

PIB



SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE  
**RECEIVED**  
JUL 07 2020  
BY: HENRY  
TIME: 8:35 AM

Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION  
NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated February 5, 2020 which reads as follows:*

**“G.R. No. 234162 – PEOPLE OF THE PHILIPPINES, plaintiff-appellee, versus JOMAR CORNEL, MOISES CARDAÑO and FIVE JOHN DOES, accused; JOMAR CORNEL, accused-appellant.**

After a careful review of the records of the case and the issues submitted by the parties, the Court finds that the Special Second Division of the Court of Appeals (CA) in CA-G.R. CR-HC No. 07637 did not err in promulgating its Decision<sup>1</sup> dated November 17, 2016. The facts sufficiently support the conclusion that accused-appellant Jomar Cornel (the accused) is indeed guilty of the crimes charged. The issues and matters raised before the Court, the same ones already raised in the CA, there being no supplemental briefs filed, were sufficiently addressed and correctly ruled upon by the CA.

It is well-settled that in the absence of facts or circumstances of weight and substance that would affect the result of the case, appellate courts will not overturn the factual findings of the trial court.<sup>2</sup> After examining the records of the instant case, the Court finds no cogent reason to vacate the Regional Trial Court’s (RTC) appreciation of the evidence, which was affirmed by the CA.

The accused argues, among others, that the CA erred in ruling that: (1) the accused’s guilt was proven beyond reasonable doubt on the basis of circumstantial evidence; (2) the prosecution was able to establish the existence of a conspiracy; and (3) abuse of superior strength attended the commission of the crime. **These arguments lack merit.**

<sup>1</sup> Rollo, pp. 2-37. Penned by Associate Justice Priscilla J. Baltazar-Padilla and concurred in by Associate Justices Leoncia R. Dimagiba and Socorro B. Inting.  
<sup>2</sup> *People v. Gerola*, 813 Phil. 1055, 1064 (2017).

*First*, although there were no eyewitnesses to the actual killing of Roberto Pagdagdagan (Pagdagdagan), the clear and consistent testimonies of Renato Q. Peralta (Renato), Norlito B. Quiped (Norlito), Manuel B. Realubit, and Arnulfo B. Postrado on the collateral facts of the crime, prove beyond reasonable doubt that the accused and his other co-conspirators committed the crimes charged. It bears emphasis that direct evidence is not indispensable for conviction in criminal cases and that circumstantial evidence may be enough to support a court's decision of guilt. In *People v. Pentecostes*,<sup>3</sup> the Court explained:

Direct evidence of the commission of a crime is not indispensable to criminal prosecutions; a contrary rule would render convictions virtually impossible given that most crimes, by their very nature, are purposely committed in seclusion and away from eyewitnesses. Thus, our rules on evidence and jurisprudence allow the conviction of an accused through circumstantial evidence alone, provided that the following requisites concur:

- (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.

Simply put, an accused may be convicted when the circumstances established form an unbroken chain leading to one fair reasonable conclusion and pointing to the accused — to the exclusion of all others — as the guilty person.<sup>4</sup>

In the instant case, the Court agrees with the CA and the RTC that the following circumstances lead to no other conclusion than that the accused is guilty of the murder of Pagdagdagan and the attempted murder of Renato and Norlito:

1. Pagdagdagan, Renato, Norlito, *et al.* (Norlito's group), were walking along the riprap to the highway in Brgy. Basag;<sup>5</sup>
2. While walking, Norlito's group saw a group of 5 unknown persons waiting by a streetlight;<sup>6</sup>
3. Moises Cardaño and the accused ran towards the 5 unknown persons (the accused's group) and the latter shouted "ayo na, ayo na" (here they come, here they come);<sup>7</sup>

<sup>3</sup> G.R. No. 226158, November 8, 2017, 844 SCRA 610.

<sup>4</sup> *Id.* at 619-620.

<sup>5</sup> *Rollo*, pp. 10-29.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

4. Immediately thereafter, accused's group began shooting at Norlito's group;<sup>8</sup>
5. The accused's group continued to pursue and to shoot at Norlito's group as the latter ran to safety;<sup>9</sup>
6. Renato sustained a gunshot wound to his right arm but was able to escape with the rest of Norlito's group, who proceeded to Norlito's house to hide;<sup>10</sup>
7. Members of Norlito's group testified that they heard the assailants say: 1) "Payata akong bala ta dana ako" (give me [a] bullet, I ran out of it) and 2) "Palibutan ang baloy" (surround the house, they are just down here).<sup>11</sup>
8. While hiding, Norlito's group realized that Pagdagdagan was no longer with them;<sup>12</sup>
9. The next day, Pagdagdagan was found dead in a farm, with a towel in his mouth, and with his hands tied behind his back;<sup>13</sup>
10. The autopsy report indicated that Pagdagdagan suffered a gunshot wound to his head, an abrasion on his eyelid, and lacerations on his upper lip and pinna. Abrasions on both arms indicated that Pagdagdagan's hands were tied;<sup>14</sup>
11. After the incident, the accused curiously left for Manila. Further, while he was residing at his parents' house at the time of the incident, he was already residing at the house of his in-laws at the time of arrest.<sup>15</sup>
12. The accused never claimed nor proved that the prosecution witnesses were prompted by malice or ill-motive to falsely accuse him of the crimes charged.<sup>16</sup>

*Second*, the Court agrees with the CA and the RTC that the prosecution established the existence of a conspiracy to commit the crimes charged. The CA correctly held that the assault on Pagdagdagan, Renato, Norlito, *et al.*, was a product of concerted planning and collective efforts. The Court notes that 1) one or some or all of the members of the accused's group were armed and were waiting for Norlito's group;<sup>17</sup> 2) the concerted

---

<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> Id.

<sup>13</sup> Id. at 31.

<sup>14</sup> Id. at 104.

<sup>15</sup> Id. at 121-122.

<sup>16</sup> Id. at 29.

<sup>17</sup> *Supra* note 5.

attack began when the accused shouted “ayo na, ayo na;”<sup>18</sup> 3) in immediate response to accused’s alert, accused’s group attacked, shot at, and pursued Norlito’s group;<sup>19</sup> 4) while Norlito’s group was in hiding, they overheard one of the conspirators ask for a spare bullet and give order to surround the house they were hiding in.<sup>20</sup> These unequivocally prove that the accused and his companions “were animated by the same criminal purpose and were united in their execution, or where the acts of the malefactors indicate a concurrence of sentiments, a joint purpose and a concerted action.”<sup>21</sup>

*Finally*, the Court finds that the CA and the RTC were correct in appreciating the presence of abuse of superior strength. Case law holds that “[t]here is abuse of superior strength when the aggressors purposely use excessive force rendering the victim unable to defend himself. The notorious inequality of forces creates an unfair advantage for the aggressor.”<sup>22</sup>

As regards Pagdagdagan’s *murder*, the autopsy report and the state in which his body was found indicate that the accused’s group used excessive force in the killing of Pagdagdagan. To reiterate, Pagdagdagan was found dead in a farm, with a towel in his mouth, and with his hands tied behind his back.<sup>23</sup> Further, the Autopsy Report stated that Pagdagdagan suffered a gunshot wound to the head, an abrasion on his eyelid, and lacerations on his upper lip and pinna.<sup>24</sup> That Pagdagdagan’s arms were tied behind his back despite the fact that the assailant and/or assailants was/were armed sufficiently proves beyond reasonable doubt that the killing was attended by the qualifying circumstance of abuse of superior strength.

As regards Norlito’s and Renato’s *attempted murder*, the Court notes that when the assault occurred, one, some, or all of the seven members of the accused’s group were armed while none of the five members of Norlito’s group was armed. Further, the evidence shows that the accused’s group carefully planned the assault and took Norlito’s group completely by surprise, creating an unfair advantage for the aggressors.<sup>25</sup>

However, the Court finds it proper to modify the penalty imposed by the RTC, as modified by the CA in accordance with prevailing jurisprudence<sup>26</sup> as follows:

---

<sup>18</sup> Id.

<sup>19</sup> Id. at 32.

<sup>20</sup> Supra note 5.

<sup>21</sup> *People v. Pilpa*, G.R. No. 225336, September 5, 2018.

<sup>22</sup> *People v. Nazareno*, 698 Phil. 187, 194 (2012).

<sup>23</sup> Supra note 13.

<sup>24</sup> Supra note 14.

<sup>25</sup> Supra note 5.

<sup>26</sup> *People v. Jugueta*, 783 Phil. 806 (2016).

For the murder of Pagdagdagan, the accused is hereby ordered to pay his heirs: ₱75,000.00 as civil indemnity; ₱75,000.00 as moral damages; ₱75,000.00 as exemplary damages; and ₱50,000.00 as temperate damages.

For the attempted murder of Renato Peralta, the accused is hereby ordered to pay ₱25,000.00 as civil indemnity; ₱25,000.00 as moral damages; and ₱25,000.00 as exemplary damages.

For the attempted murder of Norlito Quiped, the accused is hereby ordered to pay ₱25,000.00 as civil indemnity; ₱25,000.00 as moral damages; and ₱25,000.00 as exemplary damages.

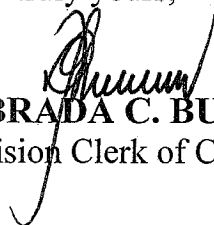
The foregoing amounts shall be subject to the interest rate of six percent (6%) *per annum* from the finality of this Resolution until fully paid.

**WHEREFORE**, premises considered, the appeal is **DISMISSED** for lack of merit. The Court hereby **ADOPTS** the findings of fact and conclusions of law in the Decision dated November 17, 2016 of the Special Second Division of the Court of Appeals in CA-G.R. CR-HC No. 07637. The Decision finding accused-appellant Jomar Cornel guilty beyond reasonable for one count of Murder and two counts of Attempted Murder under Article 248 of the Revised Penal Code, as amended, is **AFFIRMED** with **MODIFICATION** as follows:

1. In Criminal Case No. 5423, the accused-appellant is hereby ordered to pay the **HEIRS of ROBERTO PAGDAGDAGAN**: ₱75,000.00 as civil indemnity; ₱75,000.00 as moral damages; ₱75,000.00 as exemplary damages; and ₱50,000.00 as temperate damages.
2. In Criminal Case No. 5433, the accused-appellant is hereby ordered to pay **RENATO PERALTA**: ₱25,000.00 as civil indemnity; ₱25,000.00 as moral damages; and ₱25,000.00 as exemplary damages.
3. In Criminal Case No. 6149, the accused-appellant is hereby ordered to pay **NORLITO QUIPED**: ₱25,000.00 as civil indemnity; ₱25,000.00 as moral damages; and ₱25,000.00 as exemplary damages.
4. All monetary awards shall earn interest at the legal rate of six percent (6%) *per annum* from the finality of this Resolution until fully paid.

**SO ORDERED.”**

Very truly yours,

  
**LIBRADA C. BUENA**  
Division Clerk of Court *ff/11*

**112**

The Solicitor General  
Makati City

The Director General  
Bureau of Corrections  
1770 Muntinlupa City

Public Information Office (x)  
Library Services (x)  
Supreme Court  
(For uploading pursuant to A.M. No. 12-  
7-1-SC)

Judgment Division (x)  
Supreme Court

Court of Appeals (x)  
Manila  
(CA-G.R. CR HC No. 07637)

Public Attorney's Office  
Counsel for Accused-Appellant  
Special and Appealed Cases Service  
DOJ Agencies Building  
Diliman 1101 Quezon City

Jomar Cornel  
Accused-Appellant  
c/o The Director General  
Bureau of Corrections  
1770 Muntinlupa City

The Presiding Judge  
Regional Trial Court, Branch 12  
4504 Ligao City  
(Crim. Case Nos. 5423, 5433 and 6149)

UR

