



**ANG TIAT CHUAN,**  
Petitioner,

**G.R. No. 177676**

Present:

VELASCO, JR., J.,  
*Chairperson,*

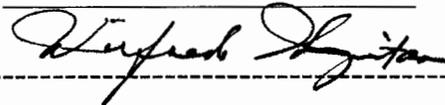
- versus -

PERALTA,  
PEREZ,  
REYES, and  
JARDELEZA, JJ.

**ROSITA B. LIM, on her behalf and  
on behalf of her (then) minor  
children namely, JENNIFER,  
LYSANDER and BEVERLIE,**  
Respondents.

Promulgated:

November 28, 2016



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## DECISION

**REYES, J.:**

Assailed in these consolidated petitions for review on *certiorari*<sup>1</sup> are the Decision<sup>2</sup> dated August 18, 2006 and Resolution<sup>3</sup> dated March 29, 2007 of the Court of Appeals (CA) in CA-G.R. CV No. 70301, which affirmed with modification the Decision<sup>4</sup> dated June 21, 1999 of the Regional Trial Court (RTC) of Manila, Branch 37, in Civil Case No. 83-15633 for Damages.

### The Facts

This case spawned from the death of Florentino Lim (Florentino), a scion of the wealthy Lim Ket Kai family of Cagayan de Oro City, on August 25, 1973. Upon investigation, Luis Tan (Luis), William Tan, Joaquin Tan, Vicente Tan, Alfonso Tan and Eusebio Tan (the Tan brothers), and Ang Tiat Chuan (Chuan), together with eight others, were charged with murder before Military Commission No. 1.<sup>5</sup>

<sup>1</sup> *Rollo* (G.R. No. 177250), pp. 10-38; *rollo* (G.R. No. 177676), pp. 3-16.

<sup>2</sup> Penned by Associate Justice Juan Q. Enriquez, Jr., with Associate Justices Godardo A. Jacinto and Magdangal M. De Leon concurring; *rollo* (G.R. No. 177250), pp. 40-56.

<sup>3</sup> *Id.* at 58-59.

<sup>4</sup> Rendered by Judge Vicente A. Hidalgo; *rollo* (G.R. No. 177676), pp. 37-78.

<sup>5</sup> *Rollo* (G.R. No. 177250), pp. 41-42.

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In a Decision dated June 10, 1976, the Military Commission found Luis, Chuan, and four of their co-accused, namely, Mariano Velez, Jr., Antonio Ocasiones, Leopoldo Nicolas, and Marciano Benemerito, guilty of murder. On the other hand, the other brothers of Luis were acquitted of the charges and were released on June 11, 1976.<sup>6</sup>

The said judgment, however, simply concluded the criminal prosecution of those already haled to court but it did not entomb the indignant feelings instigated by the death of Florentino. Thus, on February 11, 1983, Rosita B. Lim (Rosita), wife of the deceased Florentino, together with her then minor children Jennifer, Lysander and Beverlie, all surnamed Lim Ket Kai (collectively, the petitioners), commenced a civil action for damages in the RTC of Manila, against all those charged with the slaying of Florentino.<sup>7</sup>

After trial, the court *a quo* rendered judgment in favor of the petitioners. The dispositive portion reads:

WHEREFORE, judgment is hereby rendered ordering the surviving Defendants and the heirs and successors-in-interest of the deceased Defendants, who have been substituted in their place as Defendants, to pay to the [petitioners], jointly and severally, the following amounts:

1. Fifteen million one hundred thousand pesos (P15,100,000.00) as actual and compensatory damages;
2. Twenty-five million pesos (P25,000,000.00) as moral damages;
3. Ten million pesos (P10,000,000.00) as exemplary damages;
4. One million pesos (P1,000,000.00) as and by way of attorney's fees;
5. Five hundred thousand pesos (P500,000.00) for litigation expenses; and
6. The costs of the suit.

SO ORDERED.<sup>8</sup>

Disagreeing with the RTC decision, the Tan brothers and Chuan filed a motion for reconsideration but it was denied; hence, they filed an appeal before the CA.

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<sup>6</sup> Id. at 42.

<sup>7</sup> Id.

<sup>8</sup> *Rollo* (G.R. No. 177676), p. 78.

On appeal, the CA rendered the herein assailed decision, which modified the trial court's ruling, to wit:

**WHEREFORE**, premises considered, the Decision dated June 21, 1999 and the Order dated February 10, 2000 are hereby **MODIFIED**, as follows:

1. Defendants-appellants [Luis], [Chuan], Mariano Velez, Jr., Antonio Ocasiones, Leopoldo Nicolas, Marciano Benemerito, and Oscar Yaun are hereby ordered to pay the [petitioners], jointly and severally, the following amounts:
  - (a) Fifty Thousand Pesos (₱50,000.00) as civil indemnity for the death of [Florentino];
  - (b) Three Hundred Fifty Thousand Pesos (₱350,000.00) as temperate damages;
  - (c) One Hundred Fifty Thousand Pesos (₱150,000.00) as moral damages;
  - (d) One Hundred Fifty Thousand Pesos (₱150,000.00) as exemplary damages;
  - (e) One Hundred Thousand Pesos (₱100,000.00) as attorney's fees; and
  - (f) One Hundred Thousand Pesos (₱100,000.00) as litigation expenses;
2. The claims against appellants Alfonso Tan, Eusebio Tan, William Tan, Vicente Tan, Joaquin Tan and Enrique Labita, stated in the Amended Complaint are hereby denied for lack of merit.

**SO ORDERED.**<sup>9</sup>

Both parties respectively moved for reconsideration, but the CA Resolution<sup>10</sup> dated March 29, 2007 denied their motions. Thereafter, the parties filed their respective petitions for review on *certiorari*: G.R. No. 177250 was initiated by the petitioners, G.R. No. 177422 was filed by Luis, and G.R. No. 177676 was commenced by Chuan. These petitions were ordered consolidated by the Court in its Resolution<sup>11</sup> dated June 20, 2007.

The Court resolved to give due course to the instant petitions and required the parties to submit their respective comments and replies. However, in G.R. No. 177422, therein petitioners have failed to file the necessary petition for review to date after the Court granted the substitution by the heirs of Luis in its Resolution<sup>12</sup> dated September 19, 2007.

<sup>9</sup> *Rollo* (G.R. No. 177250), pp. 54-55.

<sup>10</sup> *Id.* at 58-59.

<sup>11</sup> *Id.* at 65.

<sup>12</sup> *Id.* at 126A-126C.

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### The Issue

The sole issue to be resolved is whether the CA erred in modifying the damages, attorney's fees and litigation expenses awarded to the heirs of Florentino.

### Ruling of the Court

The petition is partly meritorious.

In the case at bar, the challenge essentially posed is the propriety of the awarded damages, attorney's fees and litigation expenses. To resolve said issue, an examination of factual circumstances would be necessary, a task that is clearly outside the province of a petition for review on *certiorari*. Nevertheless, this case has been dragged down for ages and the Court would like to put the whole matter to rest; hence, a review is justified by the need to make a definitive finding on this factual issue in light of the differing amounts of damages and attorney's fees awarded by the courts below.

After a careful examination of the present case, the Court sustains the awarded damages, attorney's fees and litigation expenses of the appellate court, but modifies the amount of the civil indemnity awarded to the heirs of Florentino.

“[I]t is jurisprudentially settled that when death occurs due to a crime, the following may be recovered: (1) civil indemnity *ex delicto* for the death of the victim; (2) actual or compensatory damages; (3) moral damages; (4) exemplary damages; (5) attorney's fees and expenses of litigation; and (6) interest, in proper cases.”<sup>13</sup>

In imposing the proper amount of damages, the principal consideration is the penalty provided by law or imposable for the offense because of its heinousness and not the public penalty actually imposed on the offender. Essentially, despite the fact that the death penalty cannot be imposed because of Republic Act (R.A.) No. 9346,<sup>14</sup> the imposable penalty

<sup>13</sup> *People v. Dadao, et al.*, 725 Phil. 298, 315-316 (2014).

<sup>14</sup> AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES.  
Approved on June 24, 2006.

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as provided by law for the crime, such as those found in R.A. No. 7569,<sup>15</sup> must be used as the basis for awarding damages and not the actual penalty imposed.<sup>16</sup>

Here, the Court sustains the award of civil indemnity but increases its amount to ₱100,000.00 in accordance with recent jurisprudence. “In our jurisdiction, civil indemnity is awarded to the offended party as a kind of monetary restitution or compensation to the victim for the damage or infraction that was done to the latter by the accused, which in a sense only covers the civil aspect. Thus, in a crime where a person dies, in addition to the penalty of imprisonment imposed to the offender, the accused is also ordered to pay the victim a sum of money as restitution.”<sup>17</sup>

The CA’s deletion of the award of actual and compensatory damages which included the loss of earning capacity of the victim is also proper. “For one to be entitled to actual damages, it is necessary to prove the actual amount of loss with a reasonable degree of certainty, premised upon competent proof and the best evidence obtainable by the injured party.”<sup>18</sup> More so, the RTC awarded damages for loss of earning capacity based solely on the deposition of Rosita without even requiring other documentary evidence to prove the same. Although Rosita testified as to the annual income of Florentino, she failed to substantiate the same by documentary evidence.

The indemnification for loss of earning capacity partakes of the nature of actual damages which must be duly proven by competent proof and the best obtainable evidence thereof. For loss of income due to death, there must be unbiased proof of the deceased’s average income. Credence can be given only to claims which are duly supported by receipts.<sup>19</sup> Courts cannot simply rely on speculation, conjecture or guesswork in determining the fact and amount of damages.<sup>20</sup>

Evidently, Rosita merely gave a self-serving testimony of her husband’s income. No proof of the victim’s expenses was adduced; thus, there can be no reliable estimate of his lost income.

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<sup>15</sup> AN ACT TO IMPOSE THE DEATH PENALTY ON CERTAIN HEINOUS CRIMES, AMENDING FOR THAT PURPOSE THE REVISED PENAL LAWS, AS AMENDED, OTHER SPECIAL PENAL LAWS, AND FOR OTHER PURPOSES. Approved on December 13, 1993.

<sup>16</sup> *People of the Philippines v. Ireneo Jugueta*, G.R. No. 202124, April 5, 2016.

<sup>17</sup> *Id.*

<sup>18</sup> *People v. Villar*, G.R. No. 202708, April 13, 2015, 755 SCRA 346, 355, citing *OMC Carriers, Inc., et al. v. Spouses Nabua*, 636 Phil. 634, 650 (2010).

<sup>19</sup> *People v. Villar*, *supra*, citing *OMC Carriers, Inc., et al. v. Spouses Nabua*, *supra*.

<sup>20</sup> *Bacolod v. People*, 714 Phil. 90, 99 (2013), citing *Tan, et al. v. OMC Carriers, Inc., et al.*, 654 Phil. 443, 454 (2011).

Accordingly, the award of loss of earning capacity was aptly deleted for lack of basis.

Nevertheless, the CA properly awarded temperate damages, in lieu of actual damages, considering that Rosita was unable to prove the actual expenses incurred by the death of his husband. "According to Article 2224 of the Civil Code, temperate damages, which are more than nominal but less than compensatory damages, may be recovered when the court finds that some pecuniary loss has been suffered but its amount cannot, from the nature of the case, be proved with certainty."<sup>21</sup> Here, there is no doubt that pecuniary expenses were incurred in the funeral and burial of Florentino and the award of temperate damages shall answer for the same in the amount of ₱350,000.00, in consideration to the social status and reputation of the victim.

The Court also agrees with the finding of the CA that the award of moral damages of ₱25,000,000.00 by the RTC is excessive, if not exorbitant. "Moral damages are not intended to enrich the victim's heirs but rather they are awarded to allow them to obtain means for diversion that could serve to alleviate their moral and psychological sufferings."<sup>22</sup> As borne out by human nature and experience, a violent death invariably and necessarily brings about emotional pain and anguish on the part of the victim's family. In cases of murder, the award of moral damages is mandatory without need of allegation and proof other than the death of the victim.<sup>23</sup> The award of moral damages of ₱150,000.00 in the present case is proper.

Corollarily, the rule in the Court's jurisdiction is that exemplary damages are awarded in addition to moral damages. Under Article 2229 of the Civil Code, exemplary damages are imposed by way of example or correction for the public good. The purpose of exemplary damages is to serve as a deterrent to serious wrong doings and as a vindication of undue sufferings and wanton invasion of the rights of an injured or a punishment for those guilty of outrageous conduct.<sup>24</sup> Here, the Court upholds the amount of ₱150,000.00 as exemplary damages.

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<sup>21</sup> *Bacolod v. People*, supra.

<sup>22</sup> *People v. Ocampo*, 616 Phil. 839, 845 (2009).

<sup>23</sup> *People v. De Jesus, et al.*, 655 Phil. 657, 676 (2011).

<sup>24</sup> *People v. Combate*, 653 Phil. 487, 507-508 (2010), citing *People v. Dalisay*, 620 Phil. 831, 844-845 (2009).

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Finally, as a general rule, the parties may stipulate the recovery of attorney's fees. In the absence of such stipulation, Article 2208 of the Civil Code enumerates the legal grounds which justify or warrant the grant of attorney's fees and expenses of litigation, and this case qualifies for the first and eleventh reasons why attorney's fees are awarded, namely: (a) when exemplary damages are awarded; and (b) in any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

Considering that the Court has awarded exemplary damages in this case, attorney's fees can likewise be awarded. Since this case has been hauled on for too long, the Court concurs with the ratiocination of the RTC in awarding attorney's fees and litigation expenses of ₱150,000.00 and ₱350,000.00, respectively, bearing in mind the legal extent of the work undertaken as well as the length of time that had elapsed to prosecute this case.

In sum, considering the reputation and social status of the victim at the time of his death, the Court sustains the awarded damages, attorney's fees and litigation expenses granted by the CA. The amount of civil indemnity is, however, increased to ₱100,000.00 in accordance with recent jurisprudence. Lastly, the heirs of Florentino should likewise be granted an interest at the legal rate of six percent (6%) *per annum* on all the damages awarded from the date of finality of this Decision until fully paid.

**WHEREFORE**, the Decision dated August 18, 2006 and Resolution dated March 29, 2007 of the Court of Appeals in CA-G.R. CV No. 70301 are **AFFIRMED** with the **MODIFICATION** ordering the adjustment of the civil indemnity to One Hundred Thousand Pesos (₱100,000.00). All damages awarded shall earn interest at the rate of six percent (6%) *per annum* from the date of finality of this Decision until fully paid.



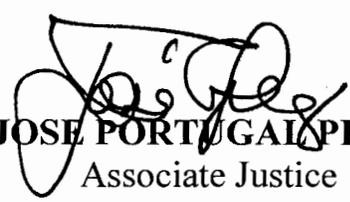
**SO ORDERED.**

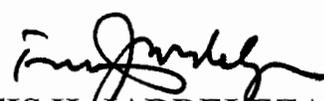
  
**BIENVENIDO L. REYES**  
Associate Justice

**WE CONCUR:**

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson

  
**DIOSDADO M. PERALTA**  
Associate Justice

  
**JOSE PORTUGAL PEREZ**  
Associate Justice

  
**FRANCIS H. GARDELEZA**  
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.

  
**PRESBITERO J. VELASCO, JR.**  
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.



**MARIA LOURDES P. A. SERENO**  
Chief Justice

CERTIFIED TRUE COPY  
  
W. LEGITAN  
Division Chairperson of Court  
Third Division  
JAN 05 2017

