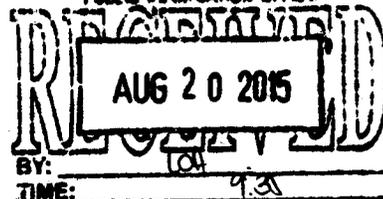




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **03 August 2015** which reads as follows:

"G.R. No. 200516 (People of the Philippines v. Julius Bordeos, Donnic Evangelista, accused; Oliver Carretas and Silvino Pastrana, Jr., accused-appellants). – We resolve the appeal filed by appellants Oliver Carretas and Silvino Pastrana, Jr. (*appellants*) from the Court of Appeals' (CA) April 27, 2011 decision¹ in CA-G.R. CR H.C. No. 01718. The CA decision affirmed the March 3, 2005 decision² of the Regional Trial Court (RTC), Branch 81, Quezon City, finding the appellants guilty beyond reasonable doubt of murder for the death of Edwin Cartoneros (*Cartoneros*).

The RTC gave credence to the testimony of Zarvie Bautista (*Bautista*) that the appellants conspired with co-accused Julius Bordeos (*Bordeos*) and Donnic Evangelista in mauling Cartoneros. It disregarded the appellants' alibi and their attempt to discredit Bautista. It also held that the qualifying circumstance of treachery was present. Thus, it sentenced the appellants to suffer the penalty of *reclusion perpetua* and ordered them to pay Cartoneros' heirs ₱50,000.00 as civil indemnity, ₱40,500.00 as actual damages, and ₱150,000.00 as moral damages.

On appeal, the CA upheld the finding of guilt against the appellants, with modifications. In particular, it held that Bautista's positive identification of the appellants defeated their alibi and that the alleged inconsistencies in his testimony were too trivial to materially affect his credibility. On the contrary, the inconsistencies bolstered Bautista's credibility because these indicated that his testimony was unrehearsed. It likewise sustained the RTC's finding of conspiracy and treachery.

In addition, the CA awarded temperate damages and exemplary damages in the amount of ₱25,000.00, respectively. The moral damages, however, was reduced from ₱150,000.00 to ₱50,000.00 and the award of actual damages was deleted.

Our Ruling

After due consideration, we **dismiss** the appeal but modify the awarded indemnities.

¹ Rollo, pp. 5-23; penned by Associate Justice Mario V. Lopez, and concurred in by Associate Justices Magdangal M. De Leon and Franchito N. Diamante.

² CA rollo, pp. 15-35; penned by Judge Ma. Theresa L. De La Torre-Yadao.

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Bautista's Credibility

The appellants point out that Bautista's failure to immediately report the incident to the police, his conflicting statements before the NBI and the prosecutor, and inconsistencies in his testimony belie his credibility.

As a rule, the trial court is in the best position to determine the witness' credibility because it can observe the witness' demeanor and conduct during examination.³

In the present case, we agree with the findings of the courts *a quo* that Bautista's testimony was clear, straightforward, and spontaneous. **Any inconsistencies in Bautista's testimony were too innocuous to destroy its evidentiary value.**

Treachery qualified the killing

Treachery attended the commission of the crime. For treachery to exist, two elements must concur: (1) the employment of means of execution that gives the persons attacked no opportunity to defend themselves or to retaliate; and (2) the means of execution are deliberately or consciously adopted.

In the present case, the appellants had already beaten up Cartoneros when Bordeos arrived. He (Bordeos) then aimed the gun at Cartoneros' forehead and shot him. **The method insured the death of Cartoneros without risk to Bordeos. Cartoneros was defenseless due to the prior beating he suffered from the appellants.**

Conspiracy

We likewise affirm the finding that Bordeos and the appellants conspired with each other in killing Cartoneros. **Although the appellants claim that they had no prior agreement to kill Cartoneros, their presence and the fact they did not prevent Bordeos from shooting Cartoneros indicate their approval thereof.**⁴

The CA was thus correct in upholding the RTC decision. However, we increase the award of civil indemnity from ₱50,000.00 to ₱75,000.00, as this amount conforms with prevailing jurisprudence.⁵ We also impose a 6% interest on all the monetary awards for damages to be reckoned from the date of finality of this decision until fully paid.

³ See *People v. Diu*, G.R. No. 201449, April 3, 2013, 695 SCRA 229, 242.

⁴ See *People v. De Jesus*, G.R. No. 134815, May 27, 2004, 429 SCRA 384, 404.

⁵ See *People v. Dadao, et al.*, G.R. No. 201860, January 22, 2014; *People v. Aquino*, G.R. No. 201092, January 15, 2014, 714 SCRA 107; *People v. Maglente*, G.R. No. 201445, November 27, 2013, 711 SCRA 142; *People of the Philippines v. Reggie Bernardo*, G.R. No. 198789, June 3, 2013, 697 SCRA 121.

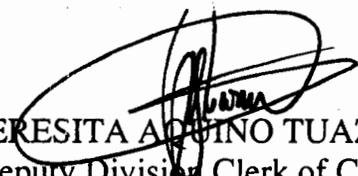
WHEREFORE, in the light of the foregoing considerations, the decision of the Court of Appeals dated April 27, 2011, in CA-G.R. CR H.C. No. 01718 is **AFFIRMED** with the following **MODIFICATIONS**: (a) the amount of the awarded civil indemnity is increased from ₱50,000.00 to ₱75,000.00; and (b) the appellants are further ordered to pay the victim's heirs interest on all damages awarded at the legal rate of six percent (6%) *per annum* from the date of finality of this judgment until fully paid.

SO ORDERED. "

Very truly yours,

MA. LOURDES C. PERFECTO
Division Clerk of Court

By:


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court

08/3/17

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THE DIRECTOR (reg)
Bureau of Corrections
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 81
Quezon City
Crim. Case No. Q-99-87214

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