

## FOURTEENTH DIVISION

[ CA-G.R. H.C. CR NO. 01944, October 25, 2006 ]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. PEDRO PABLO, JR., ALIAS "INGGO" OR "DOMINGO", GERRY PABLO Y DELFIN ALIAS "GERRY", NONATO DANA O ALIAS "PANONG PABLO" AND EDWIN TRABUNCON Y GATARQUE ALIAS "DWIN", ACCUSED-APPELLANTS.**

### DECISION

**REYES, B., J.:**

This is an appeal from the decision rendered by the Regional Trial Court of Quezon City (Branch 77) dated April 25, 2000 convicting herein accused-appellants Pedro Pablo, Jr. and Nonato Danao, together with another malefactor of three counts of murder and one count of attempted murder. The decretal text of the impugned decision reads thus:

"WHEREFORE, premises considered, the guilt of accused Pedro Pablo, Jr., alias "Domingo or Inggo", and accused Nonato Danao, alias "Panong Pablo", in all the instant cases having been proven beyond reasonable doubt, they are both convicted of all the charges against them, and are hereby meted the following penalties:

1. In Criminal Case No. Q-94-53476 – the penalty of reclusion perpetua;
2. In Criminal Case No. Q-94-53477 – the penalty of ONE (1) YEAR AND EIGHT (8) MONTHS of prision correctional, as minimum, and up to SIX (6) YEARS AND TWO (2) MONTHS of prision mayor, as maximum;
3. In Criminal Case No. Q-94-53478 - the penalty of reclusion perpetua;
4. In Criminal Case No. Q-94-53479 - the penalty of reclusion perpetua

And since a person criminally liable for an offense is also civilly liable, accused Pedro Pablo, Jr. and accused Nonato Danao are hereby directed to indemnify the heirs of Domingo Loveres, Lucita Loveres and Robert Loveres in the sum of P100,000.00 for their death and to pay them P60,000.00 by way of actual damages.

Accused Gerry Pablo is hereby acquitted of all the charges against him." (**Rollo, p. 70**)

The facts, according to the prosecution, are as follows:

On March 8, 1992, between four to five in the afternoon, prosecution witness Jocelyn Loveres Cabigon saw Pedro Pablo, Jr., Nonato Danao, Gerry Pablo, Danilo Pablo, Edwin Trabuncon, Nicolas Compra, and others having a drinking session in front of the house of accused-appellant Pedro Pablo, Jr. Around 7:45 in the evening of the same day, the said prosecution witness together with Lucita Loveres, Robert Loveres, Edgar Loveres, Alma Loveres, and Aida Gertos were taking their supper in their house located at No. 5 Tampis St., Area 9, Luzon Ave., Quezon City. At that time, Domingo Loveres was resting in one of the rooms. While eating, they heard accused-appellant Nonato Danao calling the name of Lucita Loveres. Lucita Loveres, Edgar Loveres and Jocelyn Cabigon went out of their house to know what accused-appellant Nonato Danao wanted. The latter was with Pedro Pablo, Jr., Gerry Pablo, Edwin Trabuncon, Danilo Pablo, Nicolas Compra and a certain Rencio. The three accused-appellants Nonato Danao, Gerry Pablo and Pedro Pablo, Jr. were armed with bladed weapons and a gun. Accused-appellant Nonato Danao ordered Lucita Loveres to produce the person causing them trouble, and when Lucita Loveres answered that nobody was

causing him trouble, accused-appellant Nonato Danao shot Lucita Loveres, hitting her on her neck. Edgar Loveres tried to carry her mother but he was hacked by accused-appellant Pedro Pablo, Jr. on the arm and was hit by Edwin Trabuncon with a wood. Edgar Loveres left his mother and ran inside their house using the back door. Jocelyn Loveres-Cabigon, upon seeing her brother run inside their house, pulled her mother Lucita near the window of their house and shouted for help. Aida Gertos, Robert Loveres and Domingo Loveres rushed out of their house. Upon seeing Domingo Loveres and Roberto Loveres, the three accused-appellants and their companions held the hands of Domingo and Robert Loveres and dragged them towards the house of accused-appellant Pedro Pablo, Jr. Upon seeing her father and her brother being dragged, Jocelyn Loveres-Cabigon followed them. When the group was already in front of the house of Edwin Trabuncon, the rest of the group stabbed and hacked her father Domingo and brother Robert. Jocelyn Loveres-Cabigon shouted "tama na, tama na", but her pleas were unheeded. Jocelyn Loveres-Cabigon tried to pull her father but accused-appellant Nonato Danao poked a gun at her and told her not to touch the dead bodies of her siblings if she wished to remain alive, so Jocelyn Loveres-Cabigon retreated and went back to their house with her two arms raised (**TSN, August 29, 1995, pp. 3-22**).

Aida Gertos, with the help of her nephews, brought Lucita Loveres to the Philippine Heart Center but she was pronounced dead on arrival. Likewise, Domingo Loveres and Robert Loveres died because of the multiple wounds they suffered from the hands of their assailants.

Jocelyn Loveres-Cabigon, Edgar Loveres, and Aida Gertos also testified that the names of Nonato Danao, Renato Danao and Panong Pablo refer to one and the same person. As for the accused-appellant Pedro Pablo, Jr. is also known in their place as Domingo or Inggo.

The defense countered the prosecution's statement of facts in the following wise:

According to the witnesses for the defense, on March 8, 1992 at around 7:45 in the evening, Domingo, Edgar, Robert, all surnamed Loveres together with Maximo and Edwin Trabuncon and other construction workers were having a drinking spree. As testified to by defense witness Enrique dela Villa, he heard all of a sudden Renato Danao shouting. The latter came out to the street and fired a gun, aimed supposedly at Maximo Trabuncon, but which hit Lucita Loveres because the latter blocked the shot. On the other hand, Pedro Pablo, Jr., who was then standing in front of his store, ran towards their compound. He testified that accused-appellant Renato Danao was not the one who shot Lucita. Renato, allegedly, is known in their place as Nonie. Renato and Renato Danao are not one and the same person (*TSN, January 25, 1999, pp. 3-27*).

Meanwhile, both accused-appellants insisted that they were someplace else during the time that the crime was being committed. Accused-appellant Renato Danao, a jeepney driver plying the route Cubao-Divisoria, testified that on March 8, 1992 as early as six in the morning, he left their place to get his passenger vehicle at San Juan. From there, he plied his usual route until nine in the evening. Thereafter, he returned the jeepney and went home. He arrived at his house at around ten in the evening, after which he ate supper and slept. Accused-appellant Renato Danao said that he only learned of the killing when he got home. According to him, he and Renato Danao are not the same person, although the latter claimed that they are relatives. He is known by the name Nonie while Renato was known as Panong. The latter lived in the house of a neighbor named Rencio (*TSN, February 18, 1999, pp. 58-78*). Accused-appellant Renato Danao's wife, Edith, corroborated her husband's statement. According to her, at the time of the killing, her husband was not yet home. That evening, when she bought vetsin at the store, she saw the Loveres family having a drinking spree. When got back to her house, she heard that a killing happened. Frightened, she closed the window of their house. She also testified that her husband is known as "Nonie" and not "Panong" (*ibid, pp. 2-32*).

As for accused-appellant Pedro Pablo, Jr., he claimed that he is a driver and that on March 8, 1992, he went home early because his jeepney broke down. He rested for a while before he fetched water at the back of Maximo Trabuncon's house. On his way, he met Maximo having a drinking spree with Edgar, Domingo, Robert, all surnamed Loveres, and some other construction workers in the yard of the Loveres family. Maximo allegedly told the accused-appellant not to pass again or else his face will be smashed. He returned home and saw Edwin Trabuncon sitting in their store. He told Edwin, " Edwin, wala bang ibang makursunadahan ang tiyo ninyo kundi tayong magkakapitbahay". Edwin then confronted his uncle Maximo and accused-appellant Pedro Pablo, Jr., who was twenty meters away, saw Maximo push Edwin. The latter shouted back at his uncle. Thereafter, accused-appellant Pedro Pablo, Jr. saw Panong Redford come out of his house and conversed with Rencio, Yoyong, Popong and Edwin. On the other hand, Maximo continued shouting, going in and out of their yard. This irritated Renato Danao and told Maximo to stop. Edwin tried to push Maximo towards the house and Domingo and Edgar Loveres intervened. A commotion then started and Lucita came out and told them, "Tomorrow, we will just talk about these things". Suddenly, Maximo held Lucita's right shoulder and rushed toward Renato. Renato then shot Maximo, but the latter used Lucita as a shield. Thus, it was Lucita who got hit by the bullet. Upon seeing Lucita fall to the ground, the Loveres rushed towards their mother. He tried to help Lucita but Maximo's drinking buddies rushed to the scene armed with knives and bottles. Thereafter, Domingo, Edgar, Robert, Maximo and the other construction

workers pursued Edwin and Renato Danao who fled towards the back of accused-appellant Pedro Pablo, Jr.'s house. Maximo and his companions were able to catch up on Edwin and Renato. A rumble then ensued. According to the accused-appellant, he went and stayed in Cainta for some time at the house of his sister-in-law. This is because he was told that Maximo intended to take revenge against the Pablo family. The accused-appellant further denied having joined the rumble. Also, he insisted that he was not "Domingo Pablo" or "Inggo" (**December 28, 1998, pp. 4-61**).

Consequently, the accused-appellants were charged under four separate informations, save for the accused Edwin Trabuncon who was not impleaded in Crim. Case. No. Q-94-53477. The delictual allegations respectively read as follows:

"Crim. Case No. Q-94-53476:

That on or about the 8th day of March, 1992, in Quezon City, Philippines, the above-named accused, conspiring together, confederating with Danilo Pablo y Malunes, and Nicolas Compra y Fernandez, accused in Crim. Case No. 92-29831, pending before Regional Trial Court, Branch 107, Quezon City, and mutually helping one another, did then and there, willfully, unlawfully and feloniously, with intent to kill, qualified by evident premeditation with the use of superior strength and treachery, assault, attack and employ personal violence upon the person of one ROBERT LOVERES Y GERTOS, by then and there stabbing and hacking him with knives and boloes, hitting him on the different parts of his body, thereby inflicting upon him serious and mortal wounds which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of ROBERT LOVERES Y GERTOS.

CONTRARY TO LAW." (**Rollo, p. 21**)

"Crim. Case No. Q-94-53477:

That on or about the 8th day of March, 1992, in Quezon City, Philippines, the above-named accused, conspiring together, confederating with Danilo Pablo y Malunes, and Nicolas Compra y Fernandez, accused in Crim. Case No. 92-29833, who were previously charged with the same offense at the Regional Trial Court Branch 107, Quezon City, and mutually helping one another, did then and there, willfully, unlawfully and feloniously, with intent to kill, qualified by evident premeditation with the use of superior strength commence the commission of the crime of murder directly by overt acts upon the person of EDGAR LOVERES Y GERTOS, by then and there stabbing and hacking him with bladed weapon, hitting him on the body, however, said accused did not perform all the acts of execution which would produce the crime of murder by reason of some cause or accident other than their own spontaneous desistance, to the damage and prejudice of the said offended party.

CONTRARY TO LAW." (**Id., p.23**)

"Crim. Case No. Q-94-53478:

That on or about the 8<sup>th</sup> day of March, 1992, in Quezon City, Philippines, the above-named accused, conspiring together, confederating with Danilo

Pablo y Malunes, and Nicolas Compra y Fernandez, accused in Crim. Case No. 92-29830, pending before Regional Trial Court Branch 107, Quezon City, and mutually helping one another, did then and there, willfully, unlawfully and feloniously, with intent to kill, qualified by evident premeditation with the use of superior strength and treachery, assault, attack and employ personal violence upon the person of one DOMINGO LOVERES Y GERVOSO, by then and there stabbing and hacking him with knives and boloes, hitting him on the different parts of his body, thereby inflicting upon him serious and mortal wounds which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of DOMINGO LOVERES Y GERVOSO.

CONTRARY TO LAW." (*Id.*, p. 25)

"Crim. Case No. Q-94-53479:

That on or about the 8<sup>th</sup> day of March, 1992, in Quezon City, Philippines, the above-named accused, conspiring together, confederating with Danilo Pablo y Malunes, and Nicolas Compra y Fernandez and Edwin Trabuncon y Gataque, accused in Crim. Case No. 92-29832, pending before Regional Trial Court Branch 107, Quezon City, and mutually helping one another, did then and there willfully, unlawfully and feloniously, with intent to kill, qualified by evident premeditation with the use of superior strength and treachery, assault, attack and employ personal violence upon the person of one LUCITA GERTOS DE LOVERES, by then and there shooting her with a gun, hitting her on her body, thereby inflicting upon her serious and mortal wounds which were the direct and immediate cause of his death, to the damage and prejudice of the heirs of LUCITA GERTOS DE LOVERES.

CONTRARY TO LAW." (*Id.*, p. 27)

On May 27, 1997, the trial court granted the prosecution's motion to amend the information in Criminal Case No. Q-96-53477. Accused Edwin Trabuncon was not charged under said information, it appearing from the resolution dated June 17, 1984 that he had been previously charged with the same offense by the City Prosecutor. Hence, Edwin Trabuncon is not an appellant in this case (*Records, p. 106*).

During arraignment, the accused-appellants all entered negative pleas. As elsewhere stated in this decision, the trial court eventually found the accused-appellants guilty as charged. A motion was filed to have the said adverse judgment reconsidered, to no avail since the court *a quo* stood pat on its decision.

This case was previously elevated the case before the Supreme Court via ordinary appeal. In the light however of the High Court's ruling in the case of *People vs. Mateo (GR Nos. 147678-87, July 7, 2004)*, the present controversy was transferred the Court of Appeals for intermediate review. The accused-appellants raised the following issues in support of their prayer for acquittal: