



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Appellee,

G.R. No. 196005

Present:

CARPIO, *Acting C.J.*,
Chairperson,
BRION,
DEL CASTILLO,
MENDOZA, and
LEONEN, *JJ.*

- versus -

CHARLIE FIELDAD,
RYAN CORNISTA, and
EDGAR PIMENTEL,
Appellants.

Promulgated:

OCT 01 2014 *Alvin Cabalag Benguet*

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DECISION

CARPIO, *Acting C.J.*:

The Case

On appeal is the Decision¹ dated 22 October 2010 of the Court of Appeals in CA-G.R. CR-H.C. No. 03943, affirming with modification the Joint Decision² dated 3 November 2008 of the Regional Trial Court of Urdaneta City, Pangasinan (trial court) in Criminal Case Nos. U-10053, U-10054, and U-10055.

The Facts

Appellants Charlie Fieldad (Fieldad), Ryan Cornista (Cornista) and Edgar Pimentel (Pimentel) were charged in conspiracy with others for the murder of two jail guards and for carnapping.

¹ *Rollo*, pp. 2-32. Penned by Associate Justice Apolinario D. Bruselas with Associate Justices Stephen C. Cruz and Rodil V. Zalameda, concurring.

² Records, Vol. 1, pp. 194-222. Penned by Executive Judge Tita Rodriguez-Villarin.

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The Information in Criminal Case No. U-10053 reads:

The undersigned accuses JULIUS CHAN, CHARLIE FIELDAD, MIGUEL BUCCAT, JESUS GELIDO, FLORANTE LEAL, RYAN CORNISTA, EDGAR PIMENTEL, FEDERICO DELIM, JEFFREY ADVIENTO, GIL ESPEJO, RUBEN PASCUA, and ELMO MEJIA of the crime of Murder with the use of unlicensed firearm committed as follows:

That on or about March 9, 1999 in the morning inside the BJMP Compound, Anonas, Urdaneta City, and within the jurisdiction of this Honorable Court, the above-named accused being detention prisoners armed with an unlicensed firearm, with intent to kill, treachery, evident premeditation and taking advantage of superior strength, conspiring with one another did then and there wil[l]fully, unlawfully and feloniously grab, hold and shoot with said unlicensed firearm JO2 Reynaldo Gamboa inflicting upon him multiple fatal gunshot wounds which caused his instant death, thereafter, accused escaped from their detention, to the damage and prejudice of the heirs of said JO2 Reynaldo Gamboa.

CONTRARY to Article 248, Revised Penal Code, as amended by R.A. 7956 and R.A. 8294.³

The Information in Criminal Case No. U-10054 reads:

The undersigned accuses JULIUS CHAN, CHARLIE FIELDAD, MIGUEL BUCCAT, JESUS GELIDO, FLORANTE LEAL, RYAN CORNISTA, EDGAR PIMENTEL, FEDERICO DELIM, JEFFREY ADVIENTO, GIL ESPEJO, RUBEN a.k.a. Joven, and ELMO MEJIA of the crime of Murder with the use of unlicensed firearm committed as follows:

That on or about March 9, 1999 in the morning inside the BJMP Compound, Anonas, Urdaneta City, and within the jurisdiction of this Honorable Court, the above-named accused being detention prisoners armed with an unlicensed firearm, with intent to kill, treachery, evident premeditation and taking advantage of superior strength, conspiring with one another did then and there willfully, unlawfully and feloniously shoot with said unlicensed firearm JO1 JUAN BACOLOR, Jr. inflicting upon him multiple fatal gunshot wounds which caused his instant death, thereafter, accused escaped from their detention, to the damage and prejudice of the heirs of said JO1 Juan Bacolor, Jr.

CONTRARY to Article 248, Revised Penal Code, as amended by R.A. 7956 and R.A. 8294.⁴

³ Records, Vol. 2, pp. 1-2.

⁴ Records, Vol. 3, pp. 3-4.

The Information in Criminal Case No. U-10055 reads:

The undersigned accuses JULIUS CHAN, CHARLIE FIELDAD, FLORANTE LEAL, RYAN CORNISTA, EDGAR PIMENTEL, and FEDERICO DELIM of the crime of carnapping committed as follows:

That on or about March 9, 1999 at Brgy. Anonas, Urdaneta City and within the jurisdiction of this Honorable Court, the above-named accused, having just escaped from the BJMP Compound, Anonas Urdaneta, in order to expedite their escape armed with unlicensed firearm with intent to gain, conspiring with one another, did then and there wil[l]fully, unlawfully and feloniously take, steal, and carry away one (1) Tamaraw Jeep with Plate No. CDY-255 belonging to Benjamin J. Bau[z]on without the latter's knowledge and consent, which accused used as a get away vehicle.

CONTRARY to R.A. 6539, as amended.⁵

Upon arraignment, appellants pled not guilty.

Version of the Prosecution

The prosecution presented the testimonies of Jail Officer (JO) 2 Marlon Niturada, Dr. Constante Parayno, Dr. Ramon Gonzales, Jr., Senior Police Officer (SPO) 4 Ernesto Ganceña, Dionisio Badua, Police Senior Inspector Philip Campti Pucay, PO3 Jimmy Garcia, PO3 Roberto Reyes, SPO1 Joselito Sagles, Pitz Dela Cruz, PO2 Danny Torres, Police Inspector Pamfilo Regis, Police Inspector Reyland Malenab, Theresa Bacolor, Julie Gamboa, Benjamin Bauzon, JO1 Victor A. Sidayen, Warden Romeo Jacaban, SPO4 Cirilo Lagmay and Col. Theresa Ann B. Cid.

The prosecution established that at around 7:00 a.m. on 9 March 1999, JO2 Reynaldo Gamboa (JO2 Gamboa), JO1 Juan Bacolor, Jr. (JO1 Bacolor) and JO2 Marlon Niturada (JO2 Niturada) were inside the nipa hut searching area near the main gate of the district jail. JO2 Gamboa summoned inmate Dionisio Badua (Badua). JO2 Gamboa gave Badua the keys to the prison cells and instructed the latter to open all the cells for the routine headcount.

Julius Chan (Chan) went to the nipa hut to ask JO2 Gamboa regarding the time of his hearing scheduled for that day. While JO2 Gamboa and Chan were conversing, the telephone in the administration building rang. JO2 Niturada ran from the nipa hut to the administration building to answer the phone.

After the phone call, JO2 Niturada proceeded towards the basketball court. On his way there, he turned his head towards the nipa hut and saw

⁵ Records, Vol. 4, p. 1.

Chan place an arm on the shoulder of JO2 Gamboa, who was seated, and shoot the latter with a short firearm. JO2 Gamboa fell.

Meanwhile, Fieldad and Cornista grappled with JO1 Bacolor for the possession of an armalite. Cornista struck JO1 Bacolor at the back of the head, which caused the latter to fall down. Fieldad, armed with JO2 Gamboa's gun, shot JO1 Bacolor twice. Florante Leal (Leal) took the armalite from JO1 Bacolor and shot at JO2 Niturada. JO2 Niturada returned fire with his .38 caliber handgun.

Cornista opened the main gate with keys taken from JO2 Gamboa. Twelve inmates went out the main gate. After seeing the inmates run out, Badua padlocked the main gate and returned to his cell.

Once outside the jail compound, Fieldad, Leal, Cornista, and Pimentel boarded a parked Tamaraw jeep with plate number CDY-255 belonging to Benjamin Bauzon, without the latter's knowledge and consent. They picked up Federico Delim (Delim) and Chan along the way. Before they reached Asingan, Pangasinan, the group alighted from the Tamaraw jeep and transferred to a Mazda pick-up truck. When they reached San Miguel, Tarlac, the Mazda pick-up truck turned turtle. The group abandoned the vehicle and ran towards a cane field. Police authorities surrounded the cane field and arrested appellants and their companions.

Dr. Constante Parayno conducted an autopsy on the body of JO1 Bacolor, and concluded that the death was caused by shock and hemorrhage due to gunshot wound of the right lung. Dr. Parayno also testified that based on the injuries sustained by JO1 Bacolor, it was possible that the shooting was preceded by a fight between the shooter and the victim.

Dr. Ramon Gonzales, Jr. conducted an autopsy on the body of JO2 Gamboa, and concluded that the death was caused by cardiac tamponade due to the gunshot wound that damaged the heart.

Versions of Appellants

Appellants denied any criminal liability.

Fieldad's Testimony

At around 6:00 in the morning on 9 March 1999, JO2 Gamboa brought Fieldad out of his cell and ordered him to clean the administrative offices. After cleaning the offices, he was told to fix a vehicle parked inside the jail compound. He needed to prop the vehicle on a jack, but he could not find the jack handle. He went back to JO2 Gamboa, who was in the nipa hut

with JO2 Niturada and JO1 Bacolor. JO2 Gamboa told him to look for Badua. When he came back with Badua, JO2 Gamboa handed Badua the key of the jail compound. Badua went out of the compound, while Fieldad continued to look for the jack handle.

While JO2 Niturada talked to him regarding the vehicle, Fieldad noticed Elmo Mejia (Mejia) and the other inmates playing basketball. The ball rolled towards the nipa hut and Mejia went to retrieve it.

Then Fieldad heard gunshots from the direction of the nipa hut. JO2 Niturada got his gun and fired towards the nipa hut. Fieldad got nervous and took cover in the outpost. He peeped through the windows and saw Mejia pointing a firearm toward JO2 Niturada. He hid again when he heard the exchange of fire between Mejia and JO2 Niturada. He went out of the outpost when he heard people calling for help to push the parked vehicle. The vehicle did not start, and the people pushing it dispersed. Intending to return to his cell, he followed JO2 Niturada, who was proceeding towards the main building. However, JO2 Niturada pointed a gun towards him, so Fieldad ran away and took cover.

While still inside the jail compound, Leal told Fieldad that he needed the latter to go with him. Fieldad, along with other inmates, left the jail compound. He followed Leal to a Tamaraw jeep parked outside. Leal pointed a long firearm toward Fieldad, and ordered the latter to drive the vehicle. Frightened, Fieldad drove the vehicle. On their way, they picked up Delim and Chan.

Pimentel's Testimony

At around 7:30 in the morning of 9 March 1999, Pimentel was allowed to go out of his cell. He proceeded to the basketball court for the headcount. He heard two or three gunshots, but did not immediately mind it because he was used to the guards firing their guns in the morning. When he saw Leal with an armalite, running after and shooting at JO2 Niturada, Pimentel ran to a house outside the jail compound. He was afraid to go back to his cell because of the exchange of fire. Inmates were running in different directions.

Leal arrived at the place where Pimentel was hiding, and motioned to the latter by pointing his armalite downward several times. Pimentel approached Leal, who ordered him to remove the stone blocking the tire of the jeep parked near the house. Pimentel obliged. Pimentel boarded the jeep because Leal told him at gun point to do so. Fieldad drove the jeep. He did not notice who their other companions were. Along the way, they passed a parked vehicle. Leal ordered everyone to alight from the jeep, and to board the other vehicle. The vehicle turned turtle in Tarlac.

Cornista's Testimony

Cornista was 17 years old on 9 March 1999. Between 6:00 and 6:45 that morning, he was cleaning the jail compound. He was shocked and confused when he heard three rapid gunfires followed by consecutive gunfires coming from the direction of the nipa hut. JO2 Gamboa, JO1 Bacolor, Leal and Mejia were at the nipa hut. Leal was chasing JO2 Niturada, both of them armed. Then he saw the jail guards lying down. Out of fear, he ran towards the already opened main gate.

Cornista hid in a Tamaraw jeep parked behind the jail compound. Then he saw Leal, Fieldad and Pimentel board the jeep. He tried to alight but Leal threatened to shoot him if he did. Fieldad drove the Tamaraw jeep. Delim flagged the jeep down and boarded. Chan also joined them along the way. Upon seeing a parked Mazda pick up, Leal ordered Fieldad to stop the jeep and the inmates to transfer to the other vehicle. Fieldad also drove the Mazda pick up until it turned turtle in Tarlac.

The Ruling of the Trial Court

The dispositive portion of the trial court's Joint Decision reads:

WHEREFORE, in consideration of the foregoing, judgment is hereby rendered as follows:

1. In Criminal Case No. U-10053, accused Julius Chan, Charlie Fieldad and Ryan Cornista are declared GUILTY beyond reasonable doubt of the crime of MURDER and each is sentenced to suffer the penalty of RECLUSION PERPETUA. They are also ordered to pay the heirs of the deceased the amounts of Php75,000.00 as civil indemnity, Php50,000.00 as moral damages, Php25,000.00 as exemplary damages, Php47,845.00 as actual damages and Php153,028.00 for loss of earning capacity.

Accused Jesus Gelido, Edgar Pimentel, Federico Delim, Jeffrey Adviento, Miguel Buccat and Ruben Pascua are ACQUITTED for failure of the prosecution to prove their guilt.

2. In Criminal Case No. U-10054, accused Julius Chan, Charlie Fieldad and Ryan Cornista are declared GUILTY beyond reasonable doubt of the crime of MURDER and each is sentenced to suffer the penalty of RECLUSION PERPETUA. They are also ordered to pay the heirs of the deceased the amounts of Php75,000.00 as civil indemnity, Php50,000.00 as moral damages, Php25,000.00 as exemplary damages, Php87,349.45 for the actual damages, and Php178,500.00 for the loss of earning capacity.

Accused Jesus Gelido, Edgar Pimentel, Federico Delim, Jeffrey Adviento, Miguel Buccat and Ruben Pascua are ACQUITTED for failure of the prosecution to prove their guilt.

3. In Criminal Case No. U-10055, accused Charlie Fieldad, Edgar Pimentel and Ryan Cornista are declared GUILTY beyond reasonable doubt of the crime of CARNAPPING and each is sentenced to suffer imprisonment from FOURTEEN YEARS AND EIGHT MONTHS to SIXTEEN YEARS AND TWO MONTHS, and to pay nominal damages of Php15,000.00 and moral damages of Php25,000.00.

For insufficiency of evidence, accused Julius Chan and Federico Delim are ACQUITTED.

x x x x

SO ORDERED.⁶

Appeal was interposed only by Fieldad, Cornista and Pimentel since Chan had died.⁷ They assigned the following errors:

I

THE COURT A *QUO* GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANTS DESPITE THE PROSECUTION'S FAILURE TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT.

II

THE COURT A *QUO* GRAVELY ERRED IN APPRECIATING CONSPIRACY AND TREACHERY IN THE ALLEGED KILLINGS OF JO2 REYNALDO GAMBOA AND JO1 JUAN BACOLOR, JR.

III

THE COURT A *QUO* GRAVELY ERRED IN FAILING TO APPRECIATE THE MINORITY OF THE ACCUSED RYAN CORNISTA AT THE TIME THE ALLEGED CRIMES WERE COMMITTED.

IV

THE COURT A *QUO* GRAVELY ERRED IN DISREGARDING THE ACCUSED-APPELLANTS' TESTIMONIES.⁸

⁶ Records, Vol. 1, pp. 221-222.

⁷ Id. at 286-287; CA *rollo*, p. 140.

⁸ CA *rollo*, pp. 135-136.

The Ruling of the Court of Appeals

The Court of Appeals modified the decision of the trial court only with respect to the penalties imposed upon Cornista in Criminal Case Nos. U-10053 and U-10054, taking into account the privileged mitigating circumstance of minority. The dispositive portion reads:

WHEREFORE, the Joint Decision of the trial court is AFFIRMED WITH MODIFICATION as to the penalties of imprisonment imposed on Ryan Cornista in Criminal Case Nos. U-10053 and U-10054. Accordingly the penalties of reclusion perpetua imposed on him are reduced to eight (8) years and one (1) day of *prision mayor* as minimum to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal*, as maximum, per each information.

IT IS SO ORDERED.⁹

The appellate court held that “it is manifest that Cornista acted with discernment, being able to distinguish between right and wrong and knowing fully well the consequences of his acts.”¹⁰ The Court of Appeals enumerated the following acts of Cornista that clearly establish discernment:

x x x. His act of grappling for possession of an armalite with Bacolor and hitting the latter’s head clearly demonstrated his discernment. He took advantage of the situation where Fieldad was also grappling with JO1 Bacolor by striking the head of JO1 Bacolor which he obviously knew would weaken the latter’s defenses. Moreover, his act of getting the keys from JO2 Gamboa which he used in opening the main gate clearly demonstrates the idea of escape and thus established discernment on his part. Cornista, having acted with discernment may not be excused from criminal liability.¹¹

Fieldad, Cornista and Pimentel appealed from the Court of Appeals’ decision. In the interim, Cornista filed a Motion to Withdraw Appeal¹² dated 15 June 2011, which the Court granted in a Resolution¹³ dated 15 August 2011. The case became final and executory as to Cornista on 5 October 2011.¹⁴ The instant appeal thus pertains to Fieldad and Pimentel only.

Appellants and appellee adopted their respective briefs¹⁵ filed before the Court of Appeals as their supplemental briefs in this case.¹⁶

⁹ *Rollo*, p. 31.

¹⁰ *Id.* at 27.

¹¹ *Id.* at 27-28.

¹² *Id.* at 52-53.

¹³ *Id.* at 55-56.

¹⁴ *Id.* at 72.

¹⁵ CA *rollo*, pp. 133-155, 191-222.

¹⁶ *Rollo*, p. 102.

The Court's Ruling

The appeal is unmeritorious.

Nature of the Killings

Fieldad argues that there can be no treachery since “the jail guards were all issued with firearms to protect themselves from danger and to maintain peace and order within the compound.”¹⁷ This argument is untenable.

There is treachery when the offender commits any of the crimes against the person, employing means, methods, or forms in the execution thereof which tend directly and specially to insure its execution, without risk to himself arising from the defense which the offended party might take.¹⁸

In *People v. Escote, Jr.*,¹⁹ where an armed off-duty police officer was killed, we held:

x x x. There is treachery when the following essential elements are present, viz: (a) at the time of the attack, the victim was not in a position to defend himself; and (b) the accused consciously and deliberately adopted the particular means, method or form of attack employed by him. The essence of treachery is the sudden and unexpected attack by an aggressor on the unsuspecting victim, depriving the latter of any chance to defend himself and thereby ensuring its commission without risk of himself. **Treachery may also be appreciated even if the victim was warned of the danger to his life where he was defenseless and unable to flee at the time of the infliction of the *coup de grace*.** In the case at bar, the victim suffered six wounds, one on the mouth, another on the right ear, one on the shoulder, another on the right breast, one on the upper right cornea of the sternum and one above the right iliac crest. Juan and Victor were armed with handguns. They first disarmed SPO1 Manio, Jr. and then shot him even as he pleaded for dear life. When the victim was shot, he was defenseless. He was shot at close range, thus insuring his death.²⁰ (Boldfacing and underscoring supplied)

In the case of *People v. Tabaco*,²¹ treachery was appreciated in the killing of three peace officers, one of whom was armed and assigned to maintain the peace and order. They were attending an event where many armed peace officers were present to maintain peace and order. In that case, the victims were completely taken by surprise and had no means of defending themselves against the sudden attack.

¹⁷ CA rollo, p. 151.

¹⁸ Revised Penal Code, Art. 14, par. 16.

¹⁹ 448 Phil. 749 (2003).

²⁰ Id. at 786.

²¹ 336 Phil. 771 (1997).

In the instant case, despite being armed, the jail officers were not afforded any chance of defending themselves. Without warning, Fieldad and his cohorts disabled the defenses of the jail officers. Chan held the shoulder of JO2 Gamboa as he shot the latter. Meanwhile, Fieldad teamed-up with Cornista to divest JO1 Bacolor of his armalite, and to knock him down. Then Fieldad took JO2 Gamboa's gun and shot JO1 Bacolor.

Fieldad's Identity was Established

According to Fieldad, since JO2 Niturada did not identify him as a participant in the killings of JO1 Bacolor and JO2 Gamboa, his identity and complicity in the killings were not established. However, contrary to his contention, Fieldad's identity in Criminal Case Nos. U-10053 and U-10054 was proven by the prosecution. Fieldad disregarded the testimony of Badua, who categorically identified Fieldad and recounted in detail his participation in the incident:

Q What happened when you bring (sic) water to the kubo?

A At the time when I brought water to the place where (sic) the guards used to take a bath there were **persons grappling possession of the armalite**, sir.

Q With whom?

A **Charlie and Cornista, sir.**

Q You were told to fetch water, then you returned and brought the water to the place where (sic) the guards used to take a bath and **you saw Charlie and Cornista grappling with whom?**

A **Bacolor, sir.**

PROSECUTOR AMBROSIO

You are referring to Jail Guard Bacolor?

A Yes, sir.

Q Is this Charlie inside the courtroom right now?

A Yes, sir.

Q Will you please point to him, you step down?

A This one, sir. (Witness pointed (sic) and shook (sic) hand (sic) with accused and who when asked his name he answered Felmer Fieldad).

Q Is he the same Charlie you are referring to?

A Yes, sir.

COURT

Do you know Charlie?

A Yes, sir.

Q Is he in the courtroom?

A Yes, sir.

- Q You go to him, where is Charlie there?
A This one, sir. (Witness is pointing to the accused, Charlie Fieldad).

COURT

Warden what is the name?

BJMP WARDEN JACABAN

Felmer Fieldad and the nickname is Charlie, Your Honor.

PROSECUTOR AMBROSIO

How about Cornista is he inside the courtroom?

A Yes, sir.

Q Will you please point to him?

A (The witness is pointing to one of the accused who when asked his name he answered Ryan Cornista).

Q What happened next when you saw Charlie and Cornista grappling possession of the armalite of Jail Guard Bacolor?

A They struck the back of the head of Bacolor, sir.

Q Who struck the back head (sic) of Bacolor?

A Cornista, sir.

Q What happened to Bacolor when Cornista struck the back of his head?

A Bacolor fell down, sir.

x x x x

Q What happened when Gamboa was shot by Julius?

A He fell down, sir.

Q **What else happened when Gamboa fell down?**

A **They got his gun, sir.**

Q **Who got the gun of Gamboa?**

A **Charlie, sir.**

COURT

What kind of firearm?

A 9 MM, sir.

PROSECUTOR AMBROSIO

What did Charlie do with the gun taken from Gamboa?

A **Charlie shot Bacolor, sir.**

Q How many times did Charlie shoot Bacolor?

A Two (2) times, sir.²² (Emphasis supplied)

It is a settled rule that the evaluation of the credibility of witnesses and their testimonies is a matter best undertaken by the trial court because of its unique opportunity to observe the witnesses firsthand and to note their

²² TSN, 11 January 2000, pp. 8-11.

demeanor, conduct and attitude under grilling examination.²³ Positive identification of the accused is entitled to greater weight than the bare denial and explanation by the accused.²⁴

In light of the positive testimony of Badua, Fieldad's self-serving defense of denial and alibi must fail. Alibi is the weakest of all defenses, as it is easy to contrive and difficult to disprove.²⁵ True, the conviction of an accused must rest not on the weakness of the defense but on the strength of the prosecution evidence. Hence, when the prosecution evidence has firmly established the guilt of accused beyond reasonable doubt, conviction is in order.

Sufficiency of the Prosecution Evidence

Moreover, the positive identification of Fieldad by Badua is corroborated by circumstantial evidence. A careful examination of the record reveals that the following evidence establish Fieldad's active participation in the conspiracy to kill the jail guards:

1. Badua testified that Fieldad, together with Cornista, grappled with JO1 Bacolor for the possession of the latter's armalite gun, and JO1 Bacolor finally fell when Cornista struck him at back of the head;²⁶
2. Badua also testified that after Chan shot JO2 Gamboa, Fieldad took JO2 Gamboa's gun and used it to shoot JO1 Bacolor;²⁷
3. Dr. Constante F. Parayno, the medical doctor who conducted the autopsy on JO1 Bacolor, testified that because of the abrasions, the shooting of the victim may have been preceded by a fight between the victim and the shooter;²⁸
4. JO2 Niturada testified that he saw Fieldad confederating with Leal and Chan by the nipa hut before heading out the main gate;²⁹
5. JO Sidayen testified that he saw Fieldad with Leal, Chan and Cornista at the nipa hut but moments before the gun shots rang;³⁰
6. P/Insp. Pamfilo Regis testified that he took the paraffin casts³¹ of the hands of Fieldad;³² and

²³ *People v. Sapigao, Jr.*, 614 Phil. 589, 599 (2009).

²⁴ *People v. Tabaco*, 336 Phil. 771, 796 (1997).

²⁵ *People v. Visperas, Jr.*, 443 Phil. 164, 176 (2003).

²⁶ Records, Vol. 1, pp. 200-202. See also TSN, 11 January 2000, pp. 7-14.

²⁷ Id.

²⁸ Id. at 202-203. See also TSN, 10 January 2000, pp. 9-10.

²⁹ Id. at 198. See also TSN, 18 January 2000, pp. 24-25.

³⁰ Id. at 208-209. See also TSN, 21 February 2000, pp. 17-18.

³¹ Exhibits "FF" to "FF-3," Records, Vol. 6, pp. 27-30.

³² Records, Vol. 1, p. 211. See also TSN, 21 February 2000, pp. 11-16.

7. Forensic chemist Theresa Ann Bugayong-Cid testified that the paraffin test done on Fieldad's hands was positive for the presence of gun powder nitrates,³³ as contained in her report.³⁴

In addition, Fieldad failed to controvert the paraffin evidence. We note that Fieldad's counsel manifested during trial that the paraffin casting was performed without the assistance of counsel, contrary to the right of the accused.³⁵ However, all the exhibits offered by the prosecution, including the paraffin casts and test results, were admitted in the Order dated 3 March 2000.³⁶

To be sure, the taking of paraffin casts does not violate the right of the accused against self incrimination. In *People v. Gamboa*,³⁷ we held:

As to the paraffin test to which the appellant was subjected to he raises the question, under the sixth assigned error, that it was not conducted in the presence of his lawyer. This right is afforded to any person under investigation for the commission of an offense whose confession or admission may not be taken unless he is informed of his right to remain silent and to have competent and independent counsel of his own choice. **His right against self incrimination is not violated by the taking of the paraffin test of his hands. This constitutional right extends only to testimonial compulsion and not when the body of the accused is proposed to be examined** as in this case. Indeed, the paraffin test proved positively that he just recently fired a gun. Again, this kind of evidence buttresses the case of the prosecution.³⁸ (Emphasis supplied)

Conspiracy in the Killings

A conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.³⁹ Conspiracy can be inferred from and established by the acts of the accused themselves when said acts point to a joint purpose and design, concerted action and community of interest.⁴⁰ Once conspiracy is shown the act of one is the act of all the conspirators.

Contrary to his contentions, the acts of Fieldad before, during and after the attacks on JOs Bacolor, Jr. and Gamboa disclose his agreement with the joint purpose and design in the commission of the felonies. The positive testimony of Badua is corroborated by a web of circumstantial evidence that

³³ Id. at 210-211. See also TSN, 21 February 2000, pp. 6-10.

³⁴ Exhibit "CC," Records, Vol. 6, p. 18.

³⁵ TSN, 21 February 2000, p. 16. Appellants also objected to the formal offer of the paraffin evidence in their Comment on the Prosecution's Offer of Exhibits dated 20 March 2000 (Records, Vol. 2, pp. 278-279).

³⁶ Records, Vol. 2, p. 266.

³⁷ G.R. No. 91374, 25 February 1991, 194 SCRA 372.

³⁸ Id. at 382.

³⁹ Revised Penal Code, Art. 8.

⁴⁰ *People v. Durana*, 333 Phil. 148, 156 (1996).

points to no other conclusion than that Fieldad was complicit in the conspiracy to murder the jail guards.

Penalty and Damages for Murder

Since treachery qualified the killings to murder and there being no aggravating nor mitigating circumstances, the penalty of *reclusion perpetua* was properly imposed. However, it must be stated that Fieldad is not eligible for parole pursuant to Section 3 of Republic Act No. 9346 or the Act Prohibiting the Imposition of Death Penalty.

Consistent with prevailing jurisprudence, the trial court correctly ordered appellant to pay to the heirs of each deceased the amounts of ₱75,000.00 as civil indemnity and ₱50,000.00 as moral damages; however, the amount of exemplary damages must be increased to ₱30,000.00.⁴¹ Exemplary damages are recoverable due to the presence of the qualifying aggravating circumstance of treachery in the commission of the crimes.⁴²

The award of actual damages for the expenses incurred in connection with the funerals of JO2 Gamboa and JO1 Bacolor in the amounts of ₱47,845.00 and ₱87,349.45, respectively, are supported by receipts and are in order.

The trial court awarded the amounts of ₱153,028.00 and ₱178,500.00 to the heirs of JO2 Gamboa and JO1 Bacolor, respectively, for loss of earning capacity, applying the formula

$$\text{Net earning capacity} = \{2/3 \times [80 - \text{age at the time of death}] \times [\text{gross annual income} - \text{reasonable and necessary living expenses}]\}^{43}$$

However, instead of using the *annual* income, the trial court computed the net earning capacity using the *monthly* income. Hence, we multiply the amounts by twelve in order to arrive at the amounts of ₱1,836,336.00 for JO2 Gamboa and ₱2,142,000.00 for JO1 Bacolor.

Elements of Carnapping

Carnapping is the taking, with intent to gain, of a motor vehicle belonging to another without consent, or by means of violence against or intimidation of persons, or by using force upon things.⁴⁴ The elements of the crime of carnapping are that: (1) there is an actual taking of the vehicle; (2) the offender intends to gain from the taking of the vehicle; (3) the vehicle belongs to a person other than the offender himself; and (4) the taking is

⁴¹ *People v. Gunda*, G.R. No. 195525, 5 February 2014; *People v. Gonzales*, G.R. No. 195534, 13 June 2012, 672 SCRA 590, 603.

⁴² *People v. Balais*, 587 Phil. 333, 350 (2008).

⁴³ Records, Vol. 1, p. 220.

⁴⁴ Republic Act No. 6539, Sec. 2.

without the consent of the owner thereof, or it was committed by means of violence against or intimidation of persons, or by using force upon things.⁴⁵

All the elements of carnapping are present in this case. Both appellants admitted that they boarded the Tamaraw jeep and drove away in it. The owner of the vehicle, Benjamin Bauzon, testified that he did not consent to the taking of his vehicle by appellants.

Appellants argue that the testimony of the vehicle owner, Benjamin Bauzon, cannot be considered for being hearsay because he was merely informed that his Tamaraw jeep was missing.

Appellants' argument is misplaced. Bauzon had personal knowledge that when he arrived home, his Tamaraw jeep was no longer at the place where he parked it, and that he had to retrieve it from Bactad:

PROSECUTOR AMBROSIO

When you arrived in your house where a tamaraw jeep was parked what did you do?

A **The tamaraw is no longer there, sir.**

x x x x

COURT

What is the description of your tamaraw?

A Old fashioned tamaraw, sir.

PROSECUTOR AMBROSIO

What is the color of your tamaraw jeep?

A Red, sir.

Q Plate number?

A CDY 255, sir.

Q In whose name was that tamaraw jeep registered?

A In my name, sir.

Q **What did you do when you learned that your tamaraw jeep was in Bactad?**

A **Somebody told me that the tank was emptied so I went to buy gas and then I went to Bactad, sir.**

COURT

Did you leave the key?

A Yes, sir, at the ignition.

Q Is it visible?

A Yes, sir.

x x x x

COURT

Did you find your tamaraw jeep at Bactad?

A **Yes, sir.**⁴⁶ (Emphasis supplied)

⁴⁵ *People v. Roxas*, G.R. No. 172604, 17 August 2010, 628 SCRA 378, 400.

⁴⁶ TSN, 8 February 2000, pp. 11-13.

As for intent to gain, we held in *People v. Bustinera*:⁴⁷

Intent to gain or *animus lucrandi* is an internal act, presumed from the unlawful taking of the motor vehicle. Actual gain is irrelevant as the important consideration is the intent to gain. The term “gain” is not merely limited to pecuniary benefit but also includes the benefit which in any other sense may be derived or expected from the act which is performed. Thus, the mere use of the thing which was taken without the owner’s consent constitutes gain.⁴⁸

Defense of Uncontrollable Fear

To escape liability for the crime of carnapping, appellants claim that Leal forced them to take the Tamaraw jeep to facilitate his flight from jail.

Under Article 12 of the Revised Penal Code, a person is exempt from criminal liability if he acts under the impulse of an uncontrollable fear of an equal or greater injury.⁴⁹ For such defense to prosper the duress, force, fear or intimidation must be present, imminent and impending, and of such a nature as to induce a well-grounded apprehension of death or serious bodily harm if the act be done.⁵⁰ A person invoking uncontrollable fear must show that the compulsion was such that it reduced him to a mere instrument acting not only without will but against his will as well.⁵¹ It is necessary that the compulsion be of such a character as to leave no opportunity to escape or self-defense in equal combat.⁵²

In this case, appellants had ample opportunity to escape. In the first place, Leal was already armed when Fieldad voluntarily followed him to the place where the Tamaraw jeep was parked. The vehicle stopped three times: to board Delim; to board Chan; and when they stopped to transfer vehicles. In addition, according to appellants’ testimonies, only Leal was armed. The following discussion of the Court of Appeals is quoted with approval:

x x x. Considering, however, that there were five of them who boarded the Tamaraw jeep, they could have easily overpowered Leal, who was then alone, had they wanted to. Thus, there could not have been any appreciable imminent danger to their lives. In fact, they had every opportunity to escape individually. By not availing of this chance to escape, accused-appellants’ allegation of fear or duress becomes untenable.⁵³

To be believed, testimony must not only proceed from the mouth of a credible witness; it must be credible in itself such as the common experience and observation of mankind can approve as probable under the circumstance.⁵⁴ The circumstances under which appellants participated in the

⁴⁷ G.R. No. 148233, 8 June 2004, 431 SCRA 284.

⁴⁸ Id. at 296.

⁴⁹ Par. 6.

⁵⁰ *People v. Del Rosario*, 365 Phil. 292, 300 (1999).

⁵¹ *People v. Tami*, 313 Phil. 665, 703 (1995).

⁵² Id.

⁵³ *Rollo*, pp. 30-31.

⁵⁴ *People v. Serdan*, G.R. No. 87318, 2 September 1992, 213 SCRA 329, 339-340.

commission of the carnapping would not justify in any way their claim that they acted under an uncontrollable fear of being killed by their fellow carnapper. Rather, the circumstances establish the fact that appellants, in their flight from jail, consciously concurred with the other malefactors to take the Tamaraw jeep without the consent of its owner.

Penalty and Damages for Carnapping

The penalty for carnapping is provided in Section 14 of Republic Act No. 6539:

SECTION 14. *Penalty for Carnapping.* — Any person who is found guilty of carnapping, as this term is defined in Section Two of this Act, shall, irrespective of the value of motor vehicle taken, be punished by **imprisonment for not less than fourteen years and eight months and not more than seventeen years and four months, when the carnapping is committed without violence or intimidation of persons, or force upon things**; and by imprisonment for not less than seventeen years and four months and not more than thirty years, when the carnapping is committed by means of violence against or intimidation of any person, or force upon things; and the penalty of reclusion perpetua to death shall be imposed when the owner, driver or occupant of the carnapped motor vehicle is killed or raped in the course of the commission of the carnapping or on the occasion thereof. (Emphasis supplied)

In this case, the imposable penalty is imprisonment for not less than fourteen years and eight months and not more than seventeen years and four months. Under the Indeterminate Sentence Law, as applied to an offense punishable by a special law, the court shall sentence the accused to an indeterminate sentence expressed at a range whose maximum term shall not exceed the maximum fixed by the special law, and the minimum term not be less than the minimum prescribed.⁵⁵ Hence, the penalty imposed by the trial court of imprisonment from fourteen years and eight months to sixteen years and two months is in order.

The trial court awarded nominal damages in the amount of ₱15,000.00 and moral damages in the amount of ₱25,000.00 to the owner of the vehicle.

No proof of pecuniary loss is necessary in order that nominal or moral damages may be adjudicated.⁵⁶ Nominal damages are adjudicated in order that a right of the plaintiff, which has been violated or invaded by the defendant, may be vindicated or recognized, and not for the purpose of indemnifying the plaintiff for any loss suffered by him.⁵⁷ Moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury.⁵⁸

⁵⁵ *Andres v. People*, 606 Phil. 839, 844 (2009).

⁵⁶ Civil Code, Art. 2216.

⁵⁷ Civil Code, Art. 2221.

⁵⁸ Civil Code, Art. 2217.

The trial court's award of nominal damages is in order. However, we delete the award of moral damages since there was no showing that Benjamin Bauzon experienced any physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, or any similar injury.

Finally, in addition to the damages awarded in the murder cases and in the carnapping case, we also impose on all the amounts of damages an interest at the legal rate of 6% *per annum* from the date of finality of this judgment until fully paid.⁵⁹

WHEREFORE, we **DISMISS** the appeal. The Decision dated 22 October 2010 of the Court of Appeals in CA-G.R. CR-H.C. No. 03943, affirming with modification the 3 November 2008 Joint Decision of the Regional Trial Court of Urdaneta City, Pangasinan is **AFFIRMED** with the following **MODIFICATIONS**:

1. Fieldad is sentenced to suffer the penalty of *reclusion perpetua* without eligibility for parole in Criminal Case Nos. U-10053 and U-10054;
2. The award of exemplary damages in Criminal Case No. U-10053 is increased to ₱30,000.00;
3. The award of exemplary damages in Criminal Case No. U-10054 is increased to ₱30,000.00;
4. The amount of ₱153,028.00 for loss of earning capacity awarded to the heirs of JO2 Gamboa in Criminal Case No. U-10053 is increased to ₱1,836,336.00;
5. The amount of ₱178,500.00 for loss of earning capacity awarded to the heirs of JO1 Bacolor in Criminal Case No. U-10054 is increased to ₱2,142,000.00;
6. The award of moral damages in Criminal Case No. U-10055 is deleted; and
7. Interest is imposed on all the damages awarded at the legal rate of 6% *per annum* from the finality of this judgment until fully paid.

SO ORDERED.


ANTONIO T. CARPIO
Acting Chief Justice

⁵⁹ *People v. Gunda*, supra note 41; *People v. Asis*, G.R. No. 177573, 7 July 2010, 624 SCRA 509, 532.

WE CONCUR:


ARTURO D. BRION
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CARPIO
Acting Chief Justice