



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE G.R. No. 263560  
PHILIPPINES,

Plaintiff-appellee,

- versus -

FERDINAND CADORNA y  
DECEMBRIANO alias  
"MACO,"

Accused-appellant.

Present:

LEONEN, J., Chairperson,

LAZARO-JAVIER,

LOPEZ, M.,

LOPEZ, J., and

KHO, JR., JJ.

Promulgated:

MAY 27 2024

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DECISION

**KHO, JR., J.:**

Before the Court is an ordinary appeal<sup>1</sup> assailing the Decision<sup>2</sup> dated November 29, 2021 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 02764, which affirmed with modification the Judgment<sup>3</sup> dated November 20, 2017 of Branch ■, Regional Trial Court of ■ (RTC) finding accused-appellant Ferdinand Cadorna y Decembriano alias "Maco" (Cadorna) guilty beyond reasonable doubt of homicide in relation to Section 10 of Republic Act No. (RA) 7610,<sup>4</sup> or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act.

<sup>1</sup> See Notice of Appeal dated March 14, 2022; *rollo*, pp. 5–7.

<sup>2</sup> *Id.* at 11–22. Penned by Associate Justice Roberto Patdu Quiroz and concurred in by Associate Justices Marilyn B. Lagura-Yap and Nancy C. Rivas-Palmones of the Twentieth Division, Court of Appeals, Cebu City.

<sup>3</sup> *Id.* at 24–38. Penned by Judge Lauro A.P. Castillo, Jr.

<sup>4</sup> Entitled "An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, Providing Penalties for its Violation, and for other Purposes," approved on June 17, 1992.

### The Facts

The case stemmed from an Information<sup>5</sup> filed before the RTC charging Cadorna with murder in relation to Section 10 of RA 7610, the accusatory portion of which reads:

That on or about the 19<sup>th</sup> of March, 2011, in the Municipality [REDACTED] Philippines, within the jurisdiction of this Honorable Court, the said accused did then and there [willfully], unlawfully and feloniously, with intent to kill and taking advantage of superior strength, attack [nine-year] old [AAA<sup>6</sup>] who was then alone in their house, struggling (sic)/strangulating the said minor causing the death of the said victim by asphyxia[,] with aggravating circumstance of dwelling.

CONTRARY TO LAW.<sup>7</sup>

The prosecution presented BBB, the father of the victim AAA, who testified that Cadorna and his wife, Judith Cadorna (Judith), confronted him asking for his children because the spouses suspected that his children had something to do about the loss of their hammer. Thereafter, or sometime at around 4:00 p.m. of March 19, 2011, BBB went out of their house to look for his children and proceeded to the seashore where he saw his two sons playing. He then instructed one of them to get money from his aunt, while he told AAA to go home and fetch water which he would use for cooking rice. When AAA left to go home, BBB remained at the seashore to buy fish.<sup>8</sup>

Another witness, Salvador Bael (Bael), testified that at almost around the same time, while he was transferring his carabao from one location to another, he passed by the house of BBB situated in [REDACTED] and saw Cadorna rushing out of the said house. Bael went to the rear part of BBB's house and peeped inside where he saw AAA with a rope tied around his neck. Bael shouted for help, but nobody responded so he went inside the house and started to untie the rope. After untying the rope, Bael noticed that AAA was already dead. He also saw that AAA had already defecated in his pants.<sup>9</sup>

<sup>5</sup> *Rollo*, pp. 24-25.

<sup>6</sup> The identity of the victim or any information which could establish or compromise her identity, as well as those of her immediate family or household members and the accused, shall be withheld pursuant to RA 7610, entitled "An Act Providing for Stronger Deterrence and Special Protection Against Child Abuse, Exploitation and Discrimination, and for Other Purposes," approved on June 17, 1992; RA 9262, entitled "An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefore, and for Other Purposes," approved on March 8, 2004; and Section 40 of A.M. No. 04-10-11-SC, otherwise known as the "Rule on Violence against Women and Their Children" (November 15, 2004). (See footnote 4 in *People v. Cadano, Jr.*, 729 Phil. 576, 578 [2014] [Per J. Perlas-Bernabe, Second Division], citing *People v. Lomaque*, 710 Phil. 338, 342 [2013] [Per J. Brion, Second Division]. See also Amended Administrative Circular No. 83-2015, entitled "Protocols and Procedures in the Promulgation, Publication, and Posting on the Websites of Decisions, Final Resolutions, and Final Orders Using Fictitious Names/Personal Circumstances," dated September 5, 2017.)

<sup>7</sup> *Rollo*, pp. 24-25.

<sup>8</sup> *Id.* at 12.

<sup>9</sup> *Id.* at 12-13 & 26.

*Arce*

BBB, corroborating Bael's testimony, also testified that he saw Cadorna exiting from the fence of his house with his head down. Immediately thereafter, BBB heard shouts for help coming from his house. He rushed to his house and saw Bael untying the rope wrapped around AAA's neck. BBB and Bael tried their best to revive AAA but to no avail as the latter was already dead.<sup>10</sup>

AAA was thereafter brought to [REDACTED] Hospital where he was pronounced dead on arrival. Dr. Manuel S. Pastor (Dr. Pastor), the physician who examined AAA, declared that the latter died of asphyxia or inability to breathe due to pressure or strangulation. Dr. Pastor also found multiple confluent abrasions in AAA's anterior neck area which, as he observed, are consistent with abrasions that may be caused by strangulation with a hammock rope. Dr. Pastor concluded that the injury was caused by another person because it was impossible for AAA to have inflicted the injury himself.<sup>11</sup>

The last witness was CCC, AAA's classmate, who testified that a few days after AAA's killing, he and his brother were in the upper portion of the hill catching birds when Cadorna approached them and pinched his left ear while telling him that being pinched is better than being dead like AAA.<sup>12</sup>

Cadorna did not testify during the trial.<sup>13</sup> Instead, the defense presented Judith and Erlinda Lagando (Erlinda).<sup>14</sup>

Judith testified that she was with Cadorna on March 19, 2011 at Barangay [REDACTED]. At around 3:35 p.m. of even date, while they were feeding their pigs, Cadorna left to transfer his carabao to pasture in another location in [REDACTED] which takes about 30 minutes by hiking from their place.<sup>15</sup>

At around 4:00 p.m., Judith went home. She testified that Cadorna arrived at their home at 5:15 p.m. Thereafter, at 5:30 p.m., Judith received an information that AAA was dead. Three weeks later, Judith was shocked when she learned that Cadorna was the suspect in the killing of AAA, considering that their pigpen was just 25 meters away from AAA's house and that she was certain that Cadorna was in [REDACTED] when AAA was killed. Judith further claimed that there was no misunderstanding or quarrel between her family and the family of BBB.<sup>16</sup>

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<sup>10</sup> *Id.* at 13 & 17.

<sup>11</sup> *Id.* at 13.

<sup>12</sup> *Id.* at 13, 28, & 33.

<sup>13</sup> *Id.* at 19.

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

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

K/A

Erlinda corroborated Judith's testimony that Cadorna was at the creek at [REDACTED], tying the rope of his carabao at around 4:00 p.m. of March 19, 2011. According to Erlinda, Cadorna even accompanied her to [REDACTED] to bring rice to her mother. Erlinda testified that it took them 45 minutes of walking from [REDACTED] to [REDACTED] and it was only around 5:15 p.m. when she and Cadorna parted ways.<sup>17</sup>

### The RTC Ruling

In a Judgment<sup>18</sup> dated November 20, 2017, the RTC found Cadorna guilty beyond reasonable doubt of homicide in relation to RA 7610, the dispositive portion of which reads:

WHEREFORE, foregoing premises considered, the Court hereby finds the accused Ferdinand Cadorna y (sic) GUILTY beyond reasonable doubt of Homicide in relation to RA 7610. Applying the penalty prescribed under this special law, he is hereby sentenced to suffer *reclusion perpetua*. The accused is hereby ORDERED to pay the heirs of [AAA] the sum of Php75,000.00 as moral damages; Php75,000.00 as exemplary damages; Php75,000.00 as civil indemnity *ex delictu*; and Php50,000.00 as temperate damages. All these amounts shall earn interest at the rate of six percent (6%) per annum from the date of finality of this judgment. No costs.<sup>19</sup>

In so ruling, the RTC took into account the circumstantial evidence pointing at Cadorna as the person who committed the killing of AAA. The RTC also considered Cadorna's patent failure to testify in his own behalf to refute the narrations and testimonies of Bael, BBB, and CCC.<sup>20</sup>

Further, in convicting Cadorna of homicide in relation to RA 7610 instead of murder in relation to RA 7610, the RTC did not appreciate the qualifying aggravating circumstance of taking advantage of superior strength considering that nobody saw the actual killing of AAA and there was no direct evidence showing that Cadorna purposely used his superior strength to his advantage in killing AAA.<sup>21</sup>

Aggrieved, Cadorna appealed to the CA.<sup>22</sup>

### The CA Ruling

In a Decision<sup>23</sup> dated November 29, 2021, the CA affirmed the RTC

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<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 24–38.

<sup>19</sup> *Id.* at 38.

<sup>20</sup> *Id.* at 32–35.

<sup>21</sup> *Id.* at 35–36.

<sup>22</sup> See Brief for the Accused-Appellant dated April 27, 2018; CA *rollo*, pp. 15–22.

<sup>23</sup> *Rollo*, pp. 11–22.

ruling with modification, upgrading Cadorna's conviction to murder.<sup>24</sup> The dispositive portion of the CA Decision states:

WHEREFORE, the appeal is DENIED. The assailed Decision dated November 20, 2017 of the Regional Trial Court, [REDACTED], is hereby MODIFIED finding accused-appellant Ferdinand Cadorna GUILTY beyond reasonable doubt of the crime of murder and is sentenced to suffer the penalty of *reclusion perpetua*.

Accused-appellant is further ordered to pay the heirs of AAA the amounts of (1) Seventy-Five Thousand Pesos (P75,000.00) as civil indemnity; (2) Seventy-Five Thousand Pesos (P75,000.00) as moral damages; and (3) Seventy-Five Thousand Pesos (P75,000.00) as exemplary damages.

All damages shall be subject to interest at the rate of six percent (6%) per annum from the finality of this Decision until fully paid.<sup>25</sup>

In so ruling, the CA ratiocinated that the killing was attended by the qualifying aggravating circumstance of taking advantage of superior strength considering the fact that AAA was only 9 years old when he was killed. Citing the several cases decided by the Court, the CA further held that the crime of murder is committed when an adult person illegally attacks a child of tender years and causes his death.<sup>26</sup>

Hence, the present appeal.

### **The Issue Before the Court**

The issue before the Court is whether Cadorna is guilty beyond reasonable doubt of the crime of murder.

### **The Court's Ruling**

The appeal is without merit.

At the outset, the Court stresses that “[d]irect 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.”<sup>27</sup> Case law instructs that “[c]ircumstantial evidence is evenly accepted in criminal cases to establish the guilt of the accused beyond

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<sup>24</sup> *Id.* at 21.

<sup>25</sup> *Id.* at 21.

<sup>26</sup> *Id.* at 16–20.

<sup>27</sup> See *People v. Pentecostes*, 820 Phil. 823, 833 (2017) [Per J. Caguioa, Second Division].

reasonable doubt.”<sup>28</sup>

*The circumstantial evidence sufficiently established Cadorna’s guilt beyond reasonable doubt in killing AAA*

“In this jurisdiction, circumstantial evidence has been defined as that evidence ‘which indirectly proves a fact in issue through an inference which the fact-finder draws from the evidence established.’”<sup>29</sup> Relatedly, circumstantial evidence “[i]s that which ‘goes to prove a fact or series of facts other than the facts in issue, which, if proved, may tend by inference to establish a fact in issue.’”<sup>30</sup>

In *People v. Pentecostes*,<sup>31</sup> this Court ruled that the conviction of an accused based on circumstantial evidence is allowed provided that the following requisites concur: **(1) there is more than one circumstance; (2) the facts from which inferences are derived are proven; and (3) the combination of all circumstances is such as to produce a conviction beyond reasonable doubt.** Thus, “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>32</sup>

The Court agrees with both the RTC and the CA that the circumstantial evidence presented by the prosecution form an unbroken chain leading to a reasonable conclusion that Cadorna—to the exclusion of all others—was the person responsible for the killing of AAA, *to wit*: (a) before the killing of AAA, Cadorna and Judith confronted BBB looking for the latter’s sons, one of whom was AAA, because they allegedly were the ones who took their hammer; (b) Bael saw Cadorna rushing out of BBB’s house; (c) Bael saw AAA with a rope tied on his neck when he peeped into BBB’s house; (d) on BBB’s way back home, he saw Cadorna exiting from the fence of BBB’s house; (e) immediately thereafter, BBB heard Bael’s cry for help from inside BBB’s house; (f) there, BBB saw Bael untying the rope from the neck of AAA who was already dead; (g) Dr. Pastor found that AAA died of asphyxia; and (h) after the killing of AAA, CCC was confronted and pinched by Cadorna and was told that being pinched in the ear is better than being dead like AAA.<sup>33</sup>

<sup>28</sup> See *People v. Maglinas*, G.R. No. 255496, August 10, 2022 [Per C.J. Gemundo, First Division].

<sup>29</sup> See *People v. BBB*, G.R. No. 252214, June 14, 2022. [Per J. Gaerlan, En Banc], citing *Espineli v. People*, 735 Phil 530, 539 (2014) [Per J. Del Castillo, Second Division].

<sup>30</sup> See *People v. BBB*, G.R. No. 252214, June 14, 2022. [Per J. Gaerlan, En Banc], citing *People v. Modesto*, 134 Phil 38, 43 (1968) [Per J. Sanchez, En Banc].

<sup>31</sup> 820 Phil. 823 (2017) [Per J. Caguioa, Second Division].

<sup>32</sup> *Id.* at 833.

<sup>33</sup> *Rollo*, pp. 12–13, 16–18, & 33.

There is no quibbling that Cadorna was positively identified by both BBB and Bael as the person last seen at or near the place where AAA's dead body was discovered. It baffles the Court, however, that Cadorna did not attempt to controvert the evidence against him by testifying during the trial despite the positive identification of him by BBB and Bael as the person leaving BBB's house immediately before AAA's dead body was discovered by Bael. Instead, Cadorna merely relied on the testimonies of Judith and Erlinda to prove his alibi that he was at [REDACTED] and not at Barangay Mawodpawod, the place of the commission of the crime. These, to the mind of the Court, further bolster the circumstances pointing to Cadorna, and no other, as the person responsible for the killing of AAA.

For one, it bears stressing that “[a]lthough [the accused’s] silence and refusal to testify, let alone refusal to present evidence, cannot be construed as evidence of guilt, we have consistently held that **the fact that an accused never testified in his defense even in the face of accusations against him goes against the principle that ‘the first impulse of an innocent man when accused of wrongdoing is to express his innocence at the first opportune time.’**”<sup>34</sup>

For another, where **the accused himself, the only person who could make a positive and categorical statement of his whereabouts at the time of the commission of the crime did not even testify, as in this case, in order to refute the accusations against him and support his defenses, there is, strictly speaking, no evidence of alibi which the defense witnesses, here, i.e., Judith and Erlinda, could corroborate.**<sup>35</sup>

Perforce, the Court finds no reason to deviate from the findings of the RTC, as affirmed by the CA, as there is no indication that it overlooked, misunderstood or misapplied the surrounding facts and circumstances of the case.

*The killing of AAA is murder,  
qualified by taking advantage of  
superior strength*

The Court also subscribes with the CA ruling that Cadorna should be convicted of murder in view of the attendance of the qualifying aggravating circumstance of taking advantage of superior strength.

Conviction for murder requires the confluence of the following essential elements: (a) that a person is killed; (b) that the accused killed that person; (c) that the killing was attended by any of the qualifying circumstances

<sup>34</sup> *People v. Beriber*, 693 Phil. 629, 644 (2012) [Per J. Peralta, Third Division]; emphasis supplied.

<sup>35</sup> *See People v. Lucas*, 260 Phil 334 (1990) [Per J. Cortes, Third Division]; emphasis supplied.

mentioned in Article 248 of the RPC, one of which is taking advantage of superior strength; and (d) that the killing is not parricide or infanticide.<sup>36</sup>

In convicting Cadorna of homicide only, the RTC ratiocinated that the prosecution failed to prove with moral certainty the presence of taking advantage of superior strength considering that there was no direct evidence showing that Cadorna purposely used his superior strength to his advantage in the commission of the crime.<sup>37</sup>

The Court does not agree.

It may not be amiss to state that minor children, by reason of their tender years cannot possibly defend themselves.<sup>38</sup> This is even more true if the assailant is an adult and the victim is a minor.<sup>39</sup> Our jurisprudence is replete with cases recognizing the inherent weakness and defenselessness of children brought about by their tender age and where the Court, based thereon, *ipso facto* qualified and raised the crime to murder, albeit based on *alevosia* or treachery.<sup>40</sup> In the case of *People v. Pilen*,<sup>41</sup> the Court ruled that “[t]he killing of a child is characterized by treachery regardless of whether the manner of the assault is [not] shown in the Information as the weakness of the victim due to his or her 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 his or her inherent defenselessness.”<sup>42</sup>

The reason for the above rule is easy to discern. In the case *People v. Haloc*,<sup>43</sup> the Court explained the rationale for the rule why the crime is always raised to murder whenever the killing involved a child of tender years. Thus:

The killing of or assault against a child by an adult assailant is always treated as treacherous, even if the treacherous manner of the assault is not shown. Indeed, **the weakness of the minor victim because of his tender years results in the absence of any danger or risk to the adult assailant.** The rationale for such treatment is easy to discern – **the minor victim cannot be expected to put up any form of effective resistance because of his tender age, relatively small frame, and inexperience in combat.** Moreover, **a deadly attack against a minor is easier to execute inasmuch as the minor can offer little, if any, resistance, thereby posing no peril to the attacker.**<sup>44</sup> (Emphasis and underscoring supplied)

<sup>36</sup> See *People v. Bautista*, G.R. No. 247961, June 16, 2021 [Per J. Delos Santos, Third Division].

<sup>37</sup> *Rollo*, pp. 35–36.

<sup>38</sup> See *People v. Jugueta*, 783 Phil. 806, 819 (2016) [Per J. Peralta, *En Banc*]; *People v. Loreto*, 446 Phil. 592, 612 (2003) [Per J. Callejo, Sr., *En Banc*].

<sup>39</sup> See *People v. Guzman*, 542 Phil. 152, 172 (2007) [Per J. Chico-Nazario, Third Division].

<sup>40</sup> See *People v. Pilen*, G.R. No. 254875, February 13, 2023 [Per J. Hernando, First Division]; *People v. Pentecostes*, 820 Phil. 823 (2017) [Per J. Caguioa, Second Division]; *People v. Samus*, 437 Phil. 645 (2002) [Per J. Panganiban, *En Banc*]; *People v. Diaz*, 377 Phil. 977 (1999) [Per J. Bellosillo, *En Banc*].

<sup>41</sup> G.R. No. 254875, February 13, 2023 [Per J. Hernando, First Division].

<sup>42</sup> *Id.*

<sup>43</sup> 839 Phil. 1042 (2018) [Per J. Bersamin, First Division].

<sup>44</sup> *Id.* at 1051.



The Court finds no reason not to apply the same principle to taking advantage of superior strength in the killing of a child of tender years.

Case law instructs that there are no fixed and invariable rules regarding abuse of superior strength or employing means to weaken the defense.<sup>45</sup> In *People v. Loreto*,<sup>46</sup> this Court has held that abuse of superior strength **depends upon the relative strength of the aggressor *vis-à-vis* the victim and is determined by the excess of the aggressor's natural strength over that of the victim, considering the position of both and the employment of means to weaken the defense, although not annulling it.** Additionally, the aggressor must have taken advantage of his natural strength to insure the commission of the crime.<sup>47</sup>

Relatedly, “[a]buse of superior strength is present whenever there is a **notorious inequality of forces between the victim and the aggressor/s that is plainly and obviously advantageous to the aggressor/s and purposely selected or taken advantage of to facilitate the commission of the crime.**”<sup>48</sup> The appreciation of abuse of superior strength depends on the **age, size, and strength** of the parties.<sup>49</sup>

Applying the foregoing, the Court rules that there was a notorious inequality in terms of physical strength between AAA and Cadorna. **The fact alone that AAA was a minor, a 9-year-old at that, presumed weak and inherently defenseless, and who could not put an effective resistance by reason of his tender age, had already placed Cadorna, an adult person who is naturally physically stronger, in a position of superior and notorious advantage in the execution of the crime.** Simply put, AAA is **certainly no match against Cadorna in terms of physical strength.** To further use a rope in killing AAA who was unarmed is, to the mind of the Court, an even obvious *indicia* that Cadorna had taken advantage of his superior strength to overpower AAA's already weak defense and ensure the commission of the crime.

In *People v. Molas*,<sup>50</sup> the Court convicted the accused therein of murder qualified by taking advantage of superior strength for stabbing to death an 8-year-old boy. In *Loreto*,<sup>51</sup> although the victim's age, i.e., 12 years, was not conclusively proven through the presentation of her certificate of live birth, the Court therein still raised the crime to murder holding that the accused clearly abused his superior strength in stabbing *a young wisp of a girl*. In the

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<sup>45</sup> *People v. Loreto*, 446 Phil. 592, 611 (2003) [Per J. Callejo, Sr., *En Banc*].

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*; emphasis supplied.

<sup>48</sup> See *People v. Reyes*, 853 Phil. 536, 551 (2019) [Per J. Lazaro-Javier, Second Division]; emphasis supplied.

<sup>49</sup> See *People v. Mat-an*, 826 Phil. 512, 526 (2018) [Per J. Martires, Third Division]; emphasis supplied.

<sup>50</sup> 291-A Phil. 516 (1993) [Per J. Grifo-Aquino, First Division].

<sup>51</sup> 446 Phil. 592 (2003) [Per J. Callejo, Sr., *En Banc*].

much earlier case of *People v. Gatcho*,<sup>52</sup> the Court appreciated the aggravating circumstance of abuse of superior strength considering that the victim who died was an innocent and tender baby, barely six months old, and the other wounded children were ages 5 and 12. In all these cases, there was no direct evidence showing that the assailants purposely used superior strength in the killing and/or wounding of the minor victims. However, the Court held that taking advantage of superior strength was present owing to the marked difference in physical strength between the victims and their assailants brought about by the victims' tender ages, and the fact that the adult assailants were armed with weapons, as in this case.

Considering the foregoing, the Court agrees with the CA convicting Cadorna of murder qualified by taking advantage of superior strength.

*The impossible penalty and award of damages*

Section 10 of RA 7610 enacted on June 17, 1992, provides that the penalty for murder when the victim is below 12 years old shall be *reclusion perpetua*. Thereafter, or on December 13, 1993, RA 7659<sup>53</sup> increased the penalty for murder to *reclusion perpetua* to death without qualification as to the age of the offended party. As it stands now, the penalty for murder under Article 248 of the RPC is *reclusion perpetua* to death, with death being considered as the maximum period when the crime is attended by ordinary aggravating circumstances, albeit the penalty to be imposed is *reclusion perpetua* due to the enactment of RA 9346 proscribing the imposition of death penalty.<sup>54</sup>

The Court notes the allegation in the Information that the killing of AAA was attended by the ordinary aggravating circumstance of dwelling. While the Court has recognized that “[d]welling aggravates a felony where the crime is committed in the dwelling of the offended party,”<sup>55</sup> it must be established that the offended party “has not given provocation therefor.”<sup>56</sup> Stated differently, evidence that the offended party has not given sufficient provocation is an essential element in the appreciation of the aggravating circumstance of dwelling.<sup>57</sup>

Considering that there is nothing in the records which show that the prosecution was able to establish the lack of provocation on the part of AAA,

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<sup>52</sup> 190 Phil. 914 (1981) [*Per Curiam, En Banc*].

<sup>53</sup> Entitled “An Act To Impose The Death Penalty On Certain Heinous Crimes, Amending For That Purpose The Revised Penal Laws, As Amended, Other Special Penal Laws, And For Other Purposes.”

<sup>54</sup> See *People v. Bendecio*, 882 Phil. 649, 662–663 (2020) [Per J. Lazaro-Javier, First Division]; *People v. Jugueta*, 783 Phil. 806, 825 (2016) [Per J. Peralta, *En Banc*]; REPUBLIC ACT NO. 9346, entitled “An Act Prohibiting the Imposition of Death Penalty.”

<sup>55</sup> See *People v. Evangelio*, 672 Phil. 229, 248–249 (2011) [Per J. Peralta, Third Division]

<sup>56</sup> *Id.*

<sup>57</sup> See *People v. Pakah*, 81 Phil. 426 (1948) [Per J. Perfecto. *En Banc*].

*Yale*

the aggravating circumstance of dwelling cannot be considered in this case so as to raise the penalty to the maximum period of death. Thus, Cadorna was correctly sentenced to suffer the penalty of *reclusion perpetua*.

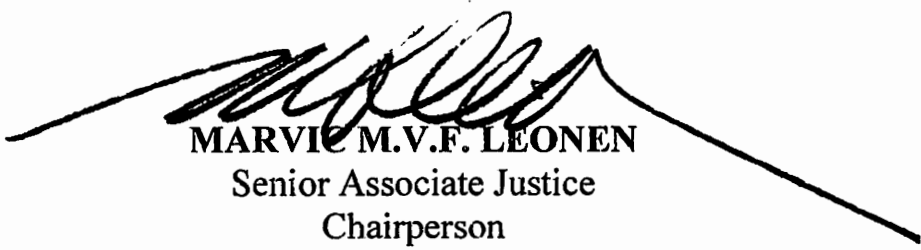
Finally, and consistent with prevailing jurisprudence,<sup>58</sup> the RTC and CA likewise correctly ordered Cadorna to pay the heirs of AAA the amounts of PHP 75,000.00 as civil indemnity, PHP 75,000.00 as moral damages, PHP 75,000.00 as exemplary damages, and PHP 50,000.00 as temperate damages, all with legal interest at the rate of 6% per annum from the finality of this ruling until fully paid.

**ACCORDINGLY**, the appeal is **DENIED**. The Decision dated November 29, 2021 of the Court of Appeals in CA-G.R. CR-HC No. 02764 is hereby **AFFIRMED**. Accordingly, Ferdinand Cadorna y Decembriano alias "Maco" is found **GUILTY** beyond reasonable doubt of the crime of murder, as defined and penalized under Article 248 of the Revised Penal Code. He is hereby sentenced to suffer the penalty of *reclusion perpetua* and ordered to pay the heirs of AAA the amounts of PHP 75,000.00 as civil indemnity, PHP 75,000.00 as moral damages, PHP 75,000.00 as exemplary damages, and PHP 50,000.00 as temperate damages, all with legal interest at the rate of 6% per annum, reckoned from the finality of this Decision until fully paid.

**SO ORDERED.**

  
**ANTONIO T. KHO, JR.**  
Associate Justice

**WE CONCUR:**

  
**MARVIC M.V.F. LEONEN**  
Senior Associate Justice  
Chairperson

  
**AMY C. LAZARO-JAVIER**  
Associate Justice

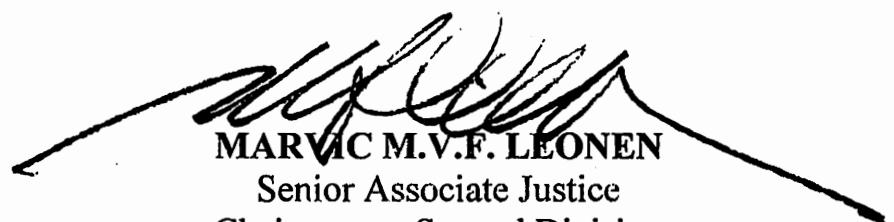
  
**MARION FLORES**  
Associate Justice

<sup>58</sup> See *People v. Jugueta*, 783 Phil. 806, 847-848 (2016) [Per J. Peralta, *En Banc*].

  
**JHOSEP Y. LOPEZ**  
Associate Justice

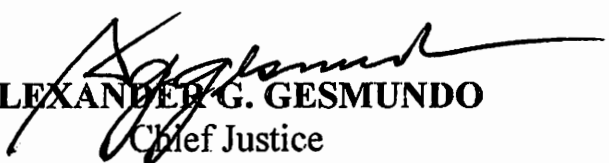
**ATTESTATION**

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 M.V.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

