.00. To justify the upgrade, the Court included a review of the more recent history of civil indemnity for death in this jurisdiction, to wit:

> In 1947, when the Project of Civil Code was drafted, the Code Commission fixed the sum of ₱3,000 as the minimum amount of compensatory damages for death caused by a crime or quasi-delict. The Project of Civil Code was approved by both Houses of the Congress in 1949 as the New Civil Code of the Philippines, which took effect in 1950. In 1948 in the case of *People vs. Amansec*, 80 Phil. 424, the Supreme Court awarded ₱6,000 as compensatory damages for death caused by a crime "*considering the difference between the value of the present currency and that at the time when the law fixing a minimum indemnity* of ₱2,000 was enacted." The law referred to was Commonwealth Act No. 284 which took effect in 1938. In 1948, the purchasing power of the Philippine peso was one-third of its pre-war purchasing power. In 1950, when the New Civil Code took effect, the minimum amount of compensatory damages for death caused by a crime or quasi-delict was fixed in Article 2206 of the Code at ₱3,000. The article repealed by implication Commonwealth Act No. 284. Hence, from the time the New Civil Code took effect, the Courts could properly have awarded ₱9,000 as compensatory damages for death caused by a crime or quasi-delict. *It is common knowledge that from 1948 to the present (1968), due to economic circumstances beyond governmental control, the purchasing power of the Philippine peso has declined further such that the rate of exchange now in the free market is U.S. $1.00 to almost ₱4.00 Philippine pesos. This means that the present purchasing power of the Philippine peso is one-fourth of its pre-war purchasing power.* We are, therefore, of the considered opinion that the amount of award of compensatory damages for death caused by a crime or quasi-delict should now be ₱12,000.[25] (Italics supplied)

Increases were made from time to time until the death indemnity reached the threshold of ₱50,000.00, where it remained for a long time.[26] In that time, however, the Court occasionally granted ₱75,000.00 as civil

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[23] Id. at 435.

[24] G.R. No. L-18793, October 11, 1968, 25 SCRA 468.

[25] Id. at 473.

[26] *E.g., People v. Dagani,* G.R. No. 153875, August 16, 2006, 499 SCRA 64, 84-85; *Baxinela v. People,* G.R. No. 149652, March 24, 2006, 485 SCRA 331, 339, 345; *People v. Quirol,* G.R. No. 149259, October 20, 2005, 509 SCRA 473, 519; *People v. Hernandez,* G.R. No. 139697, June 15, 2004, 432 SCRA 104, 125; *People v. Opuran,* G.R. Nos. 147674-75; March 17, 2004, 425 SCRA 654, 673; *People v. Muñez,* G.R. No. 150030, May 9, 2003, 403 SCRA 208, 215; *People v. Callet,* G.R. No. 135701, May 9, 2002, 382 SCRA 43, 55; *People v. Diaz,* G.R. No. 130210, December 8, 1999, 320 SCRA 168, 177; *People v. Sanchez* , G.R No. 131116, August 27, 1999, 313 SCRA 258, 271; *People v. Espanola,* G.R. No. 119308, April 18, 1997, 271 SCRA 689, 718 (for homicide).

indemnity for death.[27] The Court retained the death indemnity at ₱75,000.00 in subsequent cases, as in *People v. Dela Cruz* (2007) [28] and *People v. Buban.*[29] In *People v. Anod*,[30] decided on August 5, 2009, the Court clarified that the award of ₱75,000.00 was appropriate only if the imposable penalty was death but reduced to *reclusion perpetua* by virtue of the enactment of Republic Act No. 9346 (*An Act Prohibiting the Imposition of Death Penalty*). Hence, where the proper imposable penalty was *reclusion perpetua*, death indemnity in murder remained at ₱50,000.00. Yet, the Court, in an apparent self-contradiction less than a month after *Anod*, promulgated *People v. Arbalate*,[31] wherein it fixed ₱75,000.00 as death indemnity despite the imposable penalty being *reclusion perpetua*, with the Court holding that death indemnity should be ₱75,000.00 regardless of aggravating or mitigating circumstances provided the penalty prescribed by law was death or *reclusion perpetua*,.

Death indemnity of ₱75,000.00 became the standard in murder where the penalty was *reclusion perpetua*. This standard has been borne out by *People v. Soriano,*[32] *People v. Jadap*,[33] and *People v. Sanchez* (2010).[34] But the consistency in applying the standard was broken in 2010, when the Court, in *People v. Gutierrez* (2010),[35] a murder case, reverted to ₱50,000.00 as civil indemnity. *People v. Gutierrez* (2010) was followed by *People v. Apacible*,[36] also for murder, with the Court, citing *People v. Anod*,[37] reducing the civil indemnity from ₱75,000.00, the amount originally awarded by the lower court, to ₱50,000.00. Oddly enough, on June 29, 2010, or two months before the promulgation of *Apacible*, the Court promulgated *People v. Orias*[38] and therein awarded ₱75,000.00 as civil indemnity and even made a sweeping declaration that such amount was given automatically in cases of murder and homicide. It is notable, however, that *People v. Ocampo*[39] and *People v. Amodia*,[40] the two rulings cited as authority for the declaration, involved charges and convictions for murder, not homicide.

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[27] *E.g., People v. Abulencia,* G.R. No. 138403, August 22, 2001, 363 SCRA 496, 509 (for rape with homicide); *People v. Tubongbanua*, G.R. No. 171271, August 31, 2006, 500 SCRA 727, 742; *People v. Quiachon*, G.R. No. 170236, August 31, 2006, 500 SCRA 704, 719 (where the Court held that even if the penalty of death was not to be imposed because of the prohibition in Republic Act No. 9346, the civil indemnity of ₱75,000.00 was proper because it was not dependent on the actual imposition of the death penalty but on the fact that the qualifying circumstances warranted the imposition of the death penalty that attended the commission of the offense).

[28] G.R. No. 171272, June 7, 2007, 523 SCRA 433, 455.

[29] G.R. No. 170471, May 11, 2007, 523 SCRA 118, 134.

[30] G.R. No. 186420, August 5, 2009, 597 SCRA 205, 212-213,

[31] G.R. No. 183457, September 17, 2009, 600 SCRA 239, 255.

[32] G.R. No. 182922, December 14, 2009.

[33] G.R. No. 177983, March 30, 2010, 617 SCRA 179, 198.

[34] G.R. No. 188610, June 29, 2010, 622 SCRA 548, 569.

[35] G.R. No. 188602, February 4, 2010, 611 SCRA 633, 647-648.

[36] G.R. No. 189091, August 25, 2010, 629 SCRA 523, 529.

[37] G.R. No. 186420, August 25, 2009, 597 SCRA 205, 212.

[38] G.R. No. 186539, June 29, 2010, 622 SCRA 417, 437.

[39] G.R. No. 177753, September 25, 2009, 601 SCRA 58, 73.

[40] G.R. No. 173791, April 7, 2009, 584 SCRA 518, 545.

The Court reverted to the flat amount of ₱50,000.00 as death indemnity in murder where the proper imposable penalty was *reclusion perpetua* in *People v. Dela Cruz* (2010),[41] *Talampas v. People*[42] and *People v. Gabrino*.[43] Subsequently, the Court went back to ₱75,000.00 in *People v. Mediado*[44] an d *People v. Anti camara*,[45] both murder cases. In *People v. Escleto*,[46] the Court, prescribing *reclusion perpetua* upon not finding any aggravating circumstance to be attendant, imposed ₱75,000.00 as civil indemnity for the death of the victim. The Court did the same thing in *People v. Camat*[47] *and People v. Laurio*,[48] where the Court, prescribing only *reclusion perpetua* due to lack of any aggravating circumstance, awarded ₱75,000.00 as civil indemnity for death. In *People v. Buyagan*,[49] the Court, in awarding ₱75,000.00 as civil indemnity for the deaths of each of the victims, said that the civil indemnity should be increased from ₱50,000.00 to ₱75,000.00 inasmuch as the imposable penalty against the appellant would have been death had it not been for the enactment of Republic Act No. 9346.

In 2013, the Court once again changed its mind and awarded only ₱50,000.00 as civil indemnity in murder. Thus, in *People v. Pondivida*[50] and *People v. Alawig*,[51] the Court sentenced the accused to *reclusion perpetua* and awarded only ₱50,000.00 as civil indemnity.

Incidentally, the civil indemnity for homicide remained pegged at ₱50,000.00 for almost two decades [*e.g.*, *Lozano v. Court of Appeals*,[52] *People v. Gutierrez* (2002),[53] *People v. Dagani*,[54] *Seguritan v. People*,[55] *People v. Valdez*,[56] *People v. Lagman*[57] and *Sombol v. People*.][58] In attempted robbery with homicide (*People v. Barra*, the civil indemnity was ₱50,000.00.[59]

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41 G.R. No. 188353, February 16, 2010, 612 SCRA 738, 751-752
42 G.R. No. 180219, November 23, 2011, 661 SCRA 197.
43 G.R. No. 189981, March 9, 2011, 645 SCRA 187, 205.
44 G.R. No. 169871, February 2, 2011, 641 SCRA 366, 371.
45 G.R. No. 178771, June 8, 2011, 651 SCRA 489, 522..
46 G.R. No. 183706, April 25, 2012, 671 SCRA 149, 160.
47 G.R. No. 188612, July 30, 2012, 677 SCRA 640, 672.
48 G.R. No. 182523, September 13, 2012, 680 SCRA 560, 573.
49 G.R. No. 187733, February 8, 2012, 665 SCRA 571, 580.
50 G.R. No. 188969, February 27, 2013, 692 SCRA 217, 226.
51 G.R. No. 187731, September 18, 2013, 706 SCRA 88, 114-115.
52 G.R. No. 90870, February 5, 1991, 193 SCRA 525, 530-531.
53 G.R. Nos. 144907-09, September 17, 2002, 389 SCRA 268, 276.
54 G.R. No. 153875, August 16, 2006, 499 SCRA 64, 84.
55 G.R. No. 172896, April 19, 2010, 618 SCRA 406, 420.
56 G.R. No. 175602, January 18, 2012, 663 SCRA 272, 290.
57 G.R. No. 197807, April 16, 2012, 669 SCRA 512, 529.
58 G.R. No. 194564, April 10, 2013, 695 SCRA 630, 633, 638.
59 G.R. No. 198020, July 10, 2013, 701 SCRA 99, 105, 108.

It is again timely to raise the civil indemnity for death arising from crime or quasi-delict. We start by reminding that human life, which is not a commodity, is priceless. The value of human life is incalculable, for no loss of life from crime or quasi-delict can ever be justly measured. Yet, the law absolutely requires every injury, especially loss of life, to be compensated in the form of damages. For this purpose, damages may be defined as the pecuniary compensation, recompense, or satisfaction for an injury sustained, or, as otherwise expressed, the pecuniary consequences that the law imposes for the breach of some duty or the violation of some right.[60] As such, damages refer to the amount in money awarded by the court as a remedy for the injured.[61] Although money has been accepted as the most frequently used means of punishing, deterring, compensating and regulating injury throughout the legal system,[62] it has been explained that money in the context of damages is not awarded as a replacement for other money, but as substitute for that which is generally more important than money; *it is the best thing that a court can do.*[63] Regardless, the civil indemnity for death, being compensatory in nature, must attune to contemporaneous economic realities; otherwise, the desire to justly indemnify would be thwarted or rendered meaningless. This has been the legislative justification for pegging the minimum, but not the maximum, of the indemnity.

The reasoning in *Pantoja*,[64] *supra*, has been premised on the pronouncement in *People v. Amansec*[65] to the effect that the increase to ₱6,000.00 in "*compensatory damages for death caused by a crime*" from the legally imposed minimum indemnity of ₱2,000.00 under Commonwealth Act No. 284 (which took effect in 1938) was in consideration of "*the difference between the value of the present currency and that at the time when the law fixing a minimum indemnity* of ₱2,000 was enacted." The *Pantoja* Court thus raised the amount of death indemnity to ₱12,000.00 by taking judicial cognizance of the fact "*that from 1948 to the present (1968), due to economic circumstances beyond governmental control, the purchasing power of the Philippine peso has declined further such that the rate of exchange now in the free market is U.S. $1.00 to almost ₱4.00 Philippine pesos. This means that the present purchasing power of the Philippine peso is one-fourth of its pre-war purchasing power.*" Subsequent increases have been similarly justified.

On April 5, 2016, the Court promulgated its decision in *People v. Jugueta* (G.R. No. 202124), whereby it adopted certain guidelines on fixing the civil liabilities in crimes resulting in the death of the victims taking into

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60 *People v. Ballesteros*, G.R. No. 120921 January 29, 1998, 285 SCRA 438, 448.

61 Casis, Rommel J., *Analysis of Philippine Law and Jurisprudence on Damages*, University of the Philippines College of Law, 2012, p.2

62 Id., citing Pat O' Malley, *The Currency Of Justice: Fines And Damages In Consumer Societies*, 1 (2009).

63 Id. at 2-3, citing H. McGregor on Damages, 9 (1997).

64 Supra note 23.

65 Supra note 22.

proper consideration the stages of execution and gravity of the offenses, as well as the number of victims in composite crimes. Other factors were weighed by the Court. In the case of murder where the appropriate penalty is *reclusion perpetua*, the Court has thereby fixed ₱75,000.00 for moral damages, ₱75,000.00 for exemplary damages, and ₱75,000.00 for civil indemnity as the essential civil liabilities, in addition to others as the records of each case will substantiate. Hence, we impose herein the same amounts for such items of damages in each count of murder.

It appears that the accused and the heirs of Montegrico stipulated that the civil indemnity of the accused in case of conviction should not exceed ₱150,000.00.[66] The stipulation cannot stand because the civil indemnity arising from each murder should only be ₱75,000.00. In crimes in which death of the victim results, civil indemnity is granted even in the absence of allegation and proof. Similarly, moral damages are allowed even without allegation and proof, it being a certainty that the victims' heirs were entitled thereto as a matter of law.

Also in accordance with *People v. Jugueta*, *supra*, temperate damages of ₱50,000.00 should further be granted to the heirs of Montegrico and Tamanu considering that they were presumed to have spent for the interment of each of the deceased. It would be unjust to deny them recovery in the form of temperate damages just because they did not establish with certainty the actual expenditure for the interment of their late-lamented family members.[67]

In this respect, we mention that Article 2230 of the *Civil Code* authorizes the grant of exemplary damages if at least one aggravating circumstance attended the commission of the crime. For this purpose, exemplary damages of ₱75,000.00 are granted to the heirs of Montegrico and Tamanu, respectively, based on the attendant circumstance of treachery. Whether treachery was a qualifying or attendant circumstance did not matter, for, as clarified in *People v. Catubig*:[68]

> The term "aggravating circumstances" used by the Civil Code, the law not having specified otherwise, is to be understood in its broad or generic sense. The commission of an offense has a two-pronged effect, one on the public as it breaches the social order and the other upon the private victim as it causes personal sufferings, each of which is addressed by, respectively, the prescription of heavier punishment for the accused and by an award of additional damages to the victim. The increase of the penalty or a shift to a graver felony underscores the exacerbation of the offense by the attendance of aggravating circumstances, whether ordinary or qualifying, in its commission.

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66 CA *Rollo*, p. 19.
67 See *People v. Isla*, G.R. No. 199875, November 21, 2012, 686 SCRA 267, 283.
68 G.R. No. 137842, August 23, 2001, 363 SCRA 621.

> Unlike the criminal liability which is basically a State concern, the award of damages, however, is likewise, if not primarily, intended for the offended party who suffers thereby. It would make little sense for an award of exemplary damages to be due the private offended party when the aggravating circumstance is ordinary but to be withheld when it is qualifying. Withal, the ordinary or qualifying nature of an aggravating circumstance is a distinction that should only be of consequence to the criminal, rather than to the civil, liability of the offender. In fine, relative to the civil aspect of the case, an aggravating circumstance, whether ordinary or qualifying, should entitle the offended party to an award of exemplary damages within the unbridled meaning of Article 2230 of the Civil Code.[69]

On his part, Paleg, being the victim of frustrated murder, is entitled to ₱50,000.00 as moral damages, ₱50,000.00 as civil indemnity, and ₱50,000.00 as exemplary damages, ₱25,000.00 as temperate damages (for his hospitalization and related expenses). This quantification accords with the pronouncement in *People v. Jugueta*, *supra*.

In line with pertinent jurisprudence,[70] interest of 6% *per annum* shall be charged on all the items of civil liability imposed herein, computed from the date of the finality of this decision until fully paid.

WHEREFORE, the Court **FINDS** and **DECLARES** accused **MARIANO OANDASAN, JR. GUILTY** beyond reasonable doubt of **TWO COUNTS OF MURDER** in Criminal Case No. II-9259 and Criminal Case No. II-9260 for the killing of Edgardo Tamanu and Danilo Montegrico, respectively; and of **FRUSTRATED MURDER** in Criminal Case No. II-9261 for the frustrated killing of Mario Paleg, and, **ACCORDINGLY, SENTENCES** him to suffer ***RECLUSION PERPETUA*** in Criminal Case No. II-9259 and in Criminal Case No. II-9260, and the **INDETERMINATE SENTENCE OF EIGHT YEARS OF *PRISION MAYOR*, AS THE MINIMUM, TO 14 YEARS, EIGHT MONTHS AND ONE DAY OF *RECLUSION TEMPORAL*, AS THE MAXIMUM**, in Criminal Case No. II-9261; and to pay the following by way of civil liability, to wit:

1) To the heirs of Danilo Montegrico, civil indemnity of ₱75,000.00; moral damages of ₱75,000.00; exemplary damages of ₱75,000.00; and temperate damages of ₱50,000.00;

2) To the heirs of Edgardo Tamanu, civil indemnity of ₱75,000.00; moral damages of ₱75,000.00; exemplary

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[69] Id. at 635.

[70] *People v. Combate*, G.R. No. 189301, December 15, 2010, 638 SCRA 797, 824; *Nacar v. Gallery Frames*, G.R. No. 189871, August 13, 2013, 703 SCRA 439.

damages of ₱75,000.00; and temperate damages of ₱50,000.00; and

3) To Mario Paleg, civil indemnity of ₱50,000.00; moral damages of ₱50,000.00; exemplary damages of ₱50,000.00; and temperate damages of ₱25,000.00.

All monetary awards for damages shall earn interest at the legal rate of 6% *per annum* from the finality of this decision until fully paid.

The accused shall pay the costs of suit.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

ANTONIO T. CARPIO
Associate Justice

PRESBITERO J. VELASCO, JR.
Associate Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

(On Official Leave)
ARTURO D. BRION
Associate Justice

(On Official Leave)
DIOSDADO M. PERALTA
Associate Justice

(On Wellness Leave)
MARIANO C. DEL CASTILLO
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

BIENVENIDO L. REYES
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

(On Official Leave)
FRANCIS H. JARDELEZA
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFICATION

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.

MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED XEROX COPY:
FELIPA B. ANAMA
CLERK OF COURT, EN BANC
SUPREME COURT