

SECOND DIVISION

[G. R. Nos. 120394-97, January 16, 2001]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
DANILO PABLO Y MALUNES @ DANNY, NICOLAS COMPRA Y
FERNANDEZ @ NICO, EDWIN TRABUNCON Y GATAGUE @ EDWIN,
ACCUSED-APPELLANTS.**

DECISION

DE LEON, JR., J.:

Before us is an appeal from the Decision^[1] of the Regional Trial Court of the National Capital Judicial Region, Branch 107, Quezon City convicting accused-appellants Danilo Pablo, Nicolas Compra and Edwin Trabuncon of three (3) counts of murder and one count of attempted murder, and sentencing them to suffer the penalty of *reclusion perpetua* and prision mayor, respectively.

Appellants were charged with said crimes in four separate Informations. The Information in Criminal Case No. Q-92-29830 reads:

That on or about the 8th day of March, 1992, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating with other persons, 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 bolos 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, in such amount as may be awarded under the provisions of the Civil Code.

CONTRARY TO LAW.^[2]

Similar Informations were filed with the same court against appellants for the murder of Robert Loveres y Gertos^[3] and Lucita Gertos De Loveres,^[4] and for the attempted murder of Edgar Loveres y Gertos,^[5] inasmuch as the crimes charged occurred during the same incident. However, treachery was not alleged in the Information charging appellants of the crime of attempted murder of Edgar Loveres.

When arraigned, appellants Danilo Pablo, Nicolas Compra^[6] and Edwin Trabuncon^[7] pleaded not guilty. Thereafter, joint trial of these cases ensued.

The prosecution established that on March 8, 1992, at around 7:45 in the evening,

Lucita Loveres and her children, Jocelyn, Edgar, Alma and Robert, were eating supper in their house at No. 5 Tambis Street, Area 9, Pasong Tamo, Tandang Sora, Quezon City. The sister of Lucita, Aida Gertos, who was staying with them, was also there. Lucita's husband, Domingo Loveres, was then sleeping. Then they heard Renato "Panong" Danao call from outside, "Manang." Lucita Loveres went out accompanied by her children, Jocelyn and Edgar, while Aida Gertos stood outside the door of the house. Outside their gate, they saw Panong, appellant Danilo Pablo, appellant Nicolas Compra, one Rencio, appellant Edwin Trabuncon, Inggo Pablo, Jerry Trabuncon, one Redford and their other companions. Inggo Pablo held a bolo; Panong held a gun; Rencio and Jerry Trabuncon each held a knife; appellant Edwin Trabuncon held a piece of wood; appellant Danilo Pablo held a knife; and appellant Nicolas Compra held a bolo. Lucita stood by the gate of their house while Edgar and Jocelyn stood beside her. Panong asked Lucita to let the troublemaker come out ("*Palabasin ang nanggugulo*"). Lucita replied that there was nobody making trouble ("*Walang nanggugulo dito*"). Suddenly, Panong shot her with his gun hitting her in the neck. Edgar and Jocelyn who were just beside their mother witnessed the incident. Panong just stared at them. When Edgar lifted his mother, Inggo Pablo stabbed him, and Edwin Trabuncon hit him on his left forearm with a piece of wood. Appellant Danilo Pablo was an "alalay" or aide of Panong and was holding a knife, while appellant Nicolas Compra was holding a bolo. When Edgar Loveres was hit by appellant Edwin Trabuncon on the forearm, he ran towards their house, and stood by the window. In the meantime, Jocelyn embraced her mother, Lucita, and pulled her away from the gate to the front of their house where Lucita fell. Then Jocelyn saw her father, Domingo, awakened by the commotion, come out of the house. She ran towards him, but the group of Panong, Domingo Pablo, Rencio, appellant Edwin Trabuncon, appellant Danilo Pablo, appellant Nicolas Compra and other companions dragged her father towards the house of Inggo Pablo, which was five meters away from their house, separated only by a street. Robert Loveres, who followed his father, was likewise dragged by the same group. When they were in front of the house of Inggo Pablo, the group, including the appellants, helped one another stab, hack and kill Domingo and Robert Loveres. Appellant Nicolas Compra held Robert's right upper arm when he was stabbed by the brother of Renato Pablo, appellants Danilo Pablo and Edwin Trabuncon and was released after he was hacked at the neck. The incident was witnessed by Edgar Loveres who watched from their window, and Jocelyn Loveres, who followed her father and who was only an arm's length away from him and her brother when they were stabbed. There was a fluorescent light at the corner where the incident happened.^[8]

After the incident, the group of assailants fled together with their families in a stainless jeepney. Edgar Loveres left through their back door and went to Fort Bonifacio where he sought the help of his uncle Godofredo Borja. He was brought to the Rizal Medical Center in Pasig, Metro Manila where he was treated. A medical certificate dated March 17, 1992^[9] showed the following findings: "Incised wound, distal third, distal phalanx, 2nd digit, right hand; Abrasion, medial aspect, F/3 post. forearm, left, sec. to stabbing." In the meantime, Aida Gertos, who also witnessed the incident, brought Lucita Loveres to the Philippine Heart Center where she died.^[10]

PO3 Roberto Cristobal, together with other police officers, arrived at the crime scene and saw the dead bodies of Domingo and Robert Loveres sprawled on the ground, in front of the house of Domingo Pablo. The relatives of the victims were not there as

they were in the hospital. They talked with the neighbors of the victims and Domingo Pablo. Nobody wanted to get involved for fear of getting killed because the suspects were allegedly notorious.^[11]

From the crime scene, PO3 Cristobal proceeded to the Philippine Heart Center where he found one of the victims and Jocelyn Loveres. Jocelyn told him that Panong Pablo, Domingo Pablo and other persons whose names she did not know were the ones who killed her parents and brother. He brought her to the police station where, at about 11:45 that night, she gave her statement.^[12]

Thereafter, Danilo Pablo was arrested while he was walking at Pier 14, North Harbor, Manila.^[13] Nicolas Compra was later arrested at Meralco, Karuhatan, Valenzuela.^[14] They were brought to Police Station 2 in Quezon City on different occasions, and PO3 Cristobal conducted a custodial investigation. Jocelyn and Edgar Loveres who were invited to identify the suspects gave additional statements relative to the incident.^[15] On April 1, 1992, Edwin Trabuncon was arrested by PO3 Cristobal in Iloilo City when he was identified by Aida Gertos while they were on board a jeepney bound for Antique.^[16] On April 3, 1992, PO3 Cristobal conducted an investigation. Jocelyn and Edgar Loveres identified Edwin Trabuncon as one of those who killed their parents and brother. They gave their statements in writing.^[17]

On March 9, 1992, Medico-legal Officer Dario Gajardo conducted an autopsy of the bodies of the victims, Domingo, Lucita and Robert Loveres, and prepared the corresponding medico-legal reports and certificates of death. The cause of death of Domingo Loveres was cardio-respiratory arrest due to shock and hemorrhage secondary to stab and hacked wounds in the body.^[18] Domingo Loveres sustained 10 wounds—four (4) stab wounds, one (1) hacked wound, one (1) incised wound, and several abrasions on the body.^[19] Dr. Gajardo testified that stab wounds nos. 3 and 4^[20] located at the right and left mammary region and the hacked wound were serious enough to cause Domingo's death.^[21] A pointed single-bladed instrument was used in the stab wounds, while a sharp and heavy instrument was used in the hacked wound.^[22] With the type of wounds sustained, there could have been three assailants. Assuming that the victim and assailant were on the same level, the assailant was in front of the victim when stab wound no. 2 was inflicted; while assailant was in front, a little bit on the right of the victim when stab wound no. 3 was inflicted; and the assailant was in front of the victim when he inflicted stab wound no. 4. However, he could not determine the relative positions of the victim and assailant in stab wound no. 7.^[23]

The death of Robert Loveres was caused by cardio-respiratory arrest due to shock and hemorrhage secondary to stab and hacked wounds in the neck and trunk.^[24] Said victim sustained 11 wounds—three (3) stab wounds, one (1) hacked wound, two (2) incised wounds, three (3) contusions and multiple abrasions on the body.^[25] Dr. Gajardo declared that the hacked wound on the neck ^[26]and the stab wound^[27] at the right lumbar region were serious wounds that could have caused the victim's death.^[28] More than one weapon was used in inflicting the wounds, and there were possibly three assailants.^[29]

The death of Lucita Loveres was caused by cardio-respiratory arrest due to shock and hemorrhage secondary to gunshot wound in the trunk.^[30] The bullet entered above Lucita's clavicle, a little bit on the left, and exited at the upper outer quadrant of her back.^[31] No slug was recovered from the body of the victim.^[32]

Due to the incident, Aida Gertos and the relatives of the victims spent P1,010.60 for medicines;^[33] P18,500.00 for the funeral services;^[34] P300.00 for the mass;^[35] and P7,500.00 as burial expenses,^[36] totaling P27,310.60.

On the other hand, accused-appellants denied that they were involved in the killing of Domingo, Lucita and Robert Loveres, and gave different versions for their defense.

Appellant Edwin Trabuncon testified that on March 8, 1992, at around 7:30 in the evening, he was beside the house of Domingo "Inggo" Pablo with his friend Popong telling stories. Inggo passed by and asked permission to fetch water. When he returned, he was very angry because Max Trabuncon allegedly uttered unsavory words to him. Inggo then entered the house of Renato "Panong" Danao. Inggo and Panong returned and told him not to let his uncle go out because they were going to kill him, adding that whoever would come out from the house would also be included. Panong also threatened to kill him if he would interfere. Then he saw his uncle Max Trabuncon go out of the gate, so he ran and pulled him back to their house. His uncle resisted because he was very drunk, so he pushed him inside the house, after which he heard a gunshot. Then he heard Jocelyn Loveres shouting for help. He ran toward her and saw her helping her mother. He approached them but Renato Danao poked a gun at his head. He ran away and heard two gunshots which he felt were meant for him. Together with Panong were Inggo, who held a bolo; Popong and Panong's brother Laloy, who held a piece of wood and a knife; and Laloy's companion, who came from the province, held a bolo. Popong, Laloy and his companion were Inggo's nephews. He did not see Nicolas Compra and Danilo Pablo at that time.^[37]

The following morning, March 9, 1992, he went to his sister in Novaliches, and in the evening, he proceeded to his sister in Sta. Ana. He asked for fare to Antique because he was afraid of Panong's threats. His sister Judy gave him P600.00. He arrived in Antique on March 12, 1992.^[38]

On April 1, 1992, while in a bus terminal in Molo, Iloilo, he was arrested by PO3 Cristobal, together with a police companion and Aida Gertos. He was brought to Precinct 2, Quezon City where he met Nicolas Compra for the first time. There was no grudge between him and the Loveres family. He is a nephew of Lucita Loveres.^[39]

Appellant Danilo Pablo testified that he has been staying with Dominguito Suplito at Area 8, 92 Parola, Tondo, Manila for three years. On March 8, 1992, he was driving Suplito's passenger jeepney as an extra driver plying the route between Cubao, Divisoria and North Harbor. On that day, he worked from 5:00 o'clock in the morning to 10:00 o'clock in the evening.^[40]

On March 15, 1992, at around 5:00 o'clock in the afternoon, while calling for

passengers at Pier 14, he was arrested by Patrolman Lanuza and his companions without a warrant of arrest. They tied his hands with his belt, blindfolded him and put him inside their vehicle. When they arrived at the police precinct, they mauled and beat him up.^[41]

Danilo Pablo said that he does not know Domingo, Lucita and Robert Loveres. He saw Jocelyn Loveres for the first time while he was in a police line-up on March 17, 1992 at about 6:00 o'clock in the evening at the precinct, but she did not point at him as one of those who killed her parents and brother. During the second police line-up on March 18, 1992, Jocelyn Loveres likewise did not point at him. She only pointed at him, Nicolas Compra and Esteban Orquia during the third police line-up on March 19, 1992 after she and PO3 Cristobal talked in the office.^[42]

He met Nicolas Compra for the first time in the precinct. He does not know Domingo "Inggo" Pablo and denied that he resided in Inggo's house. He also denied participation in the killing of Domingo and Robert Loveres.^[43]

Corroborating Danilo Pablo's testimony, Oscar Badango, a "*kumpadre*" of Danilo Pablo's friend, testified that at the time of the incident on March 8, 1992, he allowed Danilo Pablo to drive the passenger jeepney assigned to him. Danilo Pablo drove the jeepney from 5:00 o'clock in the morning to 7:00 o'clock in the evening when he turned over the boundary to him (Oscar Badango). Then Danilo Pablo proceeded to drive until 11:00 o'clock in the evening plying the route between Cubao and Divisoria.^[44]

Felin Suplito declared that on March 8, 1992, Danilo Pablo, her nephew, was living with her. At 6:00 o'clock in the morning of said date, he drove the same passenger jeepney that her son Zaldy Suplito used to drive, and arrived home at 7:00 o'clock in the evening. Thereafter, he slept and did not leave the house.^[45]

Appellant Nicolas Compra testified that he was a passenger jeepney driver plying the route between Cubao and Divisoria. On March 8, 1992, a Sunday, at about 3:00 o'clock in the afternoon, he was outside his house at 6158 Mercado Street, Gen. de Leon, Valenzuela, Metro Manila drinking beer with his brother-in-law Nedy Arpon, Willie Arpon, Noel Arpon, Monching Castillo, Melvin Casas and others. He never left the place except when he urinated. They consumed four cases of beer. When they stopped drinking at 9:00 o'clock in the evening, he was very drunk and his wife assisted him in going home because he could hardly walk. When he reached home, he slept. The following day, he woke up at 7:00 o'clock in the morning and later went with his jeepney operator to the Land Transportation Office.^[46]

On March 16, 1992, at 2:00 o'clock in the morning, while their family was sleeping, PO3 Roberto Cristobal, Carlito Villanueva, Rodelio Recto and their other companions arrested him without any warrant of arrest. They brought him to Station 2; his wife went with him.^[47]

Compra declared that on March 8, 1992 and prior thereto, he never met any member of the Loveres family. He saw Jocelyn Loveres for the first time on March 17, 1992 at the precinct while he was in a police line-up together with Danilo Pablo, but Jocelyn did not point at him. During the second police line-up on March 18,