



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff-Appellee,

G.R. No. 201445

Present:

- versus -

SERENO, C.J.,  
Chairperson,  
LEONARDO-DE CASTRO,  
BERSAMIN,  
VILLARAMA, JR., and  
REYES, JJ.

HERMENIGILDO MAGLENTE y  
MEDINA *alias* "JUN MAGLENTE"  
and ROLANDO VELASQUEZ y  
GUEVARRA *alias* "RANDY,"  
Accused-Appellants.

X-----X

DAN MAGSIPOC y CANCELER and  
PABLO INEZ *alias* "KA JAY,"  
Accused.

Promulgated:

NOV 27 2013

X-----X

RESOLUTION

REYES, J.:

This is an appeal from the Decision<sup>1</sup> dated June 30, 2011 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 03256, which affirmed with modification the Joint Decision<sup>2</sup> dated December 21, 2007 of the Regional Trial Court (RTC) of Angeles City, Branch 59, finding Hermenigildo Maglente y Medina (Maglente) guilty beyond reasonable doubt of the crimes of Murder (Criminal Case No. 00-032) and Frustrated Murder (Criminal Case No. 00-033).

<sup>1</sup> Penned by Associate Justice Ricardo R. Rosario, with Associate Justices Hakim S. Abdulwahid and Danton Q. Bueser, concurring; *CA rollo*, pp. 231-249.

<sup>2</sup> Issued by Presiding Judge Ma. Angelica T. Paras-Quiambao; *id.* at 113-132.

A

Maglente, together with Dan Magsipoc y Canceler (Magsipoc), John Doe, Peter Doe and Charlie Doe, was charged with Murder<sup>3</sup> and Frustrated Murder<sup>4</sup> under two separate Informations. Maglente pleaded not guilty to the charges against him.

The Informations were subsequently amended<sup>5</sup> to include accused Rolando Velasquez y Guevarra (Velasquez) and Pablo Inez (Inez), who also pleaded not guilty upon arraignment. Inez died while the case was pending, and the case against him was consequently dismissed. Magsipoc, meanwhile, remained at large.

### **Evidence for the prosecution**

Crisanta De Leon (De Leon), testified that at around 5:00 p.m. of August 6, 1999, she and her co-teacher Regina Manalili (Manalili) were walking along Jesus Street going to Lakandula Street along Balibago. They saw a kinky-haired man (later identified in court as Maglente) standing at the corner of said streets, holding a revolver as if waiting for someone. A white Nissan Safari van then passed along and had its path blocked by a red Toyota Corolla car. Maglente and two other armed men then went to the front of the van and simultaneously riddled it with bullets at a close range of about 1 to 1 ½ meters away<sup>6</sup>. The van's driver lost control of the van causing it to head towards an apartment and destroy its fence. The red Toyota Corolla then disappeared. When the shooting erupted, De Leon and Manalili hid behind a big fence. Maglente followed and looked at them. Then, another man holding a shotgun came from across Lakandula Street towards Maglente and told the latter, "*tara na!*" Both men then left the crime scene going south towards Manila.<sup>7</sup>

Pepe A. Mendoza (Mendoza), meanwhile, was the driver of the van and a security aide of Benito Chua, the father of the deceased victim Victor Benito Chua (Chua). On the day of the incident, August 6, 1999, Mendoza accompanied Chua to different banks to withdraw money. While they were travelling towards Balibago in Angeles City, their van was intercepted at Lakandula Street by an old faded maroon car. Three (3) men suddenly appeared and drew guns. He shifted gear as he saw them poke their guns at them. He then lost consciousness and could not tell anymore who among the men particularly shot him. Upon regaining consciousness, Mendoza was informed that there were seven (7) bullets in his head, three (3) of which have already been removed.

---

<sup>3</sup> Id. at 162-163.

<sup>4</sup> Id. at 163.

<sup>5</sup> RTC records, Volume I, pp. 1-2; 3-4.

<sup>6</sup> TSN, March 20, 2001, p. 5.

<sup>7</sup> Id. at 6.

Mendoza and Chua were rushed to the hospital where Chua was pronounced dead<sup>8</sup> due to “[h]emorrhage, massive, traumatic intracranial, secondary to multiple gunshot wounds.”<sup>9</sup> Mendoza, on the other hand, was immediately operated on. In his medico-legal certificate, Dr. Joven G. Esguerra reported on the injuries sustained by Mendoza, to wit:

1. Emergency E Craniotomy done
2. Gunshot wounds, right temporal and right mandibular areas
3. slug recovered upon opening of skin at mandibular area
4. Craniotomy allowed evacuation of intracerebral hematoma

REMARKS:

Barring complications or involvement of other structures not apparent at the time of the examination, the above-named injuries will require medical attendance for 1 ½ to 2 months.<sup>10</sup>

During trial on the merits, Maglente was positively identified by De Leon as the one who held the revolver while waiting along Jesus and Lakandula Streets, and also as one of the armed men who fired at the van and the victims.<sup>11</sup> Initially, however, De Leon identified Magsipoc as the one holding the revolver. On cross-examination, she rectified her previous statement and identified Maglente as the gunman who fired at the van. De Leon also identified Maglente among the pictures presented by SPO3 Danilo DG Cruz (SPO3 Cruz) during his follow-up investigation of the case. Mendoza, on the other hand, identified Velasquez as one of the men who positioned in front of the Nissan Safari van and who fired at them.<sup>12</sup>

### **Evidence for the Defense**

The defense, on the other hand, presented the testimonies of accused Velasquez who interposed an *alibi* that he was at home with his family during the time of the incident, and that he came to know about Chua’s death through his uncle. His wife Leda corroborated his statement. Maglente, on the other hand, merely denied that he is one of the assailants.

---

<sup>8</sup> CA *rollo*, p. 168.

<sup>9</sup> Id. at 168-169; RTC records, Volume I, p. 31.

<sup>10</sup> Id. at 169; RTC records, Volume I, p. 29.

<sup>11</sup> Id. at 235.

<sup>12</sup> Id. at 235-236.

### RTC Decision

In its Decision dated December 21, 2007, the RTC convicted Maglente and Velasquez of the crimes of Murder and Frustrated Murder, *viz*:

IN VIEW OF THE FOREGOING, the Court finds accused HERMENIGILDO MAGLENTE y MEDINA alias “Jun Maglente” and ROLANDO VELASQUEZ y VERGARA alias “Randy” GUILTY beyond reasonable doubt of the crimes of Murder and Frustrated Murder qualified by treachery defined and penalized in Articles 248 and 250 of the Revised Penal Code, respectively, and there being the aggravating circumstance of evident premeditation to be considered against the accused, hereby sentences them as follows:

1. in Criminal Case No. 00-032 for Murder, for each of them to suffer the penalty of *reclusion perpetua*; to jointly and severally pay the heirs of victim Victor Benjamin Chua the following sums:

- a) Seventy-five thousand [pesos] (₱75,000.00) as civil indemnity,
- b) Eight hundred ninety thousand pesos (₱890,000.00) for actual damages, and
- c) Fifty thousand pesos (₱50,000.00) for moral damages;

and to pay the costs of suit.

2. in Criminal Case No. 00-033 for Frustrated Murder, for each of them to suffer an indeterminate penalty of from [sic] Ten (10) years and one (1) day of *prision mayor* as the minimum term to Nineteen (19) years and one (1) day of *reclusion temporal* as the maximum term; to jointly and severally pay victim Pepe A. Mendoza actual damages in the amount of Seven hundred sixty nine thousand ninety-eight pesos and twenty[-]four centavos (₱769,098.24); and to pay the costs of suit.

SO ORDERED.<sup>13</sup>

The RTC gave full faith and credence to the evidence of the prosecution and convicted Maglente and Velasquez of the crimes charged. The RTC found that treachery, evident premeditation, taking advantage of superior strength and conspiracy attended the commission of the crimes based on the following circumstances: (1) the lack of opportunity for Mendoza and Chua to put up any defense against the successive bursts of gunfire hailed against them at close range by all the accused, while they peacefully travelled along Balibago in Angeles City in a Nissan Safari;<sup>14</sup> (2) the suddenness of the attack and its being well-planned; (3) the sufficient

---

<sup>13</sup> Id. at 131-132.

<sup>14</sup> Id. at 126-127.

lapse of time for all of the accused to reflect upon the consequences of the attack prior to its commission;<sup>15</sup> and (4) the fact that all the accused acted in concert before, during and after the commission of the offense, thus, making them co-principals in the commission of the crimes. The RTC also brushed aside the *alibi* interposed by Velasquez and ratiocinated that *alibi* as a defense will not prevail over the positive identification of the accused, especially when the victim has no motive to falsely testify against the accused.<sup>16</sup>

Maglente and Velasquez filed Notices of Appeals, which was given due course by the RTC in its Order<sup>17</sup> dated March 3, 2008.

### CA Decision

The CA affirmed<sup>18</sup> the findings of the RTC and accorded full faith and credence to the evidence of the prosecution. The CA explained that De Leon's positive identification of Maglente both in open court and in the pictures shown to her by the police authorities rectified whatever confusion she had in initially identifying Magsipoc as the gunman during direct examination. The CA also found that the integrity of De Leon's testimony was reinforced by the fact that she is a disinterested witness who described in detail what she personally witnessed without any false motive or purpose to favor either of the parties in the case.

As to Mendoza, the CA ratiocinated that being a victim interested in the vindication for a crime committed against him makes it unnatural for him to falsely point against someone other than a real culprit.<sup>19</sup> Lastly, the CA stressed that witnesses are not expected to be consistent in every detail of an incident with perfect or total recall as differences in recollections, viewpoints or impressions are inevitable.<sup>20</sup>

The CA, however, modified the RTC decision and ruled that evident premeditation cannot be appreciated. The CA found no evidence to establish the time when the malefactors determined to commit the crime or that sufficient time has lapsed between such determination and the execution of the crime intended to be committed.<sup>21</sup> Abuse of superior strength, on the other hand, cannot be separately appreciated because it was necessarily absorbed in treachery.<sup>22</sup>

---

<sup>15</sup> Id. at 127.

<sup>16</sup> Id. at 128.

<sup>17</sup> Id. at 80.

<sup>18</sup> Id. at 231-249.

<sup>19</sup> Id. at 240.

<sup>20</sup> Id. at 241.

<sup>21</sup> Id. at 243-244.

<sup>22</sup> Id. at 244.

The CA also modified the award of damages, except as to the moral damages. Thus, the CA Decision dated June 30, 2011 provided for the following dispositive portion:

**WHEREFORE**, the appealed Joint Decision of the Regional Trial Court of Angeles City (Branch 59), dated 21 December 2007, is **AFFIRMED** with the following **MODIFICATIONS**:

- (1) In Criminal Case No. 00-032 for *murder*-
  - a) The trial court's award of Seventy-Five Thousand Pesos ([P]75,000.00) by way of civil indemnity is reduced to Fifty Thousand Pesos ([P]50,000.00);
  - b) Exemplary damages of Thirty Thousand Pesos ([P]30,000.00) is awarded to the heirs of the deceased victim, in addition to the moral damages of Fifty Thousand Pesos ([P]50,000.00); and
  - c) Actual damages of Eight Hundred Ninety Thousand Pesos ([P]890,000.00) is reduced to Fifty Thousand Pesos ([P]50,000.00).
- (2) In Criminal Case No. 00-033 for *frustrated murder* --
  - a) The penalty imposed by the trial court is modified and appellants are sentenced to eight (8) years and one (1) day of *prision mayor*, as minimum, to fourteen (14) years of *reclusion temporal* medium, as maximum;
  - b) Complainant Pepe A. Mendoza is awarded civil indemnity in the amount of Thirty Thousand Pesos ([P]30,000.00), moral damages of Twenty-Five Thousand Pesos ([P]25,000.00) and another Twenty-Five Thousand Pesos ([P]25,000.00) as exemplary damages;
  - c) The actual damages of Seven Hundred Sixty[-]Nine Thousand Ninety[-]Eight Pesos and Twenty[-]Four Centavos ([P]769,098.24), awarded by the trial court, is reduced to One Hundred Twenty-Nine Thousand Five Hundred Forty-Eight Pesos and Eleven Centavos ([P]129,548.11).

**SO ORDERED.**<sup>23</sup>

---

<sup>23</sup>

Id. at 247-248.

Dissatisfied, Maglente brought his conviction for review to this Court, anchored on the sole issue of whether the CA erred in affirming the RTC's judgment convicting him of the crimes of Murder and Frustrated Murder.<sup>24</sup>

### The Court's Ruling

The appeal is devoid of merit.

Maglente's argument is centered on the alleged uncertainty over his identification by De Leon as one of the assailants, and the absence of testimony from Mendoza and Chua's father identifying him as such. On this point, the Court has consistently abided by the rule that the trial court is in a better position to adjudge the credibility of witnesses, especially if its decision is affirmed by the CA, unless there is a showing that it had overlooked, misunderstood or misapplied some fact or circumstance of weight and substance that would have affected the result of the case.<sup>25</sup> The Court finds no reason to depart from the assessment of the RTC, as affirmed by the CA, as this is supported by the records of the case.

Thus, it was the finding of the RTC that at first, De Leon, indeed pointed to Magsipoc as the one who stood at the corner of Jesus and Lakandula streets, and one of those who fired at the van. Nevertheless, the RTC further found that De Leon was able to positively identify Maglente during cross-examination and during the investigation conducted by SPO3 Cruz one week after the incident. The CA also made a similar finding and concluded further that "[De Leon's] seeming confusion in pointing to Hernando Magsipoc during the direct examination was forthwith rectified by her during the cross-examination where she made a positive identification of Maglente."<sup>26</sup> The CA also stated that "[t]he fact that De Leon identified only Maglente and not Velasquez, and Mendoza did not point to Maglente and was able to see only Velasquez during the incident does not undermine their credibility nor destroy the essential integrity of their respective testimonies."<sup>27</sup> It should be stressed that De Leon had already identified Maglente during the follow-up investigation conducted by SPO3 Cruz one week after the incident, and her testimony during cross examination merely confirmed her previous identification of Maglente. The well-settled rule is that where there is nothing to indicate that a witness for the prosecution was actuated by improper motive, the presumption is

---

<sup>24</sup> In his Manifestation (In Lieu of a Supplemental Brief), Maglente manifested that he will no longer file a Supplemental Brief since no new issues material to the case which were not elaborated upon in Appellant's Brief were discovered, and he has exhaustively argued all the relevant issues in his brief and motion for reconsideration. *Rollo*, pp. 28-30.

<sup>25</sup> *People v. Rarugal*, G.R. No. 188603, January 16, 2013, 688 SCRA 646, 652-653.

<sup>26</sup> *CA rollo*, p. 240.

<sup>27</sup> *Id.* at 240-241.

that he was not so actuated and his testimony is entitled to full faith and credit,<sup>28</sup> which the Court finds application in this particular case.

Maglente also denies the existence of conspiracy, claiming that there was no proof that he acted in furtherance of a common design and purpose entertained by the other assailants.<sup>29</sup>

Conspiracy exists when two or more persons come to an agreement concerning a felony and decide to commit it.<sup>30</sup> It may be inferred from the acts of the accused before, during or after the commission of the crime which, when taken together, would be enough to reveal a community of criminal design, as the proof of conspiracy is frequently made by evidence of a chain of circumstances.<sup>31</sup> Here, prior to the commission of the crime, De Leon and Manalili saw Maglente holding a revolver and standing in the corner of Lakandula and Jesus Streets waiting. As the Nissan Safari passed by, another car blocked its path and Maglente and other armed men simultaneously riddled the van with bullets. As aptly explained by the CA:

Such mode and manner in which the offense was committed likewise evinces a joint purpose and design, concerted action, and community of intent, all showing that appellants conspired with one another. Indeed, direct proof of previous agreement to commit a crime is not necessary since conspiracy may be inferred from the acts of the accused before, during and after the crime, which are indicative of a joint purpose, concerted action and concurrence of sentiments. Significantly, where conspiracy is established, the act of one is the act of all.<sup>32</sup> (Citations omitted)

Maglente also assails the appreciation of treachery as a qualifying circumstance. He insists that there is no evidence showing that the perpetrators deliberately and consciously adopted means in order to ensure their safety from any defense that could be put up by the victims.<sup>33</sup>

“The essence of treachery is the sudden and unexpected attack by the aggressor on unsuspecting victims, depriving the latter of any real chance to defend themselves, thereby ensuring its commission without risk to the aggressor, and without the slightest provocation on the part of the victims.”<sup>34</sup> Two conditions must concur for treachery to exist, namely:

---

<sup>28</sup> *People of the Philippines v. Mark Joseph Zapuiz y Ramos @ “Jaymart”*, G.R. No. 199713, February 20, 2013, 691 SCRA 510.

<sup>29</sup> CA *rollo*, p. 158.

<sup>30</sup> REVISED PENAL CODE, Article 8. *See also People v. Anticamara*, G.R. No. 178771, June 8, 2011, 651 SCRA 489, 506.

<sup>31</sup> *Id.* at 506-507.

<sup>32</sup> CA *rollo*, p. 242.

<sup>33</sup> *Id.* at 159.

<sup>34</sup> *People v. Gutierrez*, G.R. No. 188602, February 4, 2010, 611 SCRA 633, 644, citing *People v. Mara*, G.R. No. 184050, May 8, 2009, 587 SCRA 839, 845.

(a) the employment of means of execution gave the person attacked no opportunity to defend himself or to retaliate; and (b) the means or method of execution was deliberately and consciously adopted.<sup>35</sup>

The established facts easily demonstrate the existence of treachery in this case. The perpetrators waited for the victims' van in ambush, with Maglente standing at the corner with his gun drawn. Thereafter, a car blocked the van's path and the perpetrators started shooting at the van and its passengers. The means employed by the perpetrators show that it was employed to discount any possibility of retaliation or escape, and that such means or method was deliberately employed. As found by the CA:

[A]ppellants' attack came unexpectedly when appellants suddenly blocked the way of the victims who were unsuspecting of appellants' plan to attack. At a spur of a moment [sic], appellants, armed with firearms, positioned themselves in front of the van of the helpless, unarmed and surprised victims, and began shooting at them. From the legal standpoint, treachery was attendant as the manner of the attack and the means employed by appellants obviously manifested the intention of ensuring the commission of the crime without risk to them and to deprive the victims of any real chance to defend themselves.<sup>36</sup>

The Court also agrees with the CA that abuse of superior strength, which was alleged in the information, is already absorbed in treachery.

Moreover, the CA correctly deviated from the RTC's finding regarding the existence of evident premeditation. According to the CA, the records did not show sufficient evidence to support the existence of the "time when appellants determined to commit the crime and that sufficient lapse of time existed between such determination and execution to allow them to reflect upon the circumstances of their act."<sup>37</sup> To properly appreciate evident premeditation as an aggravating circumstance, it is indispensable that the fact of planning the crime be established. Particularly, evidence must show how and when the plan to kill was hatched or how much time had elapsed before it was carried out. Absent such proof, evident premeditation cannot prosper. In this case, the records are bereft of evidence proving how and when the plan to attack the victims was hatched up.

As to the credibility of the testimonies of De Leon and Mendoza, the Court finds them straightforward and consistent with each other. Their combined declarations established beyond reasonable doubt Maglente's identity as one of the malefactors of the crimes charged. Consequently, Maglente's bare denial, without more, does not deserve consideration and

---

<sup>35</sup> *People v. Lopez*, G.R. No. 176354, August 3, 2010, 626 SCRA 485, 500, citing *People v. Ducabo*, 560 Phil. 709, 725 (2007).

<sup>36</sup> CA *rollo*, p. 242.

<sup>37</sup> *Id.* at 244.

cannot overthrow the positive identification made by De Leon. Time-tested is the rule that between the positive assertions of prosecution witnesses and the negative averments of the accused, the former indisputably deserves more credence and evidentiary weight.<sup>38</sup>

### Penalties Imposed and Award of Damages

#### **Criminal Case No. 00-032 for Murder**

Treachery having qualified the killing of Chua to Murder, the imposible penalty against Maglente, therefore, is *reclusion perpetua* to death as provided in Article 248 of the Revised Penal Code (RPC). There being no other circumstance to aggravate or mitigate the crime, the RTC, as affirmed by the CA, correctly imposed the penalty of *reclusion perpetua*. The same shall be without eligibility for parole, as provided in Section 3 of Republic Act No. 9346.<sup>39</sup>

On the award of damages.

Actual damages are recoverable only when the injured party proves the actual amount of loss with reasonable degree of certainty based upon competent proof. In this case, only a certification<sup>40</sup> issued by the sales manager of the memorial park was presented to substantiate the claim for actual damages in the amount of ₱840,000.00. The official receipts adduced, however, showed only the total amount of ₱50,000.00. Hence, the CA correctly reduced the same to that actually proven by the receipts presented.<sup>41</sup>

Moral damages in the amount of ₱50,000.00<sup>42</sup> was also correctly awarded by the CA. As borne out by human nature and experience, a violent death invariably and necessarily brings about emotional pain and anguish on the part of the victim's family.<sup>43</sup> Meanwhile, exemplary damages in the amount of ₱30,000.00 was also properly awarded.<sup>44</sup>

---

<sup>38</sup> *People of the Philippines v. Percival Dela Rosa y Bayer*, G.R. No. 201723, June 13, 2013.

<sup>39</sup> Entitled, An Act Prohibiting the Imposition of Death Penalty in the Philippines, which provides that “[p]ersons convicted of offenses punished with *reclusion perpetua*, or whose sentences will be reduced to *reclusion perpetua*, by reason of this Act, shall not be eligible for parole under Act No. 4103, otherwise known as the Indeterminate Sentence Law, as amended.”

<sup>40</sup> RTC records, Volume 3, p. 373.

<sup>41</sup> Id. at 371.

<sup>42</sup> *People v. Angelio*, G.R. No. 197540, February 27, 2012, 667 SCRA 102, 111-112.

<sup>43</sup> *People v. Malicdem*, G.R. No. 184601, November 12, 2012, 685 SCRA 193, 206, citing *People v. Escleto*, G.R. No. 183706, April 25, 2012, 671 SCRA 149, 158.

<sup>44</sup> Id. at 207.

As to the civil indemnity, the Court deems it proper to reinstate the amount awarded by the RTC, which is ₱75,000.00, as civil indemnity as such amount is mandatory and is granted without need of evidence other than the commission of the crime.<sup>45</sup>

### **Criminal Case No. 00-033 for Frustrated Murder**

Article 61, paragraph 2 of the RPC provides that the penalty of frustrated murder is one degree lower than *reclusion perpetua* to death, which is *reclusion temporal*. *Reclusion temporal* has a range of twelve (12) years and one (1) day to twenty (20) years. There being no modifying circumstance in the commission of the frustrated murder and applying the Indeterminate Sentence Law, the maximum of the indeterminate penalty should be taken from *reclusion temporal* in its medium period, and the minimum of the indeterminate penalty shall be taken from the full range of *prision mayor*, which is one degree lower than *reclusion temporal*, ranging from six (6) years and one (1) day to twelve (12) years. Hence, the modification made by the CA as regards the penalty imposed in this case, that is, from **eight (8) years and one (1) day of *prision mayor*, as minimum, to fourteen (14) years of *reclusion temporal* medium, as maximum**, is proper. And conspiracy having been proven, each of the accused shall be sentenced to suffer such imprisonment.<sup>46</sup>

The Court also sustains the CA's award of actual damages in the amount of ₱129,548.11, instead of the amount of ₱769,098.24 awarded by the RTC, as the official receipts adduced by the prosecution to prove Mendoza's hospitalization expenses proved only such reduced amount.<sup>47</sup>

The Court, however, modifies the amount of moral damages and exemplary damages awarded in favor of the victim Mendoza to conform to prevailing jurisprudence.<sup>48</sup> Thus, the modified amounts of ₱40,000.00 as moral damages and ₱20,000.00 as exemplary damages are hereby awarded.

Lastly, civil indemnity in the amount of ₱30,000.00 awarded by the CA is deleted in view of existing cases that no longer grant the same in the crime of frustrated murder.<sup>49</sup>

---

<sup>45</sup> Id. at 206.

<sup>46</sup> REVISED PENAL CODE, Article 249, in relation to Article 6, paragraph 2.

<sup>47</sup> CA *rollo*, p. 247.

<sup>48</sup> *People v. Baldomar*, G.R. No. 197043, February 29, 2012, 667 SCRA 415; *People v. Milan*, G.R. No. 175926, July 6, 2011, 653 SCRA 607.

<sup>49</sup> *People v. Baldomar*, *id.*; *People v. Milan*, *id.*; *People v. Mokammad*, G.R. No. 180594, August 19, 2009, 596 SCRA 497.

All the sums of money awarded to the victims and their heirs will accrue a six percent (6%) interest *per annum* from the time of this Decision until fully paid.<sup>50</sup> It should be noted, however, that since accused Velasquez no longer interposed an appeal before the Court, his liability shall be limited to the amounts awarded by the CA, since the latter's Decision has become final and executory with respect to him.<sup>51</sup>

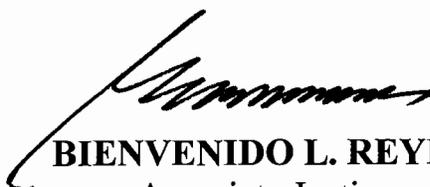
**WHEREFORE**, the Decision dated June 30, 2011 of the Court of Appeals in CA-G.R. CR-HC No. 03256 is hereby **MODIFIED** as follows:

- (1) In Criminal Case No. 00-032 for Murder, the civil indemnity in favor of the heirs of the victim Victor Benito Chua is increased to Seventy-Five Thousand Pesos (₱75,000.00); and
- (2) In Criminal Case No. 00-033 for Frustrated Murder -
  - a) Moral damages in favor of the victim Pepe A. Mendoza is increased to Forty Thousand Pesos (₱40,000.00);
  - b) The award of exemplary damages is reduced to Twenty Thousand Pesos (₱20,000.00); and
  - c) The award of civil indemnity in the amount of ₱30,000.00 is deleted.

Interest at the rate of six percent (6%) *per annum* shall be imposed on all the damages awarded, to earn from the date of the finality of this judgment until fully paid, in line with prevailing jurisprudence.<sup>52</sup>

In all other respects, the Decision of the Court of Appeals is **AFFIRMED**.

**SO ORDERED.**

  
**BIENVENIDO L. REYES**  
Associate Justice

<sup>50</sup> *People v. Domingo*, G.R. No. 184343, March 2, 2009, 580 SCRA 436, 459.

<sup>51</sup> *People v. Milan*, supra note 48, at 626.

<sup>52</sup> *People v. Cabungan*, G.R. No. 189355, January 23, 2013, 689 SCRA 236.

**WE CONCUR:**



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

*Teresita Leonardo de Castro*  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

*Lucas P. Bersamin*  
**LUCAS P. BERSAMIN**  
Associate Justice

*Martin S. Villarama, Jr.*  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution 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