



Republic of the Philippines
Supreme Court
 Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-appellee,

G.R. No. 261972

Present:

- versus -

LEONEN,
 LAZARO-JAVIER,
 LOPEZ, M.,
 LOPEZ, J., and
 KHO, Jr.,

**MARK ANGELO CONCEPCION y
 BACUÑO,**
 Accused-appellant.

Promulgated:
AUG 23 2023

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DECISION

LOPEZ, J., J.:

This Court resolves an Appeal¹ assailing the Decision² of the Court of Appeals (CA) in CA-G.R. CR-HC No. 14486, which affirmed with modification the judgment³ of conviction of the Regional Trial Court (RTC) in Criminal Case No. 17040, finding Mark Angelo Concepcion y Bacuño (Concepcion) guilty beyond reasonable doubt of the crime of murder, in relation to Republic Act No. 7610.

The instant case stemmed from an Information⁴ charging Concepcion with the crime of murder, in relation to Republic Act No. 7610, the accusatory portion of which reads:

That on or about 11:00 in the morning of October 15, 2015, at [REDACTED]

¹ Rollo, pp. 3-7.

² *Id.* at 9-41. The November 11, 2021 Decision in CA-G.R. CR-HC No. 14486 was penned by Associate Justice Rafael Antonio M. Santos and concurred in by Associate Justices Ramon M. Bato, Jr. and Angelene Mary W. Quimpo-Sale of the Fourth Division, Court of Appeals, Manila.

³ *Id.* at 43-50. The September 18, 2019 Decision in Criminal Case No. 17040 was penned by Judge Winston S. Racoma of Branch 39, Regional Trial Court, [REDACTED].

⁴ Records, pp. 1-4.

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Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to kill and with treachery, while armed with a bladed weapon (*bolo*), did, then and there, willfully, unlawfully[,] and feloniously attack, assault and hack one [AAA261972], one year and seven months old, a minor, having been born on March 12, 2014, inflicting upon the latter hacked wound on his head, thereby resulting to his instantaneous death, to the damage and prejudice of the heirs of the victim.

CONTRARY TO LAW.⁵

During the arraignment, Concepcion pleaded “not guilty” to the crime charged.⁶ Pre-trial was conducted and thereafter, trial on the merits ensued.

The prosecution narrated that on October 15, 2015, at around 11:00 a.m., while EEE261972, mother of herein victim AAA261972,* minor, was cooking food, and her children were playing at the balcony of her mother’s house nearby, BBB261972 came running inside their house and was shouting that he was hacked in the head.⁷ Concepcion suddenly arrived and pushed them inside their house while uttering “*Ano, EEE261972, Ano, EEE261972!*”⁸ Then, Concepcion suddenly hacked her five times on the head while she was protecting BBB261972.⁹ Concepcion stopped and went to his mother’s house next door. EEE261972 followed Concepcion and found her other children, CCC261972 and AAA261972 lying on the floor unconscious and covered in blood. She carried CCC261972, while a neighbor, Bebing Ila (Bebing), lifted AAA261972, and they brought the children to the hospital.¹⁰

Bebing also took the witness stand and testified that she had to attend to AAA261972’s wounds with a towel as blood and white fluid therefrom were oozing. She assisted EEE261972 in taking the children to the hospital whereby she carried AAA261972 while EEE261972 carried CCC261972. She said that AAA261972 was still breathing when she carried him, but he passed away at around 1:00 p.m.¹¹

The prosecution also presented Police Officer III Ferdinand Barcedo (PO3 Barcedo) who testified that while he and a certain PO2 Deloso and PO1 Dayaon were on their way to Camp [REDACTED] on October 15, 2015, they saw a crowd of people who were gathered by the roadside of [REDACTED]. He said that a woman was rushing to them and was crying for help because her daughter and grandchildren were hacked. Then, they saw Concepcion carrying a *bolo*. The woman pointed to Concepcion as the one who hacked her daughter and grandchildren. PO3 Barcedo and his

⁵ *Id.* at 1.

⁶ *Id.* at 51. Certificate of Arraignment dated March 28, 2017; *id.* at 49. Order dated March 28, 2017.

* In line with Amended Administrative Circular No. 83-2015, as mandated by Republic Act No. 7610, the name of the private offended party, along with all other personal circumstances that may tend to establish his/her identities, are made confidential to protect his/her privacy and dignity.

⁷ *Rollo*, p. 11.

⁸ *Id.*

⁹ *Id.* at 12.

¹⁰ *Id.*

¹¹ *Id.*

companions chased Concepcion who threw the *bolo* away and ran through an alley and entered a house. PO3 Barcedo, together with his companions and some barangay officials gathered around the house and convinced Concepcion to surrender. The latter eventually heeded. PO3 Barcedo arrested Concepcion and took possession of the *bolo* which was stained with blood and pieces of hair. He then marked it with his initials "FTB" and turned it over to the investigator at the Municipal Police Station in ██████.¹²

On the part of the defense, Dr. Lalyn Irene Marzan y Delos Reyes (Dr. Marzan) was presented to prove Concepcion's medical condition. They put up the defense of "insanity"¹³ and presented the medical history of Concepcion through Dr. Marzan.¹⁴

In its Decision,¹⁵ the RTC found Concepcion guilty of the crime of murder, in relation to Republic Act No. 7610. The dispositive portion of the Decision reads:

WHEREFORE, foregoing premises considered, the accused, MARK ANGELO CONCEPCION y BACUÑO, is hereby found GUILTY beyond reasonable doubt of the crime of MURDER in relation to R.A. 7610 for the death of [AAA261972].

He is sentenced to suffer the penalty of *Reclusion Perpetua*. The period of his preventive detention shall be credited to his service of the sentence.

The accused is further ordered to pay the heirs of [AAA261972] the following amounts: One Hundred Thousand Pesos (Php100,000.00) as civil indemnity for the death of the victim and One Hundred Thousand Pesos (Php100,000.00) as moral damages.

SO ORDERED.¹⁶

The RTC found that the prosecution proved all the elements of the crime of murder and established that Concepcion was the one who hacked AAA261972, a toddler who could not possibly resist or even evade any attack against his person by an armed grown male.¹⁷ It stressed that when Concepcion invoked the defense of insanity, he was deemed to have admitted the commission of the crime of murder as its nature is one of confession and avoidance.¹⁸ Citing the case of *People v. Bacolot*,¹⁹ it ruled that the court could not second-guess whether Concepcion was insane at the time the crime was

¹² *Id.* at 12–13.

¹³ Revised Penal Code, art. 12, par. 1 states:

Article 12. *Circumstances which exempt from criminal liability.* — the following are exempt from criminal liability:

1. An imbecile or an insane person, unless the latter has acted during a lucid interval.

¹⁴ *Id.* at 18–19.

¹⁵ *Id.* at 43–50.

¹⁶ *Id.* at 50.

¹⁷ *CA rollo*, p. 60.

¹⁸ *Id.* at 61.

¹⁹ 841 Phil. 989 (2018) [Per J. Caguioa, Second Division].

committed. Lastly, the RTC also found that the qualifying circumstance of treachery was sufficiently proven by the prosecution.²⁰

Aggrieved, Concepcion elevated the case to the CA, which affirmed²¹ the RTC Decision with modification, the dispositive portion of which reads:

WHEREFORE, the appeal is DENIED for lack of merit. The *Decision* dated 18 September 2019 rendered by Branch 39 of the Regional Trial Court of █████, Camarines Norte in Criminal Case No. 17040 finding accused-appellant Mark Angelo Concepcion guilty beyond reasonable doubt of the crime of Murder in relation to Republic Act No. 7610 is hereby AFFIRMED with the MODIFICATION that accused-appellant Mark Angelo Concepcion is hereby ORDERED to pay the heirs of [AAA261972], the amount of: (a) [PHP] 75,000.00 as civil indemnity for the death of the said victim; and (b) [PHP] 75,000.00 as moral damages; and (c) [PHP] 75,000.00 as exemplary damages.

SO ORDERED.²²

The CA ruled that Concepcion failed to overcome the presumption of sanity,²³ and found that the circumstantial evidence presented in the trial court sufficiently proved, beyond reasonable doubt, the guilt of Concepcion for the crime charged.²⁴ However, as to the penalty imposed by the trial court, it ruled that the award of damages should be modified.²⁵

Hence, this appeal.

In an October 17, 2022 Resolution, this Court notified the parties that they may submit their respective supplemental briefs, if they so desired.²⁶ In its Manifestation (in lieu of Supplemental Brief),²⁷ the Office of the Solicitor General (OSG) manifested that it would no longer file a supplemental brief alleging that the legal issues and arguments were already exhaustively discussed in its Appellee's Brief.²⁸ On the other hand, Concepcion, through the Public Attorney's Office, averred in his Manifestation (in lieu of Supplemental Brief)²⁹ that he was adopting his Appellant's Brief³⁰ as his supplemental brief.

In his Appellant's Brief,³¹ Concepcion claimed that (a) the courts below gravely erred in ruling for his conviction despite allegedly proving that the

²⁰ CA rollo, p. 63.

²¹ Rollo, pp. 9-41.

²² *Id.* at 40.

²³ *Id.* at 30.

²⁴ *Id.* at 39.

²⁵ *Id.*

²⁶ *Id.* at 51.

²⁷ *Id.* at 52-56.

²⁸ CA rollo, pp. 70-90.

²⁹ Rollo, pp. 57-61.

³⁰ CA rollo, pp. 32-56.

³¹ *Id.*

exempting circumstance of insanity was satisfactorily established; and (b) the prosecution insufficiently proved his guilt on the basis of circumstantial evidence.³²

On the contrary, in its Appellee's Brief,³³ the OSG argued that (a) the proof proffered by Concepcion is insufficient to sustain the defense of insanity; (b) the evidence presented by the prosecution sufficiently establishes Concepcion's guilt beyond reasonable doubt; and (c) treachery exists when Concepcion committed the murder as charged.³⁴

Issues

I.

Whether the CA erred in affirming the RTC for not giving probative weight to Mark Angelo Concepcion's defense of insanity; and

II.

Whether the CA erred in affirming the RTC in finding Mark Angelo Concepcion guilty of the crime of murder in relation to Republic Act No. 7610 based on circumstantial evidence.

This Court's Ruling

The Appeal must fail.

It is not disputed that it was Concepcion who killed AAA261972. The core of the controversy in this case is whether Concepcion, at the time of the commission of the crime, was insane, and, thus, is exempted from criminal liability.

Article 12, paragraph 1, of the Revised Penal Code provides that:

Article 12. *Circumstances which exempt from criminal liability.* — The following are exempt from criminal liability:

1. An imbecile or an insane person, unless the latter has acted during a lucid interval.

When the imbecile or an insane person has committed an act which the law defines as a felony (*delito*), the court shall order his confinement in one of the hospitals or asylums established for persons thus afflicted, which he shall not be permitted to leave without first obtaining the permission of the same court.

³² *Id.* at 40, 49.

³³ *Id.* at 70-90.

³⁴ *Id.* at 77.

It is a rule that anyone who pleads the exempting circumstance of insanity bears the burden of proving it with clear and convincing evidence.³⁵

Further, it is stress-worthy that insanity, as a defense, is in the nature of confession and avoidance.³⁶ Hence, an accused invoking insanity admits having committed the crime charged, but claims that he or she is not guilty thereof by reason of insanity.³⁷ In *People v. Paña*,³⁸ this Court thoroughly discussed the nature of insanity as an exempting circumstance. Citing *People v. Madarang*,³⁹ We ruled that:

The *complete deprivation of intelligence* must be manifested at the time 'preceding the act under prosecution or to the very moment of its execution.' Thus, courts admit evidence or proof of insanity which relate to the time *immediately before, during, or after the commission of the offense*. In *People v. Dungo*:

Evidence of insanity must have reference to the mental condition of the person whose sanity is in issue, at the very time of doing the act which is the subject of inquiry. However, it is permissible to receive evidence of his mental condition for a reasonable period both before and after the time of the act in question.

*Because our current rule requires complete deprivation of intelligence, the slightest sign of reason before, during, or after the commission of the crime instantly overthrows the insanity defense.*⁴⁰ (Emphasis supplied, citations omitted)

Therefore, for the defense of insanity to prosper, the following elements must be present: (1) the accused's insanity constitutes a complete deprivation of intelligence, reason, or discernment; and (2) such insanity existed at the time of, or immediately preceding, the commission of the crime.⁴¹

This Court further noted:

Insanity, as an exempting circumstance, must be shown medically, unless there are extraordinary circumstances and there is no other evidence available. Our procedural rules allow ordinary witnesses to testify on the 'mental sanity of a person with whom [they are] sufficiently acquainted,' but reports and evaluation from medical experts have greater evidentiary value in determining an accused's mental state. The nature and degree of an accused's mental illness can be best identified by medical experts equipped with specialized knowledge to diagnose a person's mental health.⁴²

³⁵ *People v. Tibon*, 636 Phil. 521, 530 (2010) [Per J. Velasco, Jr., First Division]. (Citations omitted)

³⁶ *People v. Yam-id*, 368 Phil. 131, 138 (1999) [Per J. Melo, *En Banc*].

³⁷ *CA rollo*, p. 61.

³⁸ 890 Phil. 533 (2020) [Per J. Leonen, *En Banc*].

³⁹ 387 Phil. 846 (2019) [Per J. Puno, First Division].

⁴⁰ *Supra* note 38, at 560.

⁴¹ *People v. Pantoja*, 821 Phil. 1052, 1061–1062 (2017) [Per J. Martires, Third Division].

⁴² *Supra* note 38, at 569.

The records reveal that Concepcion relied on the testimony of Dr. Marzan, its sole defense witness, who testified that he was suffering from a mental illness equivalent to insanity. In her testimony, she explained that Concepcion was first diagnosed with psychosis in relation to methamphetamine use sometime in May 2013, and was eventually diagnosed with schizophrenia. She further explained that depending on the regularity of consultations and medications, there could be periods of exacerbation and remission. In her testimony, she stated that after Concepcion's confinement at the Institute of Mental Health in May 2013, she saw improvement in his mental state. He was deemed to be in a period of remission and was declared competent to stand the rigors of trial. As testified to by Dr. Marzan:

[ATTY. TAYO]: Now, Madam Witness, again tell us what was your findings regarding the mental condition of the accused on March 11, 2014?

[DR. MARZAN]: He was being treated with the case of psychosis since May 2013 and the time I made the report he was under medication and was assessed to have been in improve (sic) state, meaning he is in period of remission, sir.

Q: Period of?

A: Remission, sir, and that time he was competent to stand trial.

Q: Now, from the time of March 11, 2014, when was the second time that you saw him?

A: He was brought regularly in our institution every other two (2) months and the last was August of this year, sir.

Q: So, on October 15, 2015[,] did you say that the accused is suffering from the same condition you first diagnosed he is suffering?

A: As he is being treated first with psychosis because of methamphetamine use the symptoms of psychosis should subside during or after the use but in the case of patient there was continued presence of psychosis that's why from then he was being treated as a case of schizophrenia or . . . sir, up to the last time he consulted of August of this year.

.....

Q: Now, you said that Mark Angelo Concepcion is competent the (sic) rigors of trial despite of suffering from Schizophrenia, why would you say this doctor?

A: He was competent because he is improve stage (sic), meaning he is already on the remission state.

Q: What again is the remission state?

A: Symptom free.

Q: And what is the reason of that, doctor?

A: The medication, sir.⁴³

On cross-examination, Dr. Marzan explained that while schizophrenia is an incurable chronic mental disorder, the medications, however, target its

⁴³ TSN, September 18, 2018, pp. 14-16.

symptoms. Thus, in remission stage, the symptoms are abated. She reiterated that Concepcion was in a period of remission ever since he was brought to the institute in 2014 and had been on a regular check-up for every two months. When asked if it was possible that the symptoms of schizophrenia were not present on the day of the commission of the crime charged, Dr. Marzan answered that since Concepcion did not have any consultation from May 2014, it was possible that he had not taken medications which could have led to exacerbation. However, it is noteworthy that Dr. Marzan also admitted that she had no knowledge if Concepcion was brought to another mental health facility within such period. As testified to by Dr. Marzan:

[PROS. CU]: When you are suffering from schizophrenia[,] is that effect which you just said[,] is that continuous or in a daily basis?

[DR. MARZAN]: Schizophrenia is a chronic form of mental disorder, meaning its (sic) incurable[.] [T]he medication comes in to target the symptoms or for them in remission state. So, even they are in remission state or symptom free[,] the schizophrenia is still there.

....

Q: But when he is still in medication which target the symptom[,] he becomes symptom free?

A: Yes, ma'am.

Q: You said he was regularly brought for examination every two (2) months?

A: Yes, ma'am.

....

Q: Do you mean to say that from 2014 he was brought regularly for examination for two (2) month and yet he was only in a period of remission this year 2018?

....

A: In February 2014 that (sic) he was brought for that case he was started the medication and the report was made in March 2014 (sic) he was competent, meaning he was in improve state, so, meaning he is in remission state.

....

Q: So[,] it is possible that he was also on remission state already on 2015, particularly October 2015 considering that he was already on remission state on 2015?

A: He continued to have regular (sic) a regular follow-up when he was incarcerated for the present case he was regularly brought and he was in improve state already and assessed to be competent to stand trial at present.

Q: When you say symptom free what is (sic) that mean?

A: . . . [S]o when he is in a remission state these symptoms are abated, ma'am, but the schizophrenia is there.

Q: When you say abated[,] those symptoms are not present?

A: Yes, ma'am.

.....

Q: So, my question doctor is you have no knowledge as to what happened as to the mental condition of Mark Angelo Concepcion after May 29, 2014 until before May 23, 2017?

A: Yes, ma'am.

Q: So, you cannot say if complete administer with a – you cannot say – you cannot state the mental condition of Mark Angelo Concepcion on May 30, 2014 until May 22, 2017?

A: No, ma'am.

.....

Q: But you have no knowledge if he was treated or not from May 20, 2013 until May 22, 2017?

A: No, ma'am.

.....

Q: So[,] you do not know if he was (sic) if he was brought to another mental facility particularly the National Center for Mental Health in between those years 2014 to 2017 that you were not examined him?

A: No, ma'am.

COURT: What is no? You don't have any knowledge?

.....

Witness: No, Your Honor.

.....

PROS. CU: So doctor, if he was brought, let's say if he was brought to another mental institution where he was prescribed with his medications which you said guarding the symptoms, which you said symptoms go away, there is a possibility that on those years where you did not examine him particularly, let's say particular date October 15, 2015[,] he was on a period of remission?

Witness: It is possible, ma'am.⁴⁴

To reiterate, anyone who pleads the exempting circumstance of insanity bears the burden of proving it with clear and convincing evidence. Dr. Marzan's testimony fails to satisfy this standard. She testified that Concepcion was already suffering from schizophrenia since May 2013, the last time of which happened in March 2014. In addition to that, after evaluation and assessment, Concepcion was in a period of remission. Nothing in her testimony, however, shows that Concepcion was insane immediately before or at the time he committed the crime. We uphold the CA in observing that the testimonies of Dr. Marzan only shows that (1) she examined Concepcion only

⁴⁴ TSN, September 18, 2018, pp. 19–26.

from February 2014 until May 2014, the latter being one year and five months before the commission of the crime charged; and that (2) Dr. Marzan only examined Concepcion again on May 17, 2013, or one year and seven months after the commission of the crime charged.⁴⁵

In the similar case of *People v. Bacolot*,⁴⁶ this Court held:

As can be gleaned from Dr. Genotiva's testimony, there was no finding whatsoever that accused-appellant exhibited any of the myriad symptoms associated with schizophrenia immediately before or simultaneous with the hacking of Rodolfo. . .

....

Although the accused-appellant was diagnosed with schizophrenia in 2005, and again a few months after the stabbing incident in 2008, this evidence of insanity may be accorded weight only if there is also proof of abnormal psychological behavior immediately before or simultaneous with the commission of the crime. The evidence on the alleged insanity must refer to the time preceding the act under prosecution or to the very moment of execution.

. . . The testimony of Dr. Genotiva failed to show the mental condition of accused-appellant between 2005 and 2008. Hence, *the Court cannot second guess whether the accused-appellant was insane at the time the crime was committed.* Time and again, this Court has stressed that *an inquiry into the mental state of accused-appellant should relate to the period before or at the precise moment of doing the act which is the subject of the inquiry, and his mental condition after that crucial period or during the trial is inconsequential for purposes of determining his criminal liability.*⁴⁷ (Emphasis supplied, citations omitted)

The testimony offered by Dr. Marzan fails to qualify as clear and convincing evidence as it does not prove Concepcion's psychological behavior immediately before or simultaneous with the commission of the crime. As a matter of fact, Dr. Marzan even testified that during the hacking incident, Concepcion was in a period of remission or was symptom-free.

This is also supported by the evidence on record. The Report on the Mental Condition of Concepcion⁴⁸ dated March 11, 2014 issued by Dr. Marzan showed that although Concepcion was diagnosed to be suffering from psychosis due to methamphetamine use, he was nevertheless in an improved state and was deemed competent to withstand the rigors of trial in Criminal Case No. 15653, a case in which Concepcion was previously tried for. Further, the records reveal that Concepcion's mental condition is not uncontrollable. He was committed at the Bicol Medical Center from May 16, 2013 until May

⁴⁵ *Rollo*, p. 24.

⁴⁶ 841 Phil. 989 (2018) [Per J. Caguioa, Second Division].

⁴⁷ *Id.* at 1000–1002.

⁴⁸ Records, pp. 196–198.

20, 2013,⁴⁹ and underwent a regular check up with Dr. Marzan every two months.⁵⁰

Further, We affirm the findings of the CA, *viz.*:

[A]side from the presumption of sanity, there are circumstances surrounding the incident that negate a complete absence of intelligence on the part of the [Concepcion] when he committed the crime. *First*, accused-appellant apparently knew what he was doing while hacking [EEE261972] when he uttered 'ANO, [EEE261972], ANO, [EEE261972]!' *Second*, [DDD261972] testified that when she pointed the accused-appellant to PO2 Deloso and PO2 Bacerdo after the hacking incident, she saw accused-appellant washing his face because he was full of blood stains. *Third*, when accused-appellant was being chased by PO2 Deloso and PO2 Bacerdo, he threw the *bolo* he was carrying while fleeing. Based on these circumstances, accused-appellant was apparently aware that blood stains on his face and the *bolo* he used during the hacking incident were evidence against him so he tried to get rid of them. Also[,] his flight from the crime scene and his refusal to yield to the pursuing police officers indicate that he was aware of the consequences of his actions. *Fourth*, when the police officers reached the house where accused-appellant fled and the latter was summoned to come out of the house, he eventually came out with his hands raised.

In the case of *People v. Roa*, the Supreme Court also noted circumstances surrounding the incident which negated the total absence of intelligence of (sic) the part of the accused therein before, during, and immediately after the commission of the crime, thus:

xxx

This conclusion is based not merely on the presumption of sanity, but bolstered by the circumstances surrounding the incident. As the prosecution correctly argued in its Appellee's Brief, there are circumstances surrounding the incident that negate a complete absence of intelligence on the part of accused-appellant when he attacked the victim. *First*, he surprised the victim when he attacked from behind. This is supported by the companion of the victim, who testified that while they were walking, they did not notice any danger when they saw accused-appellant standing near the trimobile. *Second*, **accused-appellant's attempt to flee from the scene of the crime after stabbing the victim indicates that he knew that what he just committed was wrong. And, *third*, when the police officers called out to accused-appellant to surrender, he voluntarily came out of the house where he was hiding and voluntarily turned himself over to them.**

The foregoing actions of accused-appellant immediately before, during, and immediately after he committed the offense indicate that he was conscious of his actions, that he intentionally committed the act of stabbing, knowing the natural consequence of such act, and finally that such act of stabbing is a morally reprehensible wrong. His actions and reactions immediately preceding and succeeding the act of stabbing are

⁴⁹ *Id.* at 198.

⁵⁰ TSN, September 18, 2018, p. 14.

similar if not the same as that expected of a fully sane person.⁵¹
(Emphasis in the original, citations omitted)

Lastly, We uphold the findings of the RTC and the CA when they found that the killing of AAA261972 was qualified by treachery. Jurisprudence teaches that the mere allegation of the victim's minority is sufficient to qualify the crime to Murder.⁵²

In *Pantoja*,⁵³ We held that the killing of a child is characterized by treachery even if the manner of the assault is not shown because the weakness of the victim due to his tender age results in the absence of any danger to the accused. Otherwise stated, the killing of a child of tender years is deemed *ipso facto* qualified by treachery due to the child's inherent defenselessness.⁵⁴ Here, there is an apparent treachery in the commission of the crime since AAA261972 was only one year and seven months old when the incident happened and had no way of defending himself. Thus, Concepcion was properly adjudged to have committed the crime of murder. Since the fact of being a child was considered in the finding of treachery to qualify the killing to murder, there is no longer a need to designate the crime as related to Republic Act No. 7610.

As to the proper penalty and award of damages, Murder, under Article 248 of the Revised Penal Code, is punished by *reclusion perpetua* in its maximum to death. However, pursuant to Article 63, paragraph 2 of the Revised Penal Code, when there are neither mitigating nor aggravating circumstances in the commission of the deed, the lesser penalty shall be applied if the penalty prescribed by the law is composed of two indivisible penalties.

Considering the presence of treachery which qualified the killing to Murder, there being no additional aggravating circumstance, the RTC and CA imposed the penalty of *reclusion perpetua*.

With the death of AAA261972, the award of damages must also be modified pursuant to the case of *People v. Jugueta*,⁵⁵ where this Court ruled that the award of PHP 50,000.00 as temperate damages in homicide or murder cases is proper when no evidence of burial and funeral expenses is presented in the trial court.⁵⁶ Under Article 2224 of the Civil Code, temperate damages may be recovered, as it cannot be denied that the heirs of the victims suffered pecuniary loss although the exact amount was not proved.⁵⁷ Thus, Concepcion shall be liable in the amount of PHP 75,000.00 as civil indemnity, PHP

⁵¹ *Rollo*, pp. 30-32.

⁵² *People v. Pilen*, G.R. No. 254875, February 13, 2023 [Per J. Hernando, First Division].

⁵³ *Supra* note 41.

⁵⁴ *Supra* note 52.

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

⁵⁶ *Id.* at 846, citing *People v. Dacillo*, 471 Phil. 497 (2004) [Per J. Corona, *En Banc*].

⁵⁷ *Id.*

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75,000.00 as moral damages, PHP 75,000.00 as exemplary damages,⁵⁸ and PHP 50,000.00 as temperate damages⁵⁹ to be paid to the heirs of AAA261972. Legal interest at the rate of 6% per annum shall be imposed on all damages awarded from the date of finality of this Decision until fully paid.

ACCORDINGLY, the Appeal is hereby **DENIED**. The November 11, 2021 Decision of the Court of Appeals in CA-G.R. CR-HC No. 14486 is hereby **AFFIRMED with MODIFICATIONS**. Accused-appellant Mark Angelo Concepcion is found **GUILTY** beyond reasonable doubt of murder under Article 248 of the Revised Penal Code. He is sentenced to suffer the penalty of *reclusion perpetua*, and is hereby **ORDERED to PAY** the heirs of the victim AAA261972:

1. Seventy-five Thousand Pesos (PHP 75,000.00) as civil indemnity;
2. Seventy-five Thousand Pesos (PHP 75,000.00) as moral damages;
3. Seventy-five Thousand Pesos (PHP 75,000.00) as exemplary damages; and
4. Fifty Thousand Pesos (PHP 50,000.00) as temperate damages.

All damages awarded shall be subject to an interest of 6% per annum to be computed from the date of finality of this Decision until fully paid.

SO ORDERED.


JHOSEP LOPEZ
 Associate Justice

WE CONCUR:

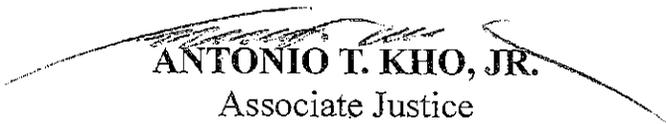

MARVIC MARIO VICTOR F. LEONEN
 Senior Associate Justice
 Chairperson


AMY C. LAZARO-JAVIER
 Associate Justice


MARIO V. LOPEZ
 Associate Justice

⁵⁸ *Id.* at 839–840.

⁵⁹ *Id.* at 846.



ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

I attest 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.



MARVIC MARIO VICTOR F. LEONEN
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, 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.



ALEXANDER G. GESMUNDO
Chief Justice