



Republic of the Philippines
Supreme Court
 Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
 Appellee,

G.R. No. 191752

Present:

- versus -

BRION, J.,*
Acting Chairperson,
DEL CASTILLO,
PEREZ,
PERLAS-BERNABE, and
LEONEN, JJ.**

JOSE ARMANDO CERVANTES
CACHUELA and BENJAMIN JULIAN
CRUZ IBAÑEZ,

Accused.

Promulgated:

BENJAMIN JULIAN CRUZ IBAÑEZ,
 Accused-Appellant.

JUN 10 2013

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DECISION

BRION, J.:

We decide the appeal filed by appellants Jose Armando Cervantes Cachuela and Benjamin Julian Cruz Ibañez assailing the August 7, 2009 decision¹ of the Court of Appeals (CA) in CA-G.R. CR.-HC No. 03474. The CA decision affirmed with modification the July 14, 2008 decision² of the Regional Trial Court (RTC), Branch 196, Parañaque City, finding the appellants guilty beyond reasonable doubt of the special complex crime of robbery with homicide, and sentencing them to suffer the penalty of *reclusion perpetua*.

* In lieu of Associate Justice Antonio T. Carpio per Special Order No. 1460 dated May 29, 2013.

** Designated as Acting Member in lieu of Associate Justice Antonio T. Carpio per Special Order No. 1461 dated May 29, 2013.

¹ Penned by Associate Justice Celia C. Librea-Leagogo, and concurred in by Associate Justices Juan Q. Enriquez, Jr. and Antonio L. Villamor; *rollo*, pp. 2-44.

² CA *rollo*, pp. 14-35.

The prosecution's evidence revealed that on July 23, 2004, Ibañez went to Weapons System Corporation (WSC) on board an old car, and told Henessy Auron, WSC's Secretary and Sales Representative, that he was the one who bought a gun barrel at the company's gun show in SM Megamall. Ibañez inquired from Henessy about the schedule and the rates of WSC's firing range and the amount of the membership fee of its gun club. He also asked the days when there are many people in the firing range, and whether Henessy was WSC's only female employee.³

At around 9:00 a.m. of July 26, 2004, Henessy arrived at WSC and rang the doorbell, but no one opened the door. She went to the back of the office where the firing range was located, and called Zaldy Gabao, another employee of WSC. Zaldy answered from inside the store but Henessy did not understand what he said. Henessy returned to the front door and called again. Zaldy replied that he could not open the door because his hands were tied. Henessy called Raymundo Sian, the company's operations manager, and informed him that Zaldy's hands had been tied. After one hour, the police arrived; they opened the gate at the back using acetylene. When Henessy and the police entered the premises, they saw that Zaldy had been handcuffed to the vault. Zaldy informed the police that the company's gunsmith, Rex Dorimon, was inside the firing range. The police entered the firing range, and saw the lifeless body of Rex.⁴ Dr. Voltaire Nulud conducted an autopsy on the body of Rex, and found that the victim suffered several gunshot wounds on the head, thorax and abdomen, caused by a .45 pistol.⁵

The National Bureau of Investigation (NBI) received an information from an asset that the group of Cachuela was involved in the robbery of WSC and in the killing of one of its employees; and that Cachuela had been looking for prospective buyers of firearms. The NBI formed an entrapment team and proceeded to Bacoor, Cavite to execute the operation. Upon their arrival, Melvin Nabilgas approached them and told them that he had been sent by Cachuela and Ibañez to look for buyers of firearms. The police introduced themselves and told Nabilgas that they were conducting an entrapment operation against the suspects of the robbery at WSC. Nabilgas surrendered to the police, and gave the names of the other persons involved in the crime.⁶

Thereafter, the asset contacted Cachuela and informed him that Nabilgas had already talked to the buyers, and that they would like to see the

³ TSN, June 9, 2005, pp. 19-23.

⁴ Id. at 7-12.

⁵ Records, p. 546.

⁶ TSN, July 7, 2005, pp. 8-15.

firearms being sold. Cachuela set up a meeting with the buyers at a gasoline station in Naic, Cavite. NBI Special Investigator Allan Lino, Supervising Agent Jerry Abiera and the asset went to the agreed place. Cachuela came and talked to them, and brought them inside his house where Cachuela showed them several firearms. When the agents inquired from Cachuela whether the firearms had legal documentation, the latter sensed that the meeting was a set-up. The NBI agents arrested Cachuela before he could make any move. The agents recovered four (4) firearms⁷ from Cachuela's house, including a .9 mm Bernardelli with serial number T1102-03E000151.⁸

The NBI conducted a follow-up operation on Ibañez whom the asset also contacted. Ibañez directed the asset to bring the prospective buyers to his residence in Imus, Cavite. The NBI agents went to Imus and there met Ibañez whom they saw inside a Nissan California car bearing plate no. PMN 645. Lino, Abiera and the asset entered the car, and asked Ibañez where the firearms were. Ibañez brought out two (2) firearms, and showed them to the agents. The agents asked whether the guns had legal documentation; they then arrested Ibañez when they sensed that he was already becoming suspicious. The agents recovered two guns from Ibañez, *viz.*: a .45 Glock 30 with serial number FML 245 and a .45 Llama with serial number 04490Z.⁹

At the NBI Main Office, Zaldy pointed to the appellants, during a police line-up, as the persons responsible for the robbery at WSC and for the killing of Rex.¹⁰ Nabilgas also executed a handwritten confession implicating the appellants and Zaldy in the crime.¹¹

The prosecution filed an Information¹² for robbery with homicide before the RTC against the appellants, Nabilgas and Zaldy, docketed as Criminal Case No. 04-0943. The accused all pleaded not guilty on arraignment.¹³ Trial on the merits ensued thereafter. During trial, Zaldy died.¹⁴

In its decision dated July 14, 2008, the RTC found the appellants guilty beyond reasonable doubt of the special complex crime of robbery with

⁷ The other firearms recovered from Cachuela were a .22 Cooley Model 600 with serial number 9196; a .45 Federal Caliber Pistol Receiver with serial number 502173; and a .45 Llama Pistol with serial number 07-04-15949-96.

⁸ TSN, July 7, 2005, pp. 15-18.

⁹ Id. at 24-27.

¹⁰ Id. at 29-30.

¹¹ Id. at 31.

¹² Records, p. 2.

¹³ Id. at 166-169.

¹⁴ Id. at 620-621.

homicide, and sentenced them to suffer the penalty of *reclusion perpetua*. It also ordered them to pay, jointly and severally, the heirs of Rex ₱50,000.00 as civil indemnity and ₱50,000.00 as moral damages. The trial court likewise ordered the appellants to pay Hector C. Rodriguez, Jr.¹⁵ ₱1,563,300.00, representing the value of the firearms and ammunitions stolen from WSC. Excepted from the conviction was Nabilgas whom the RTC acquitted on ground of reasonable doubt.

The appellants filed an appeal with the CA, docketed as CA-G.R. CR.-HC No. 03474. In its decision of August 7, 2009, the CA affirmed the RTC decision with the following modifications: (a) the appellants were ordered to pay Arms Depot Philippines, Inc. the amount of ₱1,093,947.50, representing the value of the stolen firearms and ammunitions from WSC, with interest at the rate of 6% per annum from the date of the decision until fully paid; and (b) they are likewise ordered to pay, jointly and severally, the heirs of Rex ₱45,000.00 as actual damages with interest at the rate of 6% per annum from the date of the decision until fully paid.

The CA held that the following pieces of circumstantial evidence showed that the appellants robbed WSC and killed Rex during the course of this robbery: (1) Ibañez visited WSC two days before the robbery and asked several questions from Henessy; (2) a robbery occurred at WSC where 53 firearms and several ammunitions worth ₱1,563,300.00 had been stolen; (3) among the firearms stolen were a .9 mm Bernardelli with serial number T1102-03E000151 and a .45 Glock 30 with serial number FML 245; (4) Rex, a gunsmith working in WSC, was found dead at the firing range; (5) Rex sustained gunshot wounds on different parts of his body; (6) Cachuela and Ibañez were caught trying to sell the .9 mm Bernardelli, with serial number T1102-03E000151, and the .45 Glock 30, with serial number FML 245, respectively, in separate entrapment operations; and (7) Cachuela and Ibanez were unable to explain how they came into possession of the stolen firearms.

The CA ruled that the totality of these circumstances point to the appellants as the perpetrators of the special complex crime of robbery with homicide. It disregarded the appellants' defenses of alibi, denial and frame-up for being self-serving. The CA likewise found unmeritorious the appellants' argument that the firearms confiscated from them were inadmissible in evidence, pointing out that the seizures were the result of lawful entrapment operations. It further held that the appellants failed to impute any ill or improper motive against the police officers who conducted the entrapment operations.

¹⁵ The Branch Manager of Arms Depot Philippines, Inc.

Our Ruling

In this final review, we **deny** the appeal, and resolve to increase the amount for restitution by the appellants to Arms Depot Philippines, Inc. from ₱1,093,947.50 to ₱1,481,000.00.

“A special complex crime of robbery with homicide takes place when a homicide is committed either by reason, or on the occasion, of the robbery. To sustain a conviction for robbery with homicide, the prosecution must prove the following elements: (1) the taking of personal property belonging to another; (2) with intent to gain; (3) with the use of violence or intimidation against a person; and (4) on the occasion or by reason of the robbery, the crime of homicide, as used in its generic sense, was committed. A conviction requires certitude that the robbery is the main purpose, and objective of the malefactor and the killing is merely incidental to the robbery. The intent to rob must precede the taking of human life but the killing may occur before, during or after the robbery.”¹⁶

Admissibility of the out-of-court identification and the extrajudicial confession

Lino testified that Zaldy identified the appellants as the persons involved in the robbery of WSC and in the killing of Rex in a police line-up held at the NBI Main Office on Taft Avenue, Manila. We note that Zaldy did not testify in court since he was brought to the National Center for Mental Health, and subsequently died there during the trial. For this reason, we examine with greater scrutiny Lino’s testimony regarding Zaldy’s alleged out-of-court identification.

*People v. Algarme*¹⁷ explains the procedure for out-of-court identification and the test to determine its admissibility, as follows:

Out-of-court identification is conducted by the police in various ways. It is done thru *show-ups* where the suspect alone is brought face-to-face with the witness for identification. It is done thru *mug shots* where photographs are shown to the witness to identify the suspect. It is also done thru *line-ups* where a witness identifies the suspect from a group of persons lined up for the purpose x x x In resolving the admissibility of and

¹⁶ *People v. Algarme*, G.R. No. 175978, February 12, 2009, 578 SCRA 601, 621; citations omitted.

¹⁷ *Id.* at 617-618, citing *People v. Teehankee, Jr.*, G.R. Nos. 111206-08, October 6, 1995, 249 SCRA 54.

relying on out-of-court identification of suspects, courts have adopted the *totality of circumstances test* where they consider the following factors, viz.: (1) the witness' opportunity to view the criminal at the time of the crime; (2) the witness' degree of attention at that time; (3) the accuracy of any prior description, given by the witness; (4) the level of certainty demonstrated by the witness at the identification; (5) the length of time between the crime and the identification; and, (6) the suggestiveness of the identification procedure. [italics and emphasis supplied]

In the present case, Lino merely stated that Zaldy, during a police line-up, identified the appellants as the persons involved in the robbery of WSC and in the killing of Rex. Lino did not state when the line-up took place; how this line-up had been conducted; who were the persons in the line-up with the appellants (if there were indeed other persons included in the line-up); and whether the line-up was confined to persons of the same height and built as the appellants. Lino likewise did not indicate who accompanied Zaldy before and during the line-up, and whether there had been the possibility of prior or contemporaneous improper insinuations on Zaldy regarding the appearance of the appellants.

To our mind, Lino's failure to state relevant details surrounding the police line-up is a glaring omission that renders unreliable Zaldy's out-of-court identification. No way exists for the courts to evaluate the factors used in determining the admissibility and reliability of out-of-court identifications, such as the level of certainty demonstrated by the witness at the identification; the length of time between the crime and the identification; and the suggestiveness of the identification procedure. The absence of an independent in-court identification by Zaldy additionally justifies our strict treatment and assessment of Lino's testimony.

The records also bear out that Nabilgas executed an extrajudicial confession¹⁸ at the NBI Main Office, where he implicated the appellants and Zaldy in the crime charged. During trial, he repudiated this confession, and claimed that he had been tortured by the NBI agents, and that he was forced to copy a previously prepared statement.

After a careful examination of the evidence on hand, we hold that Nabilgas' extrajudicial confession is inadmissible in evidence. The Court has consistently held that an extrajudicial confession, to be admissible, must satisfy the following requirements: "(1) the confession must be voluntary; (2) it must be made with the assistance of a competent and independent

¹⁸ Records, p. 21.

counsel[,] preferably of the confessant's choice; (3) it must be express; and (4) it must be in writing.”¹⁹

We point out that Nabilgas was already under custodial investigation by the authorities when he executed the alleged written confession. “A custodial investigation is understood x x x as x x x any questioning initiated by law enforcement authorities after a person is taken into custody or otherwise deprived of his freedom of action in any significant manner. x x x It begins when there is no longer a general inquiry into an unsolved crime and the investigation has started to focus on a particular person as a suspect, *i.e.*, when the police investigator starts interrogating or exacting a confession from the suspect in connection with an alleged offense.”²⁰

In *People v. Rapeza*,²¹ we explained that the lawyer called to be present during custodial investigations should, as far as reasonably possible, be the choice of the individual undergoing questioning. If the lawyer is furnished by the police for the accused, it is important that the lawyer should be competent, independent and prepared to fully safeguard the constitutional rights of the accused, as distinguished from one who would merely be giving a routine, peremptory and meaningless recital of the individual's constitutional rights.

After a close reading of the records, we rule that Nabilgas' confession was not made with the assistance of a competent and independent counsel. The services of Atty. Melita Go, the lawyer who acted in Nabilgas' behalf, were provided by the very same agency investigating Nabilgas – the NBI itself; she was assigned the task despite Nabilgas' open declaration to the agency's investigators that he already had a lawyer in the person of Atty. Donardo Paglinawan. Atty. Paglinawan confirmed this fact when he stated that he was already representing Nabilgas at the time his client made the alleged confession. Nabilgas also testified that Atty. Go did not disclose that she was a lawyer when she was called to assist him; she merely represented herself to be a mere witness to the confession. There was also nothing in the records to show that Atty. Go ascertained whether Nabilgas' confession was made voluntarily, and whether he fully understood the nature and the consequence of his extrajudicial confession and its impact on his constitutional rights.

¹⁹ See *People v. Bacor*, 366 Phil. 197, 212 (1999).

²⁰ See *People v. Morial*, 415 Phil. 310, 329 (2001); citation omitted, italics supplied.

²¹ G.R. No. 169431, April 4, 2007, 520 SCRA 596, 623-624, citing *People v. Deniega*, 321 Phil. 1028, 1041-1042 (1995); italics supplied.

To be sure, this is not the kind of assistance required of lawyers in a custodial investigation. “An ‘effective and vigilant counsel’ necessarily and logically requires that the lawyer be present and [be] able to advise and assist his client from the time the confessant answers the first question asked by the investigating officer until the signing of the extrajudicial confession.”²² In addition, the extrajudicial confession of Nabilgas was not corroborated by a witness who was present at the time the written confession was made. We note in this regard that the prosecution did not present Atty. Go at the witness stand despite hints made during the early stages of the trial that she would be presented.

At any rate, Nabilgas’ extrajudicial confession is inadmissible in evidence against the appellants in view of the *res inter alios acta* rule. This rule provides that the rights of a party cannot be prejudiced by an act, declaration, or omission of another. Consequently, an extrajudicial confession is binding only on the confessant and is not admissible against his or her co-accused because it is considered as hearsay against them.

An exception to the *res inter alios acta* rule is an admission made by a conspirator under Section 30, Rule 130 of the Rules of Court. This provision states that the act or declaration of a conspirator relating to the conspiracy, and during its existence, may be given in evidence against the co-conspirator after the conspiracy is shown by evidence other than such act or declaration. Thus, in order that the admission of a conspirator may be received against his or her co-conspirators, it is necessary that: (a) the conspiracy be first proved by evidence other than the admission itself; (b) the admission relates to the common object; and (c) it has been made while the declarant was engaged in carrying out the conspiracy.²³

This exception, however, does not apply in the present case since there was no other piece of evidence presented, aside from the extrajudicial confession, to prove that Nabilgas conspired with the appellants in committing the crime charged. Conspiracy cannot be presumed and must be shown as distinctly and conclusively as the crime itself. Nabilgas, in fact, was acquitted by the trial court due to insufficiency of evidence to prove his participation in the crime.

²² See *People v. Tomaquin*, 478 Phil. 885, 901 (2004).

²³ See *People v. Bokingo*, G.R. No. 187536, August 10, 2011, 655 SCRA 313, 332-333.

***Sufficiency of the proven
circumstantial evidence***

In view of the inadmissibility of Zaldy's out-of-court identification and Nabilgas' extrajudicial confession, the prosecution's case rests purely on circumstantial evidence. Conviction can be secured "on the basis of circumstantial evidence if the established circumstances constitute an unbroken chain leading to [a] fair and reasonable conclusion proving that the accused is the author of the crime to the exclusion of all others."²⁴ There can be conviction if the prosecution can establish the appellants' participation in the crime through credible and sufficient circumstantial evidence that leads to the inescapable conclusion that the accused, and none other, committed the imputed crime.²⁵

"Circumstantial evidence consists of proof of collateral facts and circumstances from which the main fact in issue may be inferred based on reason and common experience. Under Section 4, Rule 133 of the Revised Rules of Court, circumstantial evidence is sufficient for conviction if the following requisites concur: (a) there is more than one circumstance; (b) the facts from which the inferences are derived have been established; and (c) the combination of all the circumstances unavoidably leads to a finding of guilt beyond reasonable doubt. These circumstances must be consistent with one another, and the only rational hypothesis that can be drawn therefrom must be the guilt of the accused."²⁶

In our view, no doubt exists, based on the appellants' actions, that their primary objective was to rob WSC, and that the killing of Rex was done on occasion, or by reason, of the robbery: **first**, Ibañez went to WSC on July 23, 2004, and inquired from Henessy about the schedule and the rates of the firing range, the amount of the membership fee of the company's gun club, the days when there are many people in the firing range, and whether she was the only female employee of the company; **second**, when Henessy arrived at WSC at 9:00 a.m. on July 26, 2004, Zaldy informed her that he cannot open the front door because his hands were tied; **third**, Henessy called the company's operations manager and informed him that Zaldy had been tied; **fourth**, the police saw Zaldy handcuffed to the vault when they opened the back gate; **fifth**, the police saw the lifeless body of Rex lying on the floor with several gunshot wounds when they entered the firing range; **sixth**, the operations manager discovered that 53 guns and several ammunitions had been missing from the gun store, including a .9 mm

²⁴ *People v. Umayam*, 431 Phil. 23, 32 (2002).

²⁵ See *People v. Biglete*, G.R. No. 182920, June 18, 2012, 673 SCRA 546, 554.

²⁶ See *People v. Romero*, G.R. No. 181041, February 23, 2011, 644 SCRA 210, 214; citation omitted.

Bernardelli with serial number T1102-03E000151 and a .45 Glock 30 with serial number FML 245; **seventh**, the NBI agents caught Cachuela trying to sell the .9 mm Bernardelli with serial number T1102-03E000151 in an entrapment operation in Cavite; **eighth**, the NBI agents caught Ibañez trying to sell the .45 Glock 30 with serial number FML 245 and a .45 Llama with serial number 04490Z in a follow-up entrapment operation in Cavite; **ninth**, Cachuela and Ibañez were unable to explain how they came into possession of the stolen firearms; **tenth**, Police Inspector Armin Austria, the PNP Forensic Firearm Examiner, found that the 98 pieces of .45 fired cartridge cases found at the crime scene were fired from the .45 Llama with serial number 04490Z recovered from Ibañez;²⁷ and **finally**, Dr. Nulud conducted an autopsy on the body of Rex, and found that the victim suffered several gunshot wounds on the head, thorax, and abdomen caused by a .45 pistol.

From these established circumstances, the overriding intention of the appellants cannot but be to rob WSC; the killing of Rex was merely incidental to the robbery. “Intent to rob is an internal act, but may be inferred from proof of violent unlawful taking of personal property.”²⁸ Rex was killed to facilitate the robbery; he was also the person who would have been a witness to the crime. In *People v. De Leon*,²⁹ we held that “[h]omicide is said to have been committed by reason or on the occasion of robbery if, for instance, it was committed (a) to facilitate the robbery or the escape of the culprit; (b) to preserve the possession by the culprit of the loot; (c) to prevent discovery of the commission of the robbery; or, (d) to eliminate witnesses in the commission of the crime.”

In this regard, we cannot overlook the fact that another WSC employee – Zaldy – was not killed, but merely tied to the vault. The Court cannot second-guess on what could have been behind the malefactors’ decision to spare Zaldy’s life, but we note that Zaldy became one of the accused in this case after the Office of the City Prosecutor found probable cause to indict him in the crime, as the robbery could have been the result of an “inside job.” Unfortunately, Zaldy was unable to testify during trial since the RTC ordered that he be brought to the National Center for Mental Health for treatment. Accordingly, Nabilgas’ extrajudicial confession (which we ruled to be inadmissible) was the only evidence linking Zaldy to the crime. For lack of evidence, we cannot make any definite conclusion and can only speculate on Zaldy’s involvement in the crime charged.

²⁷ Per Firearms Identification Report No. FAIS-080-A-2004, no conclusion could be rendered as to whether the seven other .45 fired bullets submitted for examination had been fired from the Llama .45 pistol with serial number 04490Z.

²⁸ See *People v. De Leon*, G.R. No. 179943, June 26, 2009, 591 SCRA 178, 193, citing *People v. De Jesus*, 473 Phil. 405, 407 (2004).

²⁹ *Id.* at 194.

We find it worthy to stress that the appellants failed to overcome the disputable presumption that “a person found in possession of a thing taken in the doing of a recent wrongful act is the taker and the doer of the whole act[.]”³⁰ To recall, Ibañez was at WSC two days before the robbery, asking questions to the company’s secretary. Several days after the robbery, the appellants were caught trying to sell firearms that were reported stolen from WSC in separate entrapment operations; they could not satisfactorily explain how and why these guns came to their respective possession. The appellants likewise did not impute ill motive on the part of the arresting officers that would impel the latter to fabricate evidence against them. These factors lead to no other conclusion than that the appellants, to the exclusion of others, had robbed WSC.

To our mind, the fact that the cartridge bullet shells found at the firing range (where the lifeless body of Rex had been discovered) matched with one of the guns recovered from Ibañez during the entrapment operation clinches the case against the appellants insofar as establishing the nexus between the robbery and the victim’s killing. Notably, the gunshot wounds suffered by Rex also came from the same caliber of gun³¹ recovered from Ibañez. In the final analysis, the prosecution sufficiently established the direct and intimate connection between the robbery and the killing, and that the death of Rex had been committed by reason or on the occasion of the robbery. When homicide is committed by reason or on the occasion of a robbery, all those who took part as principals in the robbery would also be held liable as principals of the single and indivisible felony of robbery with homicide, although they did not actually take part in the killing, unless it clearly appears that they endeavored to prevent the same.³²

The penalty and the awarded civil indemnities

Robbery with homicide is a single indivisible crime punishable with *reclusion perpetua* to death under paragraph 1, Article 294 of the Revised Penal Code, as amended. We find that the trial and appellate courts correctly sentenced the appellants to suffer the penalty of *reclusion perpetua* only in the absence of any aggravating circumstance that attended the commission of the crime.

³⁰ Rules of Court, Rule 131, Section 3(j).

³¹ The records do not indicate the gun’s serial number.

³² See *People v. Ebet*, G.R. No. 181635, November 15, 2010, 634 SCRA 689, 705-706.

We affirm the award of ₱50,000.00 civil indemnity and ₱50,000.00 moral damages to the heirs of Rex, as these awards conform to prevailing jurisprudence on robbery with homicide when the penalty imposed is only *reclusion perpetua*.³³ We also affirm the award of ₱45,000.00 as actual damages, as the prosecution successfully proved this amount through a receipt.

The CA ordered the appellants to restitute the amount of ₱1,093,947.50, representing of the value of the stolen firearms and ammunitions. We, however, increase this amount to the total amount of ₱1,481,000.00 as this is the value of the stolen items as proven by the evidence on record.³⁴

WHEREFORE, in light of all the foregoing, the decision of the Court of Appeals dated August 7, 2009 in CA-G.R. CR.-HC No. 03474 is **AFFIRMED** with the **MODIFICATION** that the amount to be restituted by the appellants to Arms Depot Philippines, Inc. be increased from ₱1,093,947.50 to ₱1,481,000.00.

SO ORDERED.


ARTURO D. BRION
Associate Justice

WE CONCUR:


MARIANO C. DEL CASTILLO
Associate Justice


JOSE PORTUGAL BEREZ
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

³³ See *People v. Uy*, G.R. No. 174660, May 30, 2011, 649 SCRA 236, 260.
³⁴ Records, pp. 71-73.



MARVIC MARIO-VICTOR F. LEONEN
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.



ARTURO D. BRION
Associate Justice
Acting Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting 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