



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 224886

Present:

CARPIO, J., Chairperson,  
PERALTA,  
PERLAS-BERNABE,  
CAGUIOA, and  
REYES, JR., JJ.

- versus -

ROGER RACAL @ RAMBO,  
Accused-Appellant.

Promulgated:

04 SEP 2017

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X

DECISION

PERALTA, J.:

Before the Court is an ordinary appeal filed by accused-appellant, Roger Racal @ Rambo (*Racal*), assailing the Decision<sup>1</sup> of the Court of Appeals (*CA*), dated February 27, 2015, in CA-G.R. CR-H.C. No. 01450, which affirmed, with modification, the Decision<sup>2</sup> of the Regional Trial Court (*RTC*) of Cebu City, Branch 18, in Criminal Case No. CBU-77654, finding herein appellant guilty of the crime of murder and imposing upon him the penalty of *reclusion perpetua*.

The antecedents are as follows:

<sup>1</sup> Penned by Associate Justice Marilyn B. Lagura-Yap, with the concurrence of Associate Justices Gabriel T. Ingles and Jhosep Y. Lopez; *rollo*, pp. 5-21.

<sup>2</sup> Penned by Judge Gilbert P. Moises; *CA rollo*, pp. 22-31.

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In an Information filed by the Cebu City Prosecutor's Office on August 15, 2006, Racal was charged with the crime of murder as defined and penalized under Article 248 of the Revised Penal Code (*RPC*), as amended. The accusatory portion of the Information reads, thus:

That on or about the 19<sup>th</sup> day of April 2006, at about 4:20 A.M., more or less, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, armed with a knife, with deliberate intent, with treachery and evident premeditation, and with intent to kill, did then and there, suddenly and unexpectedly, attack, assault, and use personal violence upon the person of one Jose "Joe" Francisco by stabbing the latter, at his body, thereby inflicting a fatal wound and as a consequence of which he died.

CONTRARY TO LAW.<sup>3</sup>

Upon arraignment, Racal entered a plea of not guilty.<sup>4</sup> Subsequently, trial on the merits ensued.

The evidence for the prosecution established that around 4 o'clock in the morning of April 19, 2006, "*trisikad*" drivers were lining up to pick passengers along Lopez St. at Sitio Alseca in Cebu City. Among the "*trisikad*" drivers was Jose Francisco (*Francisco*). Also present at that place during that time was Racal, who was then standing near Francisco. While the "*trisikad*" drivers were waiting for passengers, Racal spoke in a loud voice, telling the group of drivers not to trust Francisco because he is a traitor. Francisco, who was then holding a plastic container in one hand and a bread in another, and was eating, retorted and asked Racal why the latter called him a traitor. Without warning, Racal approached Francisco and stabbed him several times with a knife, hitting him in the chest and other parts of his body. Francisco, then, fell to the pavement. Immediately thereafter, Racal stepped backwards and upon reaching a dark portion of the street, he hailed a "*trisikad*" and sped away. Thereafter, one of the "*trisikad*" drivers called the *barangay tanod*, but by the time they arrived, Francisco was already dead.

Racal, on his part, did not deny having stabbed Francisco. However, he raised the defense of insanity. He presented expert witnesses who contended that he has a predisposition to snap into an episode where he loses his reason and thereby acts compulsively, involuntarily and outside his

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<sup>3</sup> Records, p. 1.

<sup>4</sup> *Id.* at 29-30.

conscious control. Under this state, the defense argued that Racal could not distinguish right from wrong and, thus, was not capable of forming a mental intent at the time that he stabbed Francisco.

After trial, the RTC rendered judgment convicting Racal as charged. The dispositive portion of the RTC Decision, dated September 14, 2011, reads as follows:

WHEREFORE, on the following considerations, the court renders judgment finding accused ROGER RACAL @ RAMBO guilty beyond reasonable doubt of Murder and sentences him to the penalty of *reclusion perpetua* with all its accessory penalties. He is likewise directed to pay the heirs of the late Jose "Joe" Francisco the amount of Thirty Thousand Pesos (₱30,000.00) as actual damages, Seventy-Five Thousand Pesos (₱75,000.00) as civil indemnity, and Fifty Thousand Pesos (₱50,000.00) as moral damages.

SO ORDERED.<sup>5</sup>

The RTC ruled that the evidence for the defense is insufficient to convince the court that Racal was indeed deprived of his mind and reason at the time when he committed the crime as to exempt him from criminal liability because his depression and psychotic features are not the kind of insanity contemplated by law. The trial court found the circumstance of treachery to be present, but ruled out the presence of the aggravating circumstance of evident premeditation.

Racal filed a Motion for Reconsideration<sup>6</sup> contending that the trial court failed to appreciate the mitigating circumstances of sufficient provocation on the part of the offended party and voluntary confession of guilt on the part of Racal. However, the RTC denied the Motion for Reconsideration in its Order<sup>7</sup> dated December 15, 2011.

Aggrieved by the ruling of the RTC, Racal appealed to the CA. In his Appellant's Brief, Racal reiterated his defense of insanity contending that, at the time he stabbed the victim, he snapped into a fatal episode of temporary loss of rational judgment and that such a predisposition to "snap" was testified upon by his expert witnesses.

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<sup>5</sup> *Id.* at 235.

<sup>6</sup> *Id.* at 238-240.

<sup>7</sup> *Id.* at 246-247.



In its assailed Decision, the CA affirmed the conviction of Racal but modified the judgment of the RTC by imposing interest on the damages awarded. The CA disposed, thus:

**WHEREFORE**, the September 14, 2011 Judgment in Criminal Case No. CBU-77654, convicting accused-appellant Roger Racal @ Rambo of Murder and sentencing him with *reclusion perpetua* and its accessory penalties is **AFFIRMED with MODIFICATION**. Accused-appellant is also **ORDERED** to pay the heirs of Jose "Joe" Francisco, interest on damages awarded, the amount of 6% from the date of finality of the judgment until fully paid, and to pay costs.

**SO ORDERED.**<sup>8</sup>

The CA held that the prosecution proved all the elements of the crime necessary to convict Racal for the murder of Francisco. The CA gave credence to the testimonies of the prosecution witnesses. It also affirmed the presence of the qualifying circumstance of treachery and affirmed the trial court in ruling out the presence of the aggravating circumstance of evident premeditation. As to Racal's defense of insanity, the CA held that he failed to rebut the presumption the he was sane at the time of his commission of the crime. The CA, nonetheless, appreciated the mitigating circumstance which is analogous to an illness of the offender that would diminish the exercise of his will-power.

Racal filed a Motion for Reconsideration,<sup>9</sup> questioning the penalty imposed upon him, but the CA denied it in its Resolution<sup>10</sup> of October 22, 2015.

Thus, on November 23, 2015, Racal, through counsel, filed a Notice of Appeal<sup>11</sup> manifesting his intention to appeal the CA Decision to this Court.

In its Resolution<sup>12</sup> dated March 16, 2016, the CA gave due course to Racal's Notice of Appeal and directed its Archives Section to transmit the records of the case to this Court.

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<sup>8</sup> CA rollo, p. 145.

<sup>9</sup> *Id.* at 146-151.

<sup>10</sup> *Id.* at 177-178.

<sup>11</sup> *Id.* at 179-180.

<sup>12</sup> *Id.* at 193.



Hence, this appeal was instituted.

In a Resolution<sup>13</sup> dated July 20, 2016, this Court, among others, notified the parties that they may file their respective supplemental briefs, if they so desire.

In its Manifestation and Motion,<sup>14</sup> filed on September 23, 2016, the Office of the Solicitor General (*OSG*) manifested that it will no longer file a supplemental brief because it had already adequately addressed in its brief filed before the CA all the issues and arguments raised by accused-appellant in his brief.

On the other hand, Racal filed a Supplemental Brief<sup>15</sup> dated October 21, 2016, reiterating his defense of insanity by contending that at the time of the commission of the crime, expert evidence demonstrates that he had, within him, predisposing factors that cause insanity. He also argues that the lower courts failed to appreciate the mitigating circumstances of sufficient provocation on the part of the victim and voluntary confession of guilt on his part.

The basic issue for the Court's resolution in the present appeal is whether or not the CA correctly upheld the conviction of herein appellant, Racal, for murder.

The Court rules in the affirmative.

At the outset, it bears to reiterate that in the review of a case, the Court is guided by the long-standing principle that factual findings of the trial court, especially when affirmed by the CA, deserve great weight and respect.<sup>16</sup> These factual findings should not be disturbed on appeal, unless there are facts of weight and substance that were overlooked or misinterpreted and that would materially affect the disposition of the case.<sup>17</sup>

In the present case, after a careful reading of the records and pleadings, this Court finds no cogent reason to deviate from the RTC's

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<sup>13</sup> *Rollo*, p. 26.

<sup>14</sup> *Id.* at 30-31.

<sup>15</sup> *Id.* at 36-40.

<sup>16</sup> *People v. Matibag*, 757 Phil. 286, 292 (2015).

<sup>17</sup> *Id.* at 293.



factual findings. There is no indication that the trial court, overlooked, misunderstood or misapplied the surrounding facts and circumstances of the case. Moreover, the factual findings of the RTC are affirmed by the CA. Hence, the Court defers to the trial court in this respect, especially considering that it was in the best position to assess and determine the credibility of the witnesses presented by both parties.

In any case, the Court will proceed to resolve the present appeal on points of law.

The Information in the instant case charged appellant with the crime of murder, for stabbing the victim, Francisco, which offense was alleged to have been attended by treachery and evident premeditation.

Murder is defined and punished by Article 248 of the RPC, as amended by Republic Act No. 7659, 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;

x x x

2. With evident premeditation;

x x x

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 RPC; and (4) that the killing is not parricide or infanticide.<sup>18</sup>



<sup>18</sup>

*Ramos v. People*, G.R. No. 218466 and G.R. No. 221425, January 23, 2017.

In the present case, the prosecution was able to clearly establish that (1) Francisco was stabbed and killed; (2) appellant stabbed and killed him; (3) Francisco's killing was attended by the qualifying circumstance of treachery as testified to by prosecution eyewitnesses; and, (4) the killing of Francisco was neither parricide nor infanticide.

Paragraph 16, Article 14 of the RPC 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.<sup>19</sup> 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>20</sup> These elements are extant in the facts of this case and as testified to by the prosecution witnesses. To emphasize, the victim, Francisco, was caught off guard when appellant attacked him. As testified to by a prosecution witness, Francisco was then holding a plastic container containing bread and was eating. The stealth, swiftness and methodical manner by which the attack was carried out gave the victim no chance at all to evade when appellant thrust the knife to his torso. Thus, there is no denying that appellant's sudden and unexpected onslaught upon the victim, and the fact that the former did not sustain any injury, evidences treachery. Also, the fact that appellant was facing Francisco when he stabbed the latter is of no consequence. Even a frontal attack could be treacherous when unexpected and on an unarmed victim who would be in no position to repel the attack or avoid it,<sup>21</sup> as in this case. Undoubtedly, the RTC and the CA correctly held that the crime committed was murder under Article 248 of the RPC by reason of the qualifying circumstance of treachery.

Appellant, nonetheless, insists on his defense of insanity. In this regard, the Court's pronouncement in the case of *People v. Estrada*<sup>22</sup> is instructive, to wit:

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<sup>19</sup> *People v. Las Piñas, et. al.*, 739 Phil. 502, 524 (2014).

<sup>20</sup> *Id.* at 524-525.

<sup>21</sup> *People v. PFC Malejana*, 515 Phil. 584, 599 (2006).

<sup>22</sup> 389 Phil. 216 (2000).



The basic principle in our criminal law is that a person is criminally liable for a felony committed by him. Under the classical theory on which our penal code is mainly based, the basis of criminal liability is human free will. Man is essentially a moral creature with an absolutely free will to choose between good and evil. When he commits a felonious or criminal act (*delito doloso*), the act is presumed to have been done voluntarily, *i.e.*, with freedom, intelligence and intent. Man, therefore, should be adjudged or held accountable for wrongful acts so long as free will appears unimpaired.

In the absence of evidence to the contrary, the law presumes that every person is of sound mind and that all acts are voluntary. The moral and legal presumption under our law is that freedom and intelligence constitute the normal condition of a person. This presumption, however, may be overthrown by other factors; and one of these is insanity which exempts the actor from criminal liability.

The Revised Penal Code in Article 12 (1) provides:

ART. 12. *Circumstances which exempt from criminal liability.* The following are exempt from criminal liability:

1. An imbecile or an insane person, unless the latter has acted during a lucid interval.

When the imbecile or an insane person has committed an act which the law defines as a felony (*delito*), the court shall order his confinement in one of the hospitals or asylums established for persons thus afflicted, which he shall not be permitted to leave without first obtaining the permission of the same court.

An insane person is exempt from criminal liability unless he has acted during a lucid interval. If the court therefore finds the accused insane when the alleged crime was committed, he shall be acquitted but the court shall order his confinement in a hospital or asylum for treatment until he may be released without danger. An acquittal of the accused does not result in his outright release, but rather in a verdict which is followed by commitment of the accused to a mental institution.

In the eyes of the law, insanity exists when there is a complete deprivation of intelligence in committing the act. Mere abnormality of the mental faculties will not exclude imputability. The accused must be "so insane as to be incapable of entertaining a criminal intent." He must be deprived of reason and act without the least discernment because there is a complete absence of the power to discern or a total deprivation of freedom of the will.



Since the presumption is always in favor of sanity, he who invokes insanity as an exempting circumstance must prove it by clear and positive evidence. And the evidence on this point must refer to the time preceding the act under prosecution or to the very moment of its execution.

To ascertain a persons mental condition at the time of the act, it is permissible to receive evidence of the condition of his mind within a reasonable period both before and after that time. Direct testimony is not required. Neither are specific acts of derangement essential to establish insanity as a defense. Circumstantial evidence, if clear and convincing, suffices; for the unfathomable mind can only be known by overt acts. A person's thoughts, motives, and emotions may be evaluated only by outward acts to determine whether these conform to the practice of people of sound mind.<sup>23</sup>

In the present case, the defense failed to overcome the presumption of sanity. The testimonies of Dr. Preciliana Lee Gilboy (*Dr. Gilboy*) and Dr. Andres Suan Gerong (*Dr. Gerong*), as the defense's qualified expert witnesses, failed to support appellant's claim of insanity. As correctly observed by the CA, the separate psychiatric evaluations of appellant were taken in June 2009 and July 2010, which are three and four years after the crime was committed on April 19, 2006. In *People v. So*,<sup>24</sup> which is a case of recent vintage, this Court ruled that an inquiry into the mental state of an accused should relate to the period immediately before or at the very moment the felony is committed.<sup>25</sup> Hence, the results of the psychiatric tests done on appellant and testified to by the defense witnesses, may not be relied upon to prove appellant's mental condition at the time of his commission of the crime.

In any case, during cross-examination, Dr. Gilboy testified that for a number of years up to the time that appellant killed Francisco, he had custody of and served as the guardian of his sister's children.<sup>26</sup> He took care of their welfare and safety, and he was the one who sends them to and brings them home from school. Certainly, these acts are not manifestations of an insane mind. On his part, Dr. Gerong testified, on direct examination, that he found appellant to have "diminish[ed] capacity to discern what was wrong or right at the time of the commission of the crime."<sup>27</sup> "Diminished capacity" is not the same as "complete deprivation of intelligence or discernment." Mere abnormality of mental faculties does not exclude

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<sup>23</sup> *People v. Estrada, supra*, at 231-233. (Citations omitted)

<sup>24</sup> 317 Phil. 826 (1995).

<sup>25</sup> *People v. So, supra*, at 846.

<sup>26</sup> TSN, May 25, 2010, pp. 9-12.

<sup>27</sup> TSN, July 27, 2010, pp. 9-10.



imputability.<sup>28</sup> Thus, on the basis of these examinations, it is clearly evident that the defense failed to prove that appellant acted without the least discernment or that he was suffering from a complete absence of intelligence or the power to discern at the time of the commission of the crime.

Furthermore, appellant's act of treachery, that is by employing means and methods to ensure the killing of Francisco without risk to himself arising from the defense which the victim might make, as well as his subsequent reaction of immediately fleeing after his commission of the crime and, thereafter, evading arrest, is not the product of a completely aberrant mind. In other words, evidence points to the fact that appellant was not suffering from insanity immediately before, simultaneous to, and even right after the commission of the crime.

In his Supplemental Brief, appellant cites the "*Durham Rule*" which was used in criminal courts in the United States of America. This rule postulated that an accused is not criminally responsible if his unlawful act was the result of a mental disease or defect at the time of the incident.<sup>29</sup> However, in subsequent rulings, US Federal Courts and State Courts, even by the court which originally adopted it, rejected and abandoned this rule for being too broad and for lacking a clear legal standard for criminal responsibility.<sup>30</sup> As earlier discussed, in the Philippines, the courts have established a clearer and more stringent criterion for insanity to be exempting as it is required that there must be a complete deprivation of intelligence in committing the act, *i.e.*, the accused is deprived of reason; he acted without the least discernment because there is a complete absence of the power to discern, or that there is a total deprivation of the will.<sup>31</sup> Thus, appellant's reliance on the *Durham Rule* is misplaced and, thus, may not be given credit.

Having been shown beyond doubt that the prosecution was able to prove with certainty all the elements of the crime charged, the Court will now proceed to determine the correctness of the penalty and the civil liabilities imposed upon appellant.

As to the penalty, the crime of murder qualified by treachery is penalized under Article 248 of the RPC, as amended by Republic Act No. 7659, with *reclusion perpetua* to death.

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<sup>28</sup> *People v. So*, *supra* note 24, at 843.

<sup>29</sup> 22 C.J.S., §58, pp. 198-199; 21 Am. Jur., 2d, §59, p. 164.

<sup>30</sup> *Id.*

<sup>31</sup> *People v. Madarang*, 387 Phil. 846, 859 (2000).



As to the alleged aggravating circumstance of evident premeditation, this Court has ruled that for it to be considered as an aggravating circumstance, the prosecution must prove (a) the time when the offender determined to commit the crime, (b) an act manifestly indicating that the culprit has clung to his determination, and (c) a sufficient lapse of time between the determination and execution, to allow him to reflect upon the consequences of his act and to allow his conscience to overcome the resolution of his will.<sup>32</sup> In the instant case, no proof has been adduced to establish that appellant had previously planned the killing of Francisco. There is no evidence when and how he planned and prepared for the same, nor was there a showing that sufficient time had lapsed between his determination and execution. In this respect, the Court quotes with approval the disquisition of the CA, to wit:

The circumstances that transpired immediately before and after the stabbing negate evident premeditation. The time when accused-appellant conceived the crime cannot be determined. Even assuming that there was an altercation that arose between the accused-appellant and the victim due to the remarks made by the former to the latter, this is not the overt act indicative of his criminal intent. Simply put, the prosecution failed to establish that there was a sufficient lapse of time for accused-appellant to reflect on his decision to kill the victim and the actual execution thereof.<sup>33</sup>

Thus, the RTC and the CA are correct in not considering the aggravating circumstance of evident premeditation.

The Court likewise agrees with the RTC and the CA in not appreciating the mitigating circumstances of sufficient provocation on the part of the offended party and voluntary plea of guilt on the part of appellant.

With respect to the alleged mitigating circumstance of sufficient provocation on the part of Francisco, the rule is that, as a mitigating circumstance, sufficient provocation is any unjust or improper conduct or act of the victim adequate enough to excite a person to commit a wrong, which is accordingly proportionate in gravity.<sup>34</sup> In the present case, appellant asserts that several days before he stabbed the victim, the latter teased appellant to be "gay" and taunted him that the girl whom appellant courted rejected him. However, the Court finds no cogent reason to depart from the ruling of the RTC on this matter, to wit:

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<sup>32</sup> *People v. Serenas, et al.*, 636 Phil. 495, 511 (2010).  
<sup>33</sup> *CA rollo*, p. 141.  
<sup>34</sup> *Gotis v. People*, 559 Phil. 843, 850 (2007).



For sufficient provocation under Article 13, paragraph 4 of the Revised Penal Code of the Philippines to apply, three requisites must be present:

- a) provocation must be sufficient;
- b) it must be immediate to the commission of the crime; and
- c) it must originate from the offended party.

“Sufficient” according to jurisprudence means adequate to excite a person to commit the crime and must accordingly be proportionate to its gravity. In *Bautista v. Court of Appeals* [G.R. No. L-46025, September 2, 1992], the mitigating circumstance did not apply since it is not enough that the provoking act be unreasonable or annoying. Certainly, calling a person gay as in this case is not the sufficient provocation contemplated by law that would lessen the liability of the accused.

“Immediate” on the other hand means that there is no interval of time between the provocation and the commission of the crime. Hence, in one case [*People v. Co*, 67 O.G. 7451] the Supreme Court ruled that provocation occurring more than one hour before the stabbing incident is not immediate and in *People v. Benito* [62 SCRA 351] 24 hours before the commission of the crime. Per admission of the defense witnesses, the taunting done by the victim occurred days before the stabbing incident hence the immediacy required by law was absent. The lapse of time would have given the accused [chance] to contemplate and to recover his serenity enough to refrain from pushing through with his evil plan.<sup>35</sup>

Anent the supposed voluntary plea of guilt on appellant's part, it is settled that a plea of guilty made after arraignment and after trial had begun does not entitle the accused to have such plea considered as a mitigating circumstance.<sup>36</sup> Again, the Court quotes with approval the RTC's disquisition, thus:

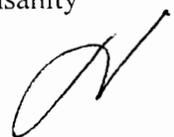
The second mitigating circumstance of voluntary plea of guilt, claimed by the accused could likewise not be considered. The voluntary plea of guilt entered by the accused is not spontaneous because it was made after his arraignment and only to support his claim of the exempting circumstance of insanity. The voluntary plea of guilt required by law is one that is made by the accused in cognizance of the grievous wrong he has committed and must be done as an act of repentance and respect for the law. It is mitigating because it indicated a moral disposition in the accused favorable to his reform. It may be recalled that accused in the case at bar did not change his plea from “not guilty” to “guilty”. In a last ditch effort to elude liability, however, accused claimed the defense of insanity admitting the act of [stabbing].<sup>37</sup>

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<sup>35</sup> Records, pp. 246-247.

<sup>36</sup> *People v. Ibañez*, 455 Phil. 133, 165 (2003).

<sup>37</sup> Records, p. 247.



The Court, however, agrees with the CA in appreciating the mitigating circumstance of illness as would diminish the exercise of willpower of appellant without, however, depriving him of the consciousness of his acts, pursuant to Article 13, paragraphs 9 and 10 of the RPC, as he was found by his examining doctors to have “diminish[ed] capacity to discern what was wrong or right at the time of the commission of the crime.”<sup>38</sup>

Thus, on the basis of the foregoing, appellant was correctly meted the penalty of *reclusion perpetua*, conformably with Article 63, paragraph 3 of the RPC.

With respect to appellant's civil liability, the prevailing rule is that when the circumstances surrounding the crime call for the imposition of *reclusion perpetua* only, there being no ordinary aggravating circumstance, as in this case, the proper amounts should be ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages and ₱75,000.00 as exemplary damages, regardless of the number of qualifying aggravating circumstances present.<sup>39</sup> In conformity with the foregoing rule, the awards granted by the lower courts must, therefore, be modified. Thus, the award of moral damages should be increased from ₱50,000.00 to ₱75,000.00. Appellant should also pay the victim's heirs exemplary damages in the amount of ₱75,000.00. The award of ₱75,000.00, as civil indemnity, is sustained.

As regards the trial court's award of actual damages in the amount of ₱30,000.00, the same must, likewise, be modified. The settled rule is that when actual damages proven by receipts during the trial amount to less than the sum allowed by the Court as temperate damages,<sup>40</sup> the award of temperate damages is justified in lieu of actual damages which is of a lesser amount.<sup>41</sup> Conversely, if the amount of actual damages proven exceeds, then temperate damages may no longer be awarded; actual damages based on the receipts presented during trial should instead be granted.<sup>42</sup> The rationale for this rule is that it would be anomalous and unfair for the victim's heirs, who tried and succeeded in presenting receipts and other evidence to prove actual damages, to receive an amount which is less than that given as temperate

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<sup>38</sup> *Supra* note 27.

<sup>39</sup> *People v. Jugueta*, G.R. No. 202124, April 5, 2016, 788 SCRA 331, 373.

<sup>40</sup> Previous jurisprudence pegs the amount of ₱25,000.00 as temperate damages in murder cases. This amount was increased to ₱50,000.00 in the prevailing case of *People v. Jugueta*.

<sup>41</sup> *People v. Villanueva*, 456 Phil. 14, 29 (2003); *Quidet v. People*, 632 Phil. 1, 19 (2010); *People v. Villar*, 757 Phil. 675, 682 (2015).

<sup>42</sup> *Id.*

damages to those who are not able to present any evidence at all.<sup>43</sup> In the present case, Francisco's heirs were able to prove, and were awarded, actual damages in the amount of ₱30,000.00. Since, prevailing jurisprudence now fixes the amount of ₱50,000.00 as temperate damages in murder cases, the Court finds it proper to award temperate damages to Francisco's heirs, in lieu of actual damages.

The imposition of six percent (6%) interest *per annum* on all damages awarded from the time of finality of this decision until fully paid, as well as the payment of costs, is likewise sustained.

**WHEREFORE**, the Court **AFFIRMS** the Decision of the Court of Appeals, dated February 27, 2015, in CA-G.R. CR-HC No. 01450, finding accused-appellant Roger Racal @ Rambo **GUILTY** beyond reasonable doubt of the crime of Murder, with the following **MODIFICATIONS**:

- (1) The award of moral damages is **INCREASED** to Seventy-Five Thousand Pesos (₱75,000.00);
- (2) Accused-appellant is **DIRECTED TO PAY** the heirs of the victim Jose "Joe" Francisco exemplary damages in the amount of Seventy-Five Thousand Pesos (₱75,000.00); and
- (3) The award of actual damages is **DELETED** and, in lieu thereof, **temperate damages in the amount of Fifty Thousand Pesos (₱50,000.00) is awarded to the heirs of the victim.**

**SO ORDERED.**

  
**DIOSDADO M. PERALTA**  
Associate Justice

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<sup>43</sup>

*Id.*

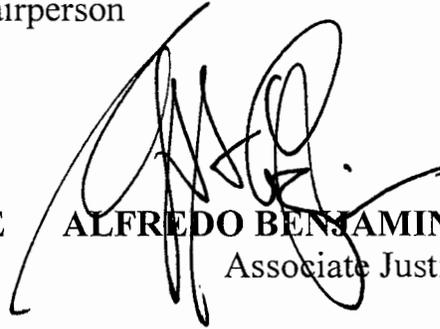
**WE CONCUR:**



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson



**ESTELA M. BERLAS BERNABE**  
Associate Justice



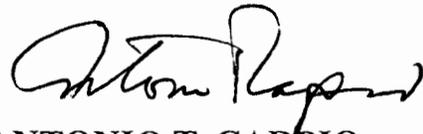
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice



**ANDRES B. REYES, JR.**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, 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.



**ANTONIO T. CARPIO**  
Acting Chief Justice