



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated February 10, 2021 which reads as follows:*

**“G.R. No. 219862 – (PEOPLE OF THE PHILIPPINES, plaintiff-appellee v. MANUEL LLAMADO y LONGABELA, ET AL., accused; ROLANDO LLAMADO y BONIFACIO, accused-appellant.** – This treats of the Notice of Appeal<sup>1</sup> under Section 13(c), Rule 124 of the Rules on Criminal Procedure, as amended by A.M. No. 00-5-03-SC, filed by accused-appellant Rolando Llamado y Bonifacio (Rolando), seeking the reversal of the December 22, 2014 Decision<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05724, affirming *in toto* the July 31, 2012 Decision<sup>3</sup> of the Regional Trial Court (RTC) of Mandaluyong City, Branch 211, finding accused-appellant guilty beyond reasonable doubt of the crime of murder.

**The Case**

This case stemmed from an Amended Information<sup>4</sup> filed before the RTC charging accused Lito Llamado (Lito), Manuel Llamado y Longabela (Manuel), and Rolando with the crime of murder, the accusatory portion of which reads:

That on or about the 12<sup>th</sup> day of October 2006, in the City of Mandaluyong, Philippines and within the jurisdiction of this Honorable Court, the above-named accused conspiring and confederating together and aiding one another, with intent to kill one ARMANDO AUSTRIA, and upon the inducement of accused

- over – fourteen (14) pages ...

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<sup>1</sup> CA *rollo*, pp. 117-118.

<sup>2</sup> *Rollo*, pp. 2-12; penned by Associate Justice Francisco P. Acosta, with Associate Justices Fernanda Lampas Peralta and Myra V. Garcia-Fernandez, concurring.

<sup>3</sup> CA *rollo*, pp. 60-68; penned by Presiding Judge Ofelia L. Calo.

<sup>4</sup> Records, p. 46.



LITO LLAMADO, accused MANUEL LLAMADO y LONGABELA and ROLANDO LLAMADO y BONIFACIO, who were armed with bolo and a kitchen knife, with qualifying circumstances of superior strength, treachery and evident premeditation, did then and there, wilfully, unlawfully and feloniously attack, assault and use of personal violence upon the said ARMANDO AUSTRIA by then and there suddenly stabbing and hitting him in his abdomen, thereby inflicting upon the latter mortal wounds which directly caused his death.

CONTRARY TO LAW.<sup>5</sup>

Lito was not arrested and remains at-large. Manuel, who was earlier arrested, jumped bail and likewise remains at-large. Meanwhile, Rolando, who was arrested and the only one arraigned, pleaded not guilty to the crime charged. Thereupon, pre-trial and trial ensued.

### **The Antecedents**

#### *Prosecution's Version of Facts*

At around 10:30 in the evening of October 12, 2006, while Armando Austria y Ancheta (Armando), the victim, was walking towards his home, he was stabbed twice by Manuel in his abdomen. Rolando, who was then serving as a lookout, fled the scene after the stabbing incident. In his haste, he was hit by a moving tricycle. Rolando was, thereafter, brought to the hospital by the Bantay Bayan members. Manuel was later arrested in the follow-up operation. Meanwhile, the victim, Armando, was likewise brought to the hospital where he was timely operated upon.<sup>6</sup>

After the operation, or on October 13, 2006, a day after the stabbing incident, Manuel was brought before Armando who confirmed that it was he (Manuel) who stabbed him twice, in conspiracy with Rolando, who acted as a lookout. On that same date, Armando executed his affidavit narrating the stabbing incident before Senior Police Officer 2 Pablo Roxas (SPO2 Roxas).<sup>7</sup>

In the same affidavit executed just hours after the incident, Armando, who was still recovering from the operation, stated that it was Lito, brother of Rolando, who was the mastermind of the crime.

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<sup>5</sup> Id.

<sup>6</sup> *Rollo*, pp. 3-4.

<sup>7</sup> *CA rollo*, p. 87.

He expounded that Lito made several threats against his life prior to the stabbing incident.<sup>8</sup>

On November 1, 2006, Armando expired due to severe infections as a consequence of the fatal wound inflicted upon him by Manuel.<sup>9</sup>

#### *Defense's Version of Facts*

On October 12, 2006, at around 11:00 in the evening, while on his way to the house of his brother Lito, Rolando met an accident – he was hit by a tricycle. He lost consciousness and when he woke up, he was already in the hospital. He does not know Armando and knows nothing of the stabbing incident.<sup>10</sup>

#### **The RTC Ruling**

The RTC rendered a Decision finding Rolando guilty beyond reasonable doubt of the crime of murder. The trial court gave credence to the statement of the victim Armando and considered his affidavit a dying declaration, which has great weight and probative value. Accordingly, the trial court disposed the case in this wise:

*WHEREFORE*, finding the accused ROLANDO LLAMADO y BONIFACIO GUILTY of the crime of murder, he is hereby sentenced to suffer the penalty of *Reclusion Perpetua*.

Further, he is ordered to pay the heirs of the late Armando Austria the sum of Php50,000.00 as civil indemnity, Php50,000.00 as moral damages, and Php50,000.00 as temperate damages.

Let this case be archived as far as accused Manuel Llamado and Lito Llamado are concerned, and to be revived as soon as they are arrested considering that they are still at large and fugitives from justice.

Let issue alias warrant for the arrest to Manuel Llamado y Longabela and Lito Llamado in order not to frustrate the ends of justice.

Let writ of execution issue on the bail bond of Manuel Llamado y Longabela and Rolando Llamado y Bonifacio after the

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<sup>8</sup> Id.

<sup>9</sup> Id. at 51.

<sup>10</sup> Id. at 51.

court forfeited and confiscated their surety bond in favour of the government in its Order dated November 14, 2006.

SO ORDERED.<sup>11</sup>

Aggrieved, Rolando appealed to the CA.

### **The CA Ruling**

In a Decision promulgated on December 22, 2014, the CA affirmed in *toto* the RTC Decision. Like the trial court, the CA considered Armando's statement as a dying declaration. The CA further concluded that even assuming that Armando's statement is not within the ambit of a dying declaration, it may be considered part of *res gestae*, which is not only admissible, but also has probative value.<sup>12</sup> The *fallo* of the assailed Decision reads:

WHEREFORE, in view of the foregoing, the instant Appeal is DISMISSED. The assailed Decision of the Regional Trial Court of Mandaluyong City, Branch 211, dated 31 July 2012, is hereby AFFIRMED.

SO ORDERED.<sup>13</sup>

Undaunted, Rolando filed a Notice of Appeal<sup>14</sup> under Rule 124, Section 13(c) of the Rules of Criminal Procedure.

### **Issue**

*Whether the CA erred in affirming the trial court's Decision convicting Rolando of the crime of murder despite the prosecution's failure to prove his guilt beyond reasonable doubt.*

### **The Court's Ruling**

The instant appeal is unmeritorious.

At the outset, Rolando's conviction for the crime of murder is based mainly, not solely, on the affidavit of the deceased victim, Armando, who was able to narrate the stabbing incident prior to his demise. While, admittedly, no other person actually witnessed the

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<sup>11</sup> Id. at 68.

<sup>12</sup> *Rollo*, pp. 9-11.

<sup>13</sup> Id. at 12.

<sup>14</sup> *CA rollo*, pp. 117-118.

incident while it happened, Armando, in his affidavit, clearly narrated that it was Manuel who surprisingly stabbed him twice in the abdomen while he was on his way home; Rolando, on the other hand, was the lookout and who he saw fleeing from the scene after he was stabbed. Finally, he was able to attest that it was Lito who was the mastermind of the crime.<sup>15</sup>

After a careful review of the records of this case, *vis-a-vis*, the pertinent jurisprudence, this Court agrees with the RTC and the CA that his narration of facts is worthy of belief and credence considering that it is a dying declaration.

Settled is the rule that while witnesses in general can only testify to facts derived from their own perception, a report in open court of a dying person's declaration is recognized as an exception to the rule against hearsay if it is "made under the consciousness of an impending death that is the subject of inquiry in the case."<sup>16</sup> It is considered as "evidence of the highest order and is entitled to utmost credence since no person aware of his impending death would make a careless and false accusation."<sup>17</sup>

This rule is statutorily expressed in Section 38 (formerly Section 37), Rule 130 of the Rules of Court, as amended by Administrative Matter No. 19-08-15-SC,<sup>18</sup> which states:

SEC. 38. *Dying declaration.* — The declaration of a dying person, made under the consciousness of an impending death, may be received in any case wherein his death is the subject of inquiry, as evidence of the cause and surrounding circumstances of such death.

Accordingly, for a "dying declaration" to be admissible in Court, the following requisites must concur: (a) it concerns the cause and the surrounding circumstances of the declarant's death; (b) it is made when death appears to be imminent and the declarant is under a consciousness of impending death; (c) the declarant would have been competent to testify had he or she survived; and (d) the dying declaration is offered in a case in which the subject of inquiry involves the declarant's death.<sup>19</sup>

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<sup>15</sup> Id. at 61-62.

<sup>16</sup> *Maturillas v. People*, 521 Phil. 404, 437 (2006).

<sup>17</sup> *People v. Maglian*, 662 Phil. 338, 346 (2011).

<sup>18</sup> Effective May 1, 2020.

<sup>19</sup> *Geraldo v. People*, 592 Phil. 158, 168-169 (2008).

The first, third and fourth requisites are undoubtedly present in this case. There is, however, an issue regarding the second requisite. Rolando insists that at the time the declaration was made, Armando was not under the consciousness of an impending death; and that he was already recovering from his operation.

This Court is not persuaded.

At the outset, it is important to note that his affidavit was executed only hours after the stabbing incident. The incident occurred at around 10:30 in the evening of October 12, 2006. Meanwhile, his statement was given at around 9:30 in the morning of October 13, 2006, or only eleven (11) hours, more or less, after the incident.

Now, while Armando's declaration and narration of facts were made after he already underwent an operation and was in the process of recovery, this does not necessarily mean that he is already out of danger. It also does not necessarily mean that there is no more consciousness on the part of Armando of an impending death.

In a plethora of cases,<sup>20</sup> this Court has consistently held that even if a declarant did not make a statement that he was on the brink of death, the degree and seriousness of the wound and the fact that death supervened shortly afterwards may be considered as substantial evidence that the declaration was made by the victim with full realization that he was in a dying condition.

In the case at bench, it has been established that Armando was stabbed twice. While one of his stab wounds was merely superficial, the other was serious and needed surgery. In fact, due to the seriousness of his wound, he contracted a severe infection which led to his demise. Considering the seriousness of the stab wound inflicted on Armando and the fact that he died shortly thereafter, despite undergoing an operation, it can be concluded that he was aware of his impending death when he made a statement that it was Manuel who stabbed him, in conspiracy with Rolando and Lito.

It is important to note that Armando's dying declaration, was not the sole evidence relied upon to incriminate Rolando. Based on the trial court's Decision, the RTC relied not only on Armando's dying declaration, but also on the testimonies of the prosecution's

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<sup>20</sup> See *People v. Ebrada*, 357 Phil. 345 (1998); see *People v. Tanya*, 396 Phil. 873 (2000).

witnesses, even the testimony of Rolando, and all the documentary evidence, before convicting Rolando of the crime charged.<sup>21</sup>

During preliminary investigation, a joint affidavit<sup>22</sup> was executed by Bantay Bayan members Romeo Horca, Raymund Solero, Noel Gonzales, Israel Miguel, Jomar Lipulca and Alfie Maranan. They were the persons who effected the arrest of Manuel and Rolando immediately after the stabbing incident. Therein, they narrated that they were on standby at Blk. 6, Welfareville Compound, Brgy. Addition Hills, Mandaluyong City, when their attention was caught by a commotion; they came closer to take a look and learned that their neighbor, Armando, was stabbed by two suspects; some concerned onlookers pointed to two male persons, who were then hurriedly leaving the place, as the ones who stabbed the victim; they followed and chased the two; thereafter, one of the two was accidentally bumped by a passing tricycle; the other one tried to help him, but he got tired carrying him, so he stopped carrying him and the two lay down on the ground; they then brought the wounded to the hospital; thereafter, they returned and found the other still lying on the ground; they then brought him to the police station; there, they learned that he was Manuel while the other, who they brought to the hospital, was Rolando; Manuel then admitted that he stabbed Armando.

During trial, the prosecution presented several witnesses, SPO2 Roxas and Noel Sarmiento, among others. Their testimonies are summarized by the trial court, thus:

x x x SPO2 Roxas testified on direct examination that two persons were brought to the Office of the Criminal Investigation Unit by the bantay bayan members of Barangay Addition Hills, one of them is Rolando Llamado, and thereafter in the follow-up operation they arrested Manuel Llamado. Then Rolando Llamado was brought to the Mandaluyong Medical Center. After Manuel Llamado was arrested he was also brought to the ICU, and as a matter of procedure Manuel Llamado was brought to the Mandaluyong Medical Hospital for medical examination. In the hospital where the victim Armando Austria was confined, he identified Manuel Llamado as the one who stabbed him. After being positively identified by the victim, PO2 Roxas also asked him what really transpired and he verbally admitted that indeed he stabbed the victim. Prior to his verbal admission that he stabbed the victim and before he was brought to the Mandaluyong Medical Hospital[,] the bantay bayan members turned over to him two (2) bladed weapons. One of which was recovered from the possession

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<sup>21</sup> CA rollo, 61-66.

<sup>22</sup> Records, p. 6.

of Manuel Llamado and the other one he could no longer recall from whom it was recovered. The type of deadly weapon is a knife, and a bolo, where he placed a marking, his initial PBR (Pablo B. Roxas)

x x x x

Noel Sarmiento Calinaya testified that while they were at the Barangay Hall as bantay bayan, an unidentified person told them about a stabbing incident. He, together with Bantay Bayan Alfredo Fajardo proceeded to Blk. 6, Welfareville Compound, Brgy. Addition Hills, Mandaluyong City. Upon arriving at the said place, they recovered from the crime scene a knife and a bolo x x x, after which, they turned them over to the police for appropriate disposition.

x x x x<sup>23</sup>

Clearly, the testimonies of the other prosecution witnesses, as well as the joint affidavit of those who arrested Manuel and Rolando immediately after the incident, point to Rolando as one of the perpetrators of the crime. Otherwise stated, even if the affidavit of Armando is held inadmissible, the prosecution would still be able to prove the guilt of Rolando for the crime charged.

In any event, even if the statement of Armando would not qualify as a dying declaration, it is, nevertheless, admissible in evidence because it may be considered as part of *res gestae*. Section 44 (formerly Section 42), Rule 130 of the Rules of Court, as amended by Administrative Matter No. 19-08-15-SC, provides:

Section 44. *Part of the res gestae*. – Statements made by a person while a startling occurrence is taking place or immediately prior or subsequent thereto, under the stress of excitement caused by the occurrence with respect to the circumstances thereof, may be given in evidence as part of the *res gestae*. So, also, statements accompanying an equivocal act material to the issue, and giving it a legal significance, may be received as part of the *res gestae*.

*Res gestae* speaks of a quick continuum of related happenings, starting with the occurrence of a startling event which triggered it and including any spontaneous declaration made by a witness, participant or spectator relative to the said occurrence. The cases this Court has cited invariably reiterate that the statement must be an unreflected reaction of the declarant, undesigned and free of deliberation. In other words, the declarant is spontaneously moved merely to express his

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<sup>23</sup> CA rollo, pp. 62-63.

instinctive reaction concerning the startling occurrence, and not to pursue a purpose or design already formed in his mind.<sup>24</sup>

In *People v. Estibal*,<sup>25</sup> this Court has enumerated the three essential requisites for the admissibility of a given statement as part of *res gestae*, namely: (1) that the principal act, the *res gestae*, be a startling occurrence; (2) the statements were made before the declarant had the time to contrive or devise a falsehood; and (3) that the statements must concern the occurrence in question and its immediate attending circumstances.

Further, the test of admissibility of evidence as a part of the *res gestae* is whether the act, declaration or exclamation is so intimately interwoven or connected with the principal fact or event that it characterizes as to be regarded as a part of the transaction itself, and also whether it clearly negatives any premeditation or purpose to manufacture testimony.<sup>26</sup>

Applying the foregoing to the present case, the statement of Armando after the incident and after his operation was clearly part of *res gestae*.

The stabbing incident was undeniably a startling occurrence. To recall, Armando was only walking towards home when suddenly Manuel stabbed him twice. Though he made the statement not immediately after the incident, this was expected considering that he was in pain and needed immediate medical attention – operation. It was only after his operation, or merely eleven (11) hours after the incident, that he was able to narrate the unfortunate event. This Court, thus, holds that there was still no possibility of him contriving or manufacturing a lie. The statement was also undoubtedly about the startling occurrence as Armando repeatedly claimed that Manuel stabbed him twice in the abdomen, while Rolando was the lookout. The statement was thus certainly part of the *res gestae*.

Now, the elements of the crime of murder are: (1) a person was killed; (2) the accused killed him or her; (3) the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the Revised Penal Code (RPC); and (4) that the killing is not parricide or infanticide.<sup>27</sup>

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<sup>24</sup> *People v. Estibal*, 748 Phil. 850, 874 (2014).

<sup>25</sup> *Id.*

<sup>26</sup> *People v. Salafraña*, 682 Phil. 470, 484 (2012).

<sup>27</sup> *People v. Alvarez*, 752 Phil. 451, 457 (2015).

Based on Armando's affidavit, *vis-a-vis*, the testimonies of the other corroborative witnesses, as well as the documentary evidence of the prosecution, all these elements are extant in this case.

Firstly, Armando died after being stabbed by Manuel, in conspiracy with Rolando and Lito. Secondly, the killing was neither parricide nor infanticide. Finally, the summary of evidence demonstrates that there is *prima facie* facts showing the presence of the element of treachery.

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 especially 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>28</sup> Further, 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>29</sup>

In the instant case, the circumstances show that the stabbing was sudden and unexpected to the deceased constituting the element of *alevosia* necessary to raise homicide to murder, it appearing that Manuel, in conspiracy with Rolando and Lito adopted such a mode of attack to facilitate the perpetration of the killing without risk to themselves. The attack was so sudden and well-planned negating the possibility for Armando to fight back and defend himself. Simply, Armando was caught off guard when he was attacked by Manuel.

Finally, the prosecution was able to prove conspiracy among the accused. Settled is the rule that "to be a conspirator, one need not participate in every detail of the execution; he need not even take part in every act x x x. Each conspirator may be assigned separate and different tasks which may appear unrelated to one another but, in fact, constitute a whole collective effort to achieve their common criminal objective. Once conspiracy is shown, the act of one is the act of all the conspirators. The precise extent or modality of participation of each of

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<sup>28</sup> *People v. Las Pinas*, 739 Phil. 502, 524 (2014).

<sup>29</sup> *Id.* at 524-525.

them becomes secondary, since all the conspirators are principals.”<sup>30</sup> It is likewise settled that conspiracy may be inferred from the acts of the accused – before, during and after the crime – which are indicative of design, concerted action and concurrence of sentiments.<sup>31</sup>

Conspiracy among Manuel, Lito, and accused-appellant Rolando was established from these attendant facts: Prior to the incident, or on July 31, 2006, Lito threatened Armando that “*may paglalagyan ka sa akin,*” while pointing his finger to Armando and while they were attending a hearing before the Barangay Lupon of Addition Hills, Mandaluyong City;<sup>32</sup> On the night of the incident, while Armando was walking towards home, he was stabbed twice by Manuel in his abdomen; Manuel was accompanied by Rolando, who served as a lookout and who fled immediately after the stabbing incident.<sup>33</sup>

Now, it is important to note that Lito, the alleged mastermind of the crime, and Rolando, the lookout, are brothers. Though the records do not indicate their relationship with Manuel, it is safe to conclude that Manuel is closely related to Lito and Rolando, the former having the same surname with the latter.

This Court also takes note of Lito’s and Manuel’s continuous effort to evade arrest. At present, they are still in hiding and remain at large. This is an indication of their guilt.

Settled is the rule that flight is indicative of guilt.<sup>34</sup> Flight in criminal law is the evading of the course of justice by voluntarily withdrawing oneself in order to avoid arrest or detention or the institution or continuance of criminal proceedings.<sup>35</sup> As this Court has often quoted: “The wicked flee when no man pursueth but the righteous are as bold as the lion.”<sup>36</sup>

Needless to state, their relationship with one another, *vis-a-vis*, Lito’s and Manuel’s flight and evasion from arrest, coupled with the established facts, prior, during and after the crime support the Court’s ruling that there was conspiracy among the accused. The three were, indubitably, united in a common end — to assault and kill Armando

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<sup>30</sup> *People v. Dollendo*, 679 Phil. 338, 349 (2012), citing *People v. de Jesus*, 473 Phil. 405, 429 (2004).

<sup>31</sup> *People v. Quinico*, 417 Phil. 571, 586 (2001).

<sup>32</sup> Records, p. 298.

<sup>33</sup> CA rollo, p. 61-62.

<sup>34</sup> *People v. Babac*, 204 SCRA 968, 1081 (1991)

<sup>35</sup> *People v. Camat*, 692 Phil. 55, 84 (2012).

<sup>36</sup> Proverbs, 28:1, The Holy Bible, King James Version, 569.

— and, as shown by their concerted acts, they were also united in the consummation of the evil plan.

Notwithstanding, Rolando tries to extricate himself from criminal liability by positing that he committed no crime and does not even know Armando. Simply, he raises the defense of denial. His defense, however, falters.

This Court has consistently held that denial is an inherently weak defense and has always been viewed upon with disfavor by the courts due to the ease with which it can be concocted.<sup>37</sup> Denial and alibi constitute self-serving negative evidence which cannot be accorded greater evidentiary weight than the positive declaration of a credible witness.<sup>38</sup>

Rolando, in this case, made self-serving statements, which he failed to substantiate by sufficient evidence. He merely denied the accusations but failed to adduce any evidence in support thereof. Worse, no other witnesses were presented to support his defense of denial. Accordingly, in the face of clear and positive declaration of Armando and the prosecution's witnesses, Rolando's denial of committing the crime, in the absence of corroborating evidence to support his defense is fatal to his cause.

From all the foregoing, this Court holds and so rules that the RTC and CA correctly gave probative value to the narration of facts made by Armando prior to his demise, as well as the other testimonial and documentary evidence of the prosecution. As above discussed, Armando's statement is considered a dying declaration. Moreover, it may even be considered as part of *res gestae*, hence, undoubtedly admissible and credible. The prosecution was, thus, able to prove the presence of all the elements of the crime of murder, as attended by the qualifying circumstance of treachery.

### **The Penalty**

The RTC and the CA correctly imposed upon Rolando the penalty of *reclusion perpetua*. Article 248 of the RPC provides that the penalty for murder is *reclusion perpetua* to death. By applying Art.

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<sup>37</sup> *People v. Rom*, 727 Phil. 587, 606 (2014).

<sup>38</sup> *People v. Nachor*, 652 Phil. 756, 775 (2010).

63(2)<sup>39</sup> of the RPC, the lesser of the two indivisible penalties, *i.e.*, *reclusion perpetua*, shall be imposed upon the accused-appellant in view of the absence of any mitigating or aggravating circumstances.

As regards the award of damages, however, further modification must be made in view of this Court's ruling in *People v. Jugueta*.<sup>40</sup> Accordingly, the award of civil indemnity and moral damages are increased to ₱75,000.00 each. Rolando should likewise be held liable to pay the heirs of Armando Austria the amount of ₱75,000.00 by way of exemplary damages. The award of temperate damages in the amount of ₱50,000.00 is retained.

All monetary awards shall earn a six percent (6%) legal interest *per annum* from the date of the finality of this Resolution until full payment.

**WHEREFORE**, the instant appeal is **DENIED**. The assailed December 22, 2014 Decision of the Court of Appeals in CA-G.R. CR-HC No. 05724 is **AFFIRMED with modification** in that accused-appellant Rolando Llamado y Bonifacio is **ORDERED to PAY** the heirs of Armando Austria the following amounts: (i) ₱75,000.00 as civil indemnity; (ii) ₱75,000.00 as moral damages; (iii) ₱75,000.00 as exemplary damages; and (iv) ₱50,000.00 as temperate damages.

All monetary awards shall earn a six percent (6%) legal interest *per annum* from the date of the finality of this Resolution until fully paid.

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<sup>39</sup> Article 63. *Rules for the application of indivisible penalties.* - In all cases in which the law prescribes a single indivisible penalty, it shall be applied by the courts regardless of any mitigating or aggravating circumstances that may have attended the commission of the deed. In all cases in which the law prescribes a penalty composed of two indivisible penalties, the following rules shall be observed in the application thereof:

x x x x

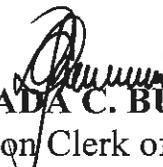
2. When there are neither mitigating nor aggravating circumstances and there is no aggravating circumstance, the lesser penalty shall be applied.

x x x x

<sup>40</sup> 783 Phil. 806 (2016).

**SO ORDERED.”** *Peralta, C.J., no part; Hernando, J., designated Additional Member per Raffle dated January 20, 2021.*

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court  
5/2/18

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
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The Solicitor General  
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Court of Appeals (x)  
Manila  
(CA-G.R. CR HC No. 05724)

The Hon. Presiding Judge  
Regional Trial Court, Branch 211  
1550 Mandaluyong City  
(Civil Case No. MC 06-10459)

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