



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **July 3, 2023** which reads as follows:*

“G.R. No. 262628 (PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee v. ANTONIO PAWIG, JR. y RAÑOLA a.k.a. “PANDAY” AND XXX262628,¹ Accused-Appellants). – This appeal assails the Decision² dated October 18, 2021 of the Court of Appeals in CA-G.R. CR-HC No. 13909 affirming the conviction of accused-appellants Antonio Pawig, Jr. y Rañola a.k.a. “Panday” (Panday) and XXX262628 in Criminal Case No. C-77407 for Murder under Article 248 of the Revised Penal Code.

Accused-appellants Panday and XXX262628, together with YYY262628, ZZZ262628, CCC262628, and BBB262628 were charged with murder under the following Information:

Criminal Case No. C-77407

“That on or about the 3rd day of September, 2006, in ██████████, Philippines and within the jurisdiction of this Honorable Court, the said accused, all minors acting with discernment except Antonio Pawig, Jr., conspiring, together and mutually helping each other, did then and there willfully, unlawfully[,] and feloniously, with intent to kill and with qualifying aggravating circumstances of abuse of superior strength, treachery and evident premeditation, attack, assault and use personal violence upon the person of one AAA262628, a seventeen (17) years old child, by then and there mauling and stabbing the latter with bladed weapons and hitting him in the different parts of his body, thereby inflicting upon the said minor victim mortal wounds which were the direct and immediate cause of his death thereafter.

Contrary to law.”

¹ In line with the Amended Administrative Circular No. 83-2015, as mandated by Revised Penal Code, Article 266-B, No. 5 as amended by Republic Act No. 8353 in relation to Republic Act No. 7610, the names of the private offended parties, along with all other personal circumstances that may tend to establish their identities are made confidential to protect their privacy and dignity.

² *Rollo*, pp. 8-41. Penned by Associate Justice Walter S. Ong and concurred in by Associate Justices Nina G. Antonio-Valenzuela and Raymond Reynold R. Lauigan.

The case got raffled to the Regional Trial Court, Branch 124, [REDACTED].³ On arraignment, accused-appellants pleaded not guilty to the charge.⁴ On the other hand, other co-accused YYY262628, ZZZ262628, CCC262628, and BBB262628 already pleaded to the lesser offense of homicide.⁵

During the trial, the prosecution offered the testimonies of DDD262628, EEE262628, FFF262628, GGG262628, Police Investigator Alberto Eustaquio (PO2 Eustaquio), and Manila Central University (MCU) Hospital Medical Records Clerk Jonathan P. Cruz (Jonathan).⁶ On the other hand, accused-appellants testified for the defense.⁷

The Prosecution's Version

DDD262628, friend of victim AAA262628, testified that on September 2, 2006, around 11:00 p.m., she visited the house of her friend HHH262628, together with her other friend, III262628. By 11:45 p.m., she and III262628 left HHH262628's house and came across AAA262628 who was sitting at the basketball court on [REDACTED]. He (AAA262628) then walked along with DDD262628 so they could accompany III262628 in walking home.⁸

When they reached the corner of [REDACTED], she and AAA262628 decided to return to the basketball court, leaving III262628 to walk home alone. That was already 12:15 a.m. of the following day, while the two were walking towards the basketball court, six male individuals suddenly blocked their way. She knew them by their aliases: YYY262628, Panday, ZZZ262628, XXX262628, CCC262628 and BBB262628 who were later identified as the six accused (accused-appellants *et al.*) charged in the Information.⁹

While blocking their way, accused-appellants *et al.* too were poised to attack them. CCC262628 uttered, "*Tara! Tirahin na natin!*" (Let's go, let's attack him!) Then she pleaded with them, "*Huwag naman kaibigan ko yan*" (Please don't, he is my friend.) One of them replied, "*Maangas kasi yang kasama mo*" (The person with you is arrogant). Then, AAA262628 ran away towards the location of the basketball court while accused-appellants *et al.* hurriedly chased him. Moments later, CCC262628 and BBB262628 came

³ Id. at 44.

⁴ Id. at 45.

⁵ Id.

⁶ Id.

⁷ Id. at 14.

⁸ Id. at 45.

⁹ Id. at 46.

back running and went past her. She then decided to follow the direction where AAA262628 ran. When she reached the basketball court, she came across Panday and XXX262628, together with YYY262628 and ZZZ262628.¹⁰

She was informed that AAA262628 was stabbed by accused-appellant Panday and accused YYY262628.¹¹ The following day, September 4, 2006, she gave her statement to the police.¹²

FFF262628 and GGG262628, AAA262628's brother and grandfather, respectively, testified that they immediately proceeded to the MCU Hospital as soon as they heard that AAA262628 was stabbed. In the hospital, they saw AAA262628 lying on a hospital bed, drenched in blood and gasping for breath. They asked him, "*Sinong tumira sa iyo?*" (Who attacked you?). AAA262628 replied, "*YYY262628 and Panday.*" He died just a few minutes later.¹³ His Certificate of Death shows that he died of "*Hypovolemic Shock Secondary to Multiple Stab Wound.*"¹⁴

PO2 Eustaquio and Jonathan essentially corroborated the testimony of DDD262628.¹⁵

Meantime, EEE262628, AAA262628's sister, testified that as a result of the stabbing incident which caused her brother's death, their family incurred the following expenses: (1) hospital expenses in the amount of PHP 23,054.75, and (2) funeral expenses in the amount of PHP 35,000.00. All were supported by official receipts.¹⁶

Version of the Defense

Both Panday and XXX262628 interposed denial.¹⁷ Panday testified that on September 2, 2006, at 10:30 p.m., he was on his way home after work. While walking in a small alley, he passed by a group of young people having a drinking spree. He recognized some of these people as accused ZZZ262628 and (YYY262628). He was invited to join them but he turned them down and said, "*Pass muna hindi pa ako kumakain. Kagagaling ko lang sa trabaho.*" He then went home and arrived there by 11:00 p.m.. Feeling tired from work, he rested and did not leave his house anymore.¹⁸

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ Id. at 46-47.

¹⁴ Id. at 67.

¹⁵ Id. at 47-48.

¹⁶ Id. at 48.

¹⁷ Id. at 110.

¹⁸ Id. at 14.

He woke up at 7:00 a.m. the following day and went to work again. During his breaktime, he received a call from his mother telling him that he was involved in an altercation the previous night. He told his mother that he would take a half-day off to go back home as he wanted to know what was going on. When he arrived home, he was told that a certain AAA262628 died. He did not know who he (AAA262628) was as they resided in different barangays.¹⁹

On the other hand, XXX262628 testified that he was walking along [REDACTED] with his girlfriend, JJJ262628, on September 3, 2006, at 12:10 a.m. The two of them were headed to his house to tell his grandmother that he would be staying at JJJ262628's place for the night. While walking, he got startled when someone shouted his name. He looked around but he did not see the person who shouted his name. They then proceeded to JJJ262628's house. While walking, several men passed by running. He did not recognize any of them as the area was dimly lit. Meantime, they arrived at JJJ262628's house where they stayed up a bit and then rested. He woke up at 7:00 a.m. the following day. At that time, his aunt told him that the police officers were looking for him because he was involved in a killing that transpired the night before. He was advised to attend the preliminary investigation proceedings, which he did. It was only then that he learned that the person who got killed was named AAA62628.²⁰

Ruling of the Regional Trial Court

By Decision²¹ dated October 18, 2019, the trial court rendered a verdict of conviction, thus:

WHEREFORE, the Court finds accused ANTONIO PAWIG, JR. Y RAÑOLA @ PANDAY AND XXX262628 **GUILTY** of the crime of murder by proof beyond reasonable doubt. Accordingly, said accused are hereby sentenced to suffer the penalty of *reclusion perpetua*.

Further, both accused are ordered to jointly and severally pay the heirs of the victim AAA262628 the following: a) the amount of PhP 75,000.00 as civil indemnity; b) the amount of PhP 58,054.75 as actual damages; c) the amount of PhP 75,000.00 as moral damages and d) the amount of PhP 75,000.00 as exemplary damages, with interest thereon at the rate of six percent (6%) *per annum* reckoned from the finality of this Decision until fully paid.

With costs against both accused.

SO ORDERED. (Emphasis in the original)

¹⁹ Id. at 15.

²⁰ Id.

²¹ Id. at 54-82. Penned by Judge Glenda K. Cabello-Marin.

The trial court essentially ruled that all the elements of murder are present in this case.²² While DDD262628 did not actually witness the stabbing incident,²³ her testimony clearly established the series of events which supports the conclusion that accused-appellants, together with the other four co-accused, conspired with one another to kill AAA262628.²⁴ This fact was corroborated further by the respective testimonies of GGG262628 and FFF262628 on the dying declaration of AAA262628 positively identifying Panday and YYY262628 as the persons who last stabbed him minutes before he met his demise.²⁵

Too, accused-appellant *et al.* conspired with one another. Taken altogether, their concerted acts clearly show a common criminal objective to ultimately kill AAA262628.²⁶ Incidentally, the fact that they ganged up one unarmed victim, an excessive force purposely sought and employed, constitutes as abuse of superior strength which qualified the killing of AAA262628.²⁷

Ruling of the Court of Appeals

By Decision²⁸ dated October 18, 2021, the Court of Appeals in affirmed.

The Present Petition

Accused-appellants now seek affirmative relief from the Court and prays anew for their acquittal. In lieu of supplemental briefs, both accused-appellants²⁹ and Office of the Solicitor General³⁰ manifested that they were adopting their respective briefs filed before the Court of Appeals.

Our Ruling

**The prosecution proved
all the elements of murder
to a moral certainty**

Article 248 of the Revised Penal Code defines and penalizes murder, *viz.:*

²² Id. at 61.

²³ Id. at 65.

²⁴ Id. at 66.

²⁵ Id.

²⁶ Id. at 67–68.

²⁷ Id. at 70.

²⁸ Id. at 8–41.

²⁹ *Manifestation (In Lieu of Supplemental Brief) dated April 11, 2023.*

³⁰ *Manifestation and Motion (In Lieu of Supplemental Brief) dated March 3, 2023.*

Article 248. Murder. - Any person who, not falling within the provisions of Article 246, shall kill another, shall be guilty of murder and shall be punished by *reclusion perpetua* to death if committed with any of the following attendant circumstances:

1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity;

To sustain a verdict of conviction, the prosecution must establish the following elements: (1) a person was killed; (2) the accused killed him; (3) the killing was attended by any of the qualifying circumstances mentioned in Article 248 of the Revised Penal Code; and (4) the killing is not parricide or infanticide.³¹

The first and fourth elements — A person was killed and the killing is not parricide or infanticide

The presence of the first and fourth elements here is undisputed. AAA262628 was killed and per his Certificate of Death, he died of “*Hypovolemic Shock Secondary to Multiple Stab Wound.*” The killing is not parricide, since it was not alleged nor proved that AAA262628 is a legitimate spouse of any of the accused, or any legitimate or illegitimate parent, child, ascendant or descendant of the accused-appellants, or infanticide since AAA262628 was 17 years old at the time of the incident.³²

The second element — both accused-appellants killed the victim

While there is no direct evidence showing that both accused-appellants killed AAA262628, their culpability for the death of AAA262628 was nonetheless established to a moral certainty by circumstantial evidence.³³ To sustain a conviction based thereon, the following requisites must be present: (i) there is more than one circumstance; (ii) the facts from which the inferences are derived are proven; and (iii) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt. Circumstantial evidence may be characterized as that evidence that proves a fact or series of facts from which the facts in issue may be established by inference.³⁴

³¹ *People v. Bendecio*, G.R. No. 235016, September 8, 2020 [Per J. Lazaro-Javier, First Division].

³² *Rollo*, p. 51.

³³ *People v. Bertoldo, Sr.*, G.R. No. 251920 (Notice), January 5, 2022.

³⁴ *Id.*

As ruled by the courts below, the following circumstances surrounding the September 3, 2006 incident demonstrate an unbroken chain of facts which establish accused-appellants' culpability beyond reasonable doubt:

1. Around 11:00 p.m. of September 2, 2006, DDD262628 visited the house of her friend HHH262628, together with her other friend, III262628. Fifteen minutes later, they left HHH262628's house and came across AAA262628 who was sitting at the basketball court on [REDACTED]. He (AAA262628) then walked along with DDD262628 so they could accompany III262628 going home;
2. At 12:15 a.m. the next day, or on September 3, 2006, AAA262628 and DDD262628 were blocked by accused-appellants *et al.* while they were walking towards the basketball court;
3. CCC262628 then uttered, "*Tara! Tirahin na natin!*" (Let's go, let's attack him!) DDD262628 tried to calm CCC262628 down, saying "*Huwag naman kaibigan ko yan*" (Please don't, he is my friend.) One of them though replied, "*Maangas kasi yang kasama mo*" (The person with you is arrogant);
4. The imminent commotion prompted AAA262628 to escape towards the location of the basketball court while accused-appellants *et al.* hurriedly chased him;
5. Few minutes thereafter, accused CCC262628 and BBB262628 came back running and went past DDD262628;
6. When DDD262628 proceeded to go to the direction where AAA262628 ran, she likewise came across appellants Panday and XXX262628, together with accused YYY262628 and ZZZ262628;
7. Meantime, AAA262628 was rushed to the MCU Hospital due to stab wounds;
8. While AAA262628 was lying in a hospital bed, drenched in blood and gasping for breath, FFF262628 and GGG262628, AAA262628's brother and grandfather, respectively, asked him, "*Sinong tumira sa iyo?*" (Who attacked you?). AAA262628 replied, "*YYY262628 and Panday.*" He died a few minutes later;
9. AAA262628's death was later on declared under Certificate of Death which showed that he died of "*Hypovolemic Shock Secondary to Multiple Stab Wound,*" and;

10. DDD262628 was informed that AAA262628 was stabbed by accused-appellant Panday and accused YYY262628. The next day, September 4, 2006, she decided to give her statement to the police about the incident.

Altogether, the surrounding circumstances, as testified to by DDD262628, and as corroborated by FFF262628 and GGG262628, lead to a series of facts which prove that accused-appellants, indeed, was the perpetrator of the felony. The combination of all the circumstances was such as to produce a conviction beyond reasonable doubt. To be sure, these testimonies were given credence by both the trial court and appellate court as clear and credible testimonies from disinterested witnesses with no ill-motive to testify against accused-appellants.³⁵ As consistently ruled by this Court, the trial court's factual findings carry great weight and respect especially when sustained by the Court of Appeals, as here. This is so because trial courts are in the best position to ascertain and measure the sincerity and spontaneity of witnesses through their actual observation of the witnesses' manner of testifying, their demeanor and behavior in court.³⁶ Against the positive testimony of DDD262628 as a disinterested witness, therefore, both accused-appellants' bare and unsubstantiated denial should thus fail.³⁷

As for AAA262628's dying declaration, settled is the rule that while witnesses in general can only testify to facts derived from their own perception, a report in open court of a dying person's declaration is recognized as an exception to the rule against hearsay if it is "made under the consciousness of an impending death that is the subject of inquiry in the case." It is considered as "evidence of the highest order and is entitled to utmost credence since no person aware of his impending death would make a careless and false accusation."³⁸

Here, AAA262628 was lying on a hospital bed, drenched in blood and gasping for breath, and appears to be under a consciousness of impending death when he revealed who stabbed him. FFF262628 and GGG262628 asked him, "*Sinong tumira sa iyo?*" (Who attacked you?) to which AAA262628 categorically replied, "*YYY262628 and Panday.*" He died just few minutes thereafter.

The fact that AAA262628 only identified accused-appellant Panday and accused YYY262628 as the ones who stabbed him, we nevertheless ordain that in view of the presence of conspiracy between and among accused-

³⁵ See *People v. Espiritu*, G.R. No. 212168 (Notice), December 9, 2020.

³⁶ *People v. Agalot*, G.R. No. 220884, February 21, 2018 [Per J. Martires. Third Division].

³⁷ *People v. Espiritu*, G.R. No. 212168 (Notice), December 9, 2020.

³⁸ *People v. Llamado*, G.R. No. 219862 (Notice), February 10, 2021.

appellants and their co-accused, the act of one is the act of all. Consequently, accused-appellants Panday and XXX262628, as well as co-accused YYY262628, ZZZ262628, CCC262628, and BBB262628 are equally liable for the murder of the victim.

The fourth element — the killing was attended by the qualifying circumstance of abuse of superior strength

Jurisprudence dictates that for abuse of superior strength to be appreciated, the evidence must show that the assailants consciously sought the advantage, or that they had the deliberate intent to use this advantage. To take advantage of superior strength means to purposely use force excessively out of proportion to the means of defense available to the person attacked. The appreciation of this aggravating circumstance depends on the age, size, and strength of the parties.³⁹

Here, there was conscious intent to take advantage of the collective force of accused-appellants and their co-accused as they abruptly confronted and blocked AAA262628 and DDD262628 in the middle of night. They deliberately divided themselves into smaller groups to accomplish their criminal purpose, which was to kill AAA262628, despite his earlier attempt to run away. As testified to by DDD262628, after AAA262628 tried to save himself by running away, accused-appellants and their co-accused followed him. Moments later, she walked to the basketball court where she saw AAA262628 heading to earlier. Then she got informed that AAA262628 got stabbed. Moments later, she came across accused-appellants and their co-accused in two separate groups. First, she met the tandem of CCC262628 and BBB262628 and then accused-appellants Panday and XXX262628, together with accused YYY262628 and ZZZ262628. Against six fully grown male adults, their force was grossly disproportionate to that of AAA262628 as a mere 17-year old minor.

Penalty and Damages

The courts below correctly imposed the penalty of *reclusion perpetua*. The awards of civil indemnity, moral damages and exemplary damages of PHP 75,000.00 each are likewise in order being consistent with *People v. Jugueta*.⁴⁰ The award of actual damages in the amount PHP 58,054.75 is also proper in view of the supporting official receipts.⁴¹

³⁹ *People v. Cerilo y Fuentes*, G.R. No. 243013 (Notice), July 7, 2021.

⁴⁰ 783 Phil. 806 (2016) [Per J. Peralta, *En Banc*].

⁴¹ *Bohoi v. People*, G.R. No. 241415 (Notice), January 10, 2019.

All these monetary awards shall earn 6% interest per annum from finality of this Resolution until fully paid.

The Court **NOTES** the compliance dated May 31, 2023 by the Public Attorney's Office with the Resolution dated March 20, 2023, stating that it filed a manifestation (in lieu of supplemental brief) on April 12, 2023, and praying that the said manifestation be considered in lieu of a supplemental brief in compliance with the Resolutions dated January 23, 2023 and March 20, 2023.

FOR THESE REASONS, the appeal is **DENIED**. The Decision dated October 18, 2021 of the Court of Appeals in CA-G.R. CR-HC No. 13909 is **AFFIRMED**.

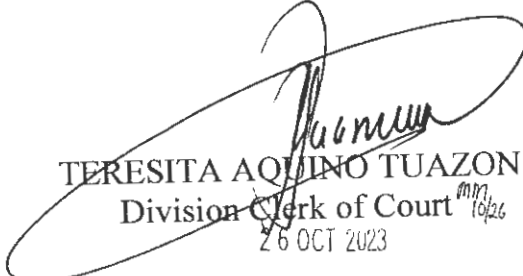
Accused-appellants Antonio Pawig, Jr. y Rañola a.k.a "Panday" and XXX262628 are found **GUILTY** of **MURDER** and sentenced to *reclusion perpetua*. They are further ordered to jointly and severally **PAY** the heirs of AAA262628 the following:

- (a) **PHP 75,000.00** as civil indemnity;
- (b) **PHP 75,000.00** as moral damages;
- (c) **PHP 75,000.00** as exemplary damages; and
- (d) **PHP 58,054.75** as actual damages.

These amounts shall earn 6% interest per annum from finality of this Resolution until fully paid.

SO ORDERED." (Lopez, J., *J.* on leave)

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court ^{mm} 10/26
26 OCT 2023

OFFICE OF THE SOLICITOR GENERAL (reg)
134 Amorsolo Street
1229 Legaspi Village
Makati City

PUBLIC ATTORNEY'S OFFICE (reg)
Special & Appealed Cases Service
Department of Justice
PAO-DOJ Agencies Building
NIA Road corner East Avenue
1104 Diliman, Quezon City

ANTONIO PAWIG, JR. y RAÑOLA a.k.a PANDAY (reg)
Accused-Appellant
c/o The Director
Bureau of Corrections
1770 Muntinlupa City

XXX262628 (reg)
Prison No. N219P-5314
Accused-Appellant
c/o The Director
Bureau of Corrections
1770 Muntinlupa City

THE DIRECTOR (reg)
Bureau of Corrections
1770 Muntinlupa City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 124
[REDACTED]
(Crim. Case No. C-77407)

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Supreme Court, Manila

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Supreme Court, Manila

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. CR-HC No. 13909

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