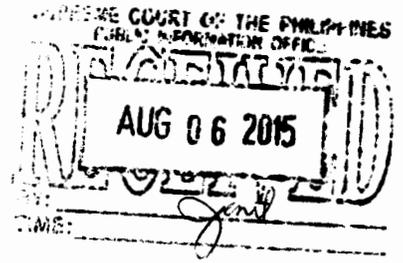




Republic of the Philippines  
Supreme Court  
Manila  
FIRST DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated July 22, 2015 which reads as follows:*

**“G.R. No. 206839 – PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee, v. ROLLY READORES y DESEMBRADA, Accused-Appellant.**

The accused was charged with two counts of robbery with homicide through separate informations filed on different dates in the Regional Trial Court (RTC) in Naga City, Camarines Sur, as follows:

Criminal Case No. RTC 2005-0251  
(Filed on August 8, 2005)

That on or about August 6, 2005, in the City of Naga, Philippines and within the jurisdiction of this Honorable Court, the above-named appellant, a security guard of Equalizer Security Agency conspiring and confederating with ROGELIO AREVALO, JR. y OLIVA who is now deceased, did then and there, willfully, unlawfully and feloniously and with the use of violence against or intimidation of persons, take, steal and carry away the cellphone, TM-Nokia 3315 and a cash money of ₱3,730.00 of PILAR HUY CHENG TAN, and that by reason or on the occasion of said robbery, with treachery and with the use of bladed weapon, did then and there willfully and unlawfully and feloniously assault, attack and stab PILAR HUY CHENG TAN hitting her vital organs hereby (sic) causing her to sustain and suffer serious mortal wounds which directly caused her death, and on the same occasion and in the course of the robbery accused did then and there assault attack and stab for several times MARICEL DAET and, with lewd design did then and there willfully, unlawfully and feloniously, at knife-point, order

- over – fourteen (14) pages .....

ELVIE SIBULO to undress and did then and there kiss the different parts of her body, lay her down for the purpose of having sexual intercourse against her will and, also remove the pants of AIREN AGSAMOSAM and commence the act of sexual intercourse against her will by lying on top of her, to the damage and prejudice of the heirs of the victim.

CONTRARY TO LAW.<sup>1</sup>

Criminal Case No. RTC 2005-0307  
(Filed on October 12, 2005)

That on or about August 5, 2007, in the City of Naga, Philippines and within the jurisdiction of this Honorable Court, the above named accused, conspiring and confederating with ROGELIO AREVALO, JR. y OLIVA, who is now deceased, but who were both employees of EQUALIZER SECURITY AGENCY, did then and there, willfully, unlawfully and feloniously and with violence against or intimidation of person, take, steal and carry away the cell phone, TM-Nokia 3210 and cash money of ₱3,690.00 of LABERTO (sic) TAN BEN CHUAN y Yu, and that by reason of or on the occasion of said robbery with the use of bladed weapon, did then and there willfully, unlawfully, and feloniously assault, attack and stab the said ALBERTO TAN BEN CHUAN y YU hitting him of (sic) the different parts of his body which directly caused his death, to the damage and prejudice of the heirs of the victim ALBERTO TAN BENG CHUAN y YU.

CONTRARY TO LAW.<sup>2</sup>

The factual antecedents are stated by the CA in its assailed decision to be the following:

From June 6, 2005 up to August 6, 2005, Elvie Sibulo worked as a cook, saleslady, and lady guard of the late spouses Pilar Huy Cheng Tan and Alberto Tan Ben Chuan y Yu. There were also times when she served as a reliever guard at the Elegant Park Pension House whenever security guards Rogelio Arevalo, Jr. and appellant Rolly Readores were unavailable. She recalled that before she went to bed around 8:00 p.m. on August 5, 2005, she saw spouses Tan go to the master's bedroom after taking their dinner.

Around 2:00 a.m. on August 6, 2005, Elvie was awakened by two male persons wearing masks in the room that she shares with the two other (Airen Aagsomasam and Maricel Daet) employees of spouses Tan. One of them entered her mosquito net, while the other one focused a flashlight on her face. When the two intruders removed their masks, she recognized them as Arevalo and appellant, thereby prompting her to ask

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<sup>1</sup> CA *rollo*, p. 94 (the underlines are part of the original).

<sup>2</sup> Id. at 95 (the underline is part of the original).

them why they entered their room. Arevalo told her not to make any noise because all what they wanted was the money of "*tanda*" referring to spouses Tan. She replied that she did not know where spouses Tan kept their money but she knew their room. Meanwhile, Maricel Daet become hysterical when the latter saw Arevalo poking a knife at her (Elvie). To silence Maricel Daet, appellant stabbed her with a knife several times, grabbed her body and pushed her under the bed. For his part, Arevalo told her (Elvie) to undress because he wanted to rape her. Out of fear, she removed her clothes except her panty. She saw Arevalo drop his knife and began to undress himself. She noticed also that appellant brought Airen outside the maid's room to the staircase and tried to rape Airen who was already naked.

As Arevalo was trying to rape her, she resisted and kicked him on his scrotum, prompting him to ask for help from appellant. Heeding the call of Arevalo, appellant went back to the room and boxed her three (3) times on the stomach. She pleaded them to spare her life and promised that she would not make any further noise. A few minutes later, Arevalo and appellant brought her to the comfort room where they tied her feet and hands. Afterwards, appellant left and went back to the place where Airen was. At the comfort room, Arevalo tried to kiss her but she fought back and so, he boxed her and kicked her. Again, she pleaded to them to spare her life and pretended that she would help them. After handing the knife to appellant, Arevalo brought her to the alley fronting the toilet, he gagged her mouth and again tied her hands and feet. Then Arevalo went to the kitchen where she saw him drink water and thereafter, proceed to the master's bedroom. At this juncture, she took the opportunity to untie herself and got a knife at the kitchen. When Arevalo returned, she warned him that he would kill him if he would approach her. Arevalo called appellant to help him to neutralize her. Since she would not surrender the knife, Arevalo and appellant helped each other to wrestle with her and succeeded in taking away the knife from her hold. Thereafter, her hands and feet were again tied by appellant. After she pleaded for mercy, Arevalo and appellant left her at the comfort room where she locked herself. While there, and after she was able to unloosen herself, she heard one of the rescuing policemen saying, "*luwas na diyam amigo*" (friend, go out from there). Convinced that they were policemen, she went out of the comfort room.

To her estimate, the policemen arrived at around 4:00 a.m. that day. When she entered the master's bedroom, she did not see Alberto Tan but only the lifeless body of her "*ate*", referring to Pilar Tan, sprawled on the bed. She came to know later that Alberto Tan was found inside the septic tank of the Elegant Park Pension House. She confirmed that the spouses owned cellular phones.

She recalled that she sensed that Airen was on her way to escape through the third floor, because she heard her (Airen) opening the iron gate. Finally, she testified that when the rescuing policemen arrived, Arevalo and appellant ran to the third floor of the building. Appellant hid in one of the storage rooms while Arevalo jumped at the back of the TIMC building where he was shot after he fought back with the policemen.

PO2 Roberto Ferrer and PO3 Henry Carmona of the sub-station 3 of the Naga City Police Station narrated that that on or about 2:30 a.m. on August 6, 2005, Airen Aagsamosam reported to their sub-station that there was a stabbing incident inside the three-storey edifice of TIMC Hardware. They came to know that Airen was a maid of spouses Alberto and Pilar Tan, owners of TIMC Hardware and Elegant Park Pension House at Biak-Na-Bato St., Naga City. The said TIMC building is a stone's throw away from substation 3. Because of the report, they, together with Chief Barangay Tanod of Barangay Tabuco, Naga City, immediately rushed to the crime scene. With the help of the other policemen of the Naga City Police Office, the SWAT team and the fire truck of the Naga City Fire Department, they were able to go inside the TIMC Building where they found the lifeless body of Pilar Tan and rescued Elvie Sibulo. They were also able to corner appellant at the third floor of the building, thereby prompting him to voluntarily give up from hiding. PO3 Carmona saw appellant come out from his hiding place with blood in his body and hands. After searching his body, he recovered a cellphone from his front waist. The cellphone (Nokia 3315) is described as small, colored orange with the name Aggie.

While PO2 Ferrer was at the back portion of TIMC building, he saw an injured person, who fell from the building, who turned out to be Arevalo. Later, a barangay tanod turned over to him a Nokia 3315 cellular phone, which was found in the possession of Arevalo. The latter was shot when he fought back with the responding policemen. Arevalo was rushed to the Bicol Medical Center where he died.

In the course of the investigation, PO3 Carmona was informed by Elvie Sibulo and Airen Aagsamosam that their "Kuya" (Alberto Tan) was missing. Thus, PO3 Carmona and his fellow policemen went to Elegant Park Pension House to look for Alberto Tan. After a diligent search of the pension house, the group of PO3 Carmona was able to locate the dead body of Alberto Tan which was dumped inside the septic tank.<sup>3</sup>

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#### *Evidence for the Prosecution*

During trial, the prosecution presented: (1) Elvie Sibulo; (2) PO3 Henry Carmona; (3) Joel Cheng Tan; (4) Dr. Raoul Alcantara; (5) Nolan Clemente; and (6) PO2 Roberto Ferrer. The testimony of Catherine Tan Ong was dispensed with after the prosecution and the defense stipulated that her intended testimony is as follows: That Catherine Tan Ong is one of the children of deceased spouses Alberto Tan Ben Chuan and Pilar Huy Cheng Tan. Said witness knows that during the lifetime of her parents, the latter had their own respective cell phones, particularly Nokia 3210 for Alberto Tan Ben Chuan and Nokia 3315 for Pilar Huy Cheng Tan. She also stated that during the lifetime of her parents, her parents called them through the aforesaid cell phones.

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<sup>3</sup> Rollo, pp. 3-8.

Joel Cheng Tan testified that he is one of the children of victim spouses Alberto and Pilar Tan, that during their lifetime, his parents were engaged in buying and selling copra, warehousing, hotel and hardware business. From said business, his parents derived a monthly net income of ₱60,000.00. He learned about his parents' death from his uncle who called him by phone because he was then in Manila working as sales agent in one of the insurance companies. He and his siblings felt depressed and very angry because of the manner their parents were brutally killed.

In the course of the presentation of Joel Cheng Tan, the prosecution and defense agreed to stipulate on the following: (1) that based on their respective death certificates, Alberto Tan and Pilar Tan died on August 6, 2005; (2) that out of their marriage, they had three (3) children, namely: Joel, Catherine and Margaret, all surnamed Tan; (3) that appellant was an employee of the Equalizer Detective Agency; and 4) that it had a contract of security services with Elegant Park Pension House, represented by Alberto Tan.

Dr. Raoul Alcantara, a medico legal officer of the National Bureau of Investigation, Bicol Region, testified that he conducted the autopsies on the cadavers of spouses Alberto and Pilar Tan on August 6, 2005, as evidenced by Certificates of Post Mortem Examination under Case Nos. BRO.-N-05-20 and BRO.-N-05-21, respectively. He declared in his findings that Alberto Tan died of multiple stab wounds on the neck and chest, while Pilar Tan died of multiple stab wounds on the neck and asphyxia by ligature.

Nolan Clemente, a radio announcer of DWNX, affirmed on the witness stand the truthfulness of his Affidavit dated August 26, 2005, which was agreed upon by the parties to serve as his direct testimony. In substance, Nolan Clemente declared that on August 8, 2005, he was requested by radio anchorman Joe Osabal, in his daily radio program NX Brigada, to go to the Naga City PNP Headquarters to interview appellant who was the suspect in the infamous double murders with reported rape involving spouses Alberto and Pilar Tan. At the detention cell of the said police station, he met appellant who voluntarily agreed to undergo a recorded interview regarding the incident. Using a cassette recorder, he recorded his interview, which consist of around sixty three (63) questions, and the corresponding answers thereto by appellant. From the answers of appellant, the latter pointed out, in essence, that the author of the crime was Arevalo whose main intent was to rob the victims, and that his participation therein was only in obedience to the order of Arevalo who threatened to kill him if he would not cooperate with him.

#### ***Evidence for Accused-Appellant***

Around 10:00 p.m. on August 5, 2005, while appellant was on duty as a security guard of the Elegant Pension House, Arevalo, a fellow security guard of the same establishment, arrived and confided to him

that he had a personal problem. Thereafter, Arevalo invited appellant to a drinking spree. When appellant declined, Arevalo left. After several minutes, Arevalo once again invited appellant for a drink but the latter begged off and remained at the counter, telling Arevalo: "*Go on, you can drink on your own.*" After consuming the beer, Arevalo left the premises but returned after a few minutes, telling the appellant that: "*Buddy, we have something to do for us to earn money*" and "*just follow me.*" Then Arevalo used the phone at the counter, talked to someone and thereafter, went near the faucet. After several minutes, Alberto Tan, appellant's employer arrived at the pension house and inquired from appellant about the customer who would like to check-in. When appellant replied that there was none, Alberto Tan asked appellant who called him through the phone, to which the latter answered that it was Arevalo. While Alberto Tan was at the door, Arevalo suddenly appeared, poked a knife at the back of Alberto Tan and pushed the latter towards the second floor of the pension house. Appellant, who was shocked, was instructed by Arevalo to stay at the counter.

After a few minutes, appellant heard a scratching sound on the second floor and the voice of Alberto Tan crying for help, "*Rolly, tabangan mo ako*" (Rolly, help me). Appellant planned to report the incident to a nearby police station but was unable to do so because he heard again Alberto Tan calling him: "*Rolly, tabangan mo ako*" (Rolly, help me). Appellant responded and went to the second floor to verify what happened to Alberto Tan. Appellant tried to approach his employer but Arevalo brandished his knife, hitting him at the left lower portion of his neck, which prompted appellant to make a step towards the wall. Meanwhile, Alberto Tan was already lying on the floor near the stairs. At knife point, Arevalo told appellant: "*Rolly, kung gusto mong mabuhay tabangan mo ako kaini nganing dae ta ka gadanon*" (Rolly, if you want to live, help me with this and I would not kill you).

Fearful of losing his life, appellant was forced to follow all the instructions/orders of Arevalo. As directed, appellant helped Arevalo pull and drag the wounded body of Alberto Tan towards the direction of an already opened septic tank of the pension house where they dumped the said body. But before that, Arevalo got a bolo and stabbed Alberto Tan at the left side of his neck several times.

After pulling back the cover of the septic tank, Arevalo compelled appellant to go with him to the TIMC building, which is about 40 meters away from the said pension house. While they passed by the Tabuco Police Sub-Station on their way to the said building, appellant could not ask for help because Arevalo was poking a knife on his left stomach. Upon reaching the TIMC building, Arevalo opened the main door and dragged appellant inside. Thereat, Arevalo opened the drawers and took the cash that he found. Thereafter, Arevalo dragged appellant to the second floor and opened the master's bedroom of the Tans by using the bunch of keys taken from Alberto Tan. Appellant saw Pilar Tan (the wife of Alberto Tan) sleeping on the bed. Alberto got an aluminum wire from his pocket and strangled her for about ten (10) minutes, causing the latter's death.

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At the time when Arevalo was strangling Pilar Tan, appellant thought of helping her but he was prevailed upon by his fears. After killing Pilar Tan, Arevalo told appellant: "*Rolly, gusto mong magkakuwarta, magkalkal ka dyan sa mga drawers.*" (If you want to earn money, you go, ransack the drawers inside). Appellant retorted, "*Arevalo that's enough, you have already killed two persons and I am already afraid.*" Nevertheless, appellant obliged and got the money on the table, consisting of the following denominations: One Hundred Pesos (₱100.00), Fifty Pesos (₱50.00) and Twenty Peso (₱20.00) bill, which he gave to Arevalo.

As appellant and Arevalo walked in the hallway towards the kitchen and the latter switched on the light, they saw a lady near the stairs who ran away and became hysterical. They ran after the lady. After Arevalo was able to catch up with the lady, he (Arevalo) stabbed her on the neck, dragged her and placed her under the bed. Then Arevalo ordered appellant to bring out the other housemaids from the maid's room and herd them near the stairway. As they were trying to control the housemaids who became unruly, one of the housemaids who was with Arevalo was able to run away towards the ground floor, while the maid, who was with the appellant was also able to escape and run upstairs towards the third floor. Appellant decided to go downstairs to assist and help Arevalo who was grappling for the knife with the other housemaid. Appellant was able to take away the knife from the hold of the maid which he immediately threw near the stairs. On the other hand, Arevalo got a chopping knife and threw it at the maid who was running towards the kitchen. Arevalo missed his target. At this juncture, appellant seized the opportunity and courage to go to the third floor and hide himself.

At the third floor, appellant looked for ways on how he could escape. When he looked down, he saw policemen at the ground, thereby prompting him to wave his hands to the said policemen. After a few minutes, appellant saw a fireman-ladder was laid unto the side of the building which was used by the responding policemen to climb to the third floor. Suddenly appellant notice that one of the policemen was already poking a gun at him and arrested him.

Appellant vehemently denied that the cellular phone of victim Pilar Tan, with the name Aggie, was recovered from his possession. And as to the ₱3,000.00 found in his wallet, he explained that the same was his salary for the month of July 2005 which he received from his security agency on August 5, 2005.<sup>4</sup>

In its judgment dated December 18, 2009,<sup>5</sup> the RTC found and pronounced the accused guilty of two counts of robbery with homicide as charged, disposing:

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<sup>4</sup> Id. at 10-16.

<sup>5</sup> CA rollo, pp. 93-124.

**WHEREFORE**, in view of all the foregoing, judgment is hereby rendered finding accused **Rolly Readores y Desembrada** as follows:

1. In Criminal Case No. RTC 2005-0251, **GUILTY** beyond reasonable doubt of the crime of robbery with homicide and is sentenced to suffer a prison term of reclusion perpetua, and to **pay** the heirs of Pilar Huy Cheng Tan as follows:

- a) ₱50,000.00 as civil indemnity for the death of Pilar Huy Cheng Tan;
- b) ₱50,000.00 as moral damages; and
- c) ₱30,000.00 as exemplary damages.

2. In Criminal Case No. RTC 2005-0307, **GUILTY** beyond reasonable doubt of the crime of robbery with homicide and is sentenced to suffer a prison term of reclusion perpetua, and to **pay** the heirs of Alberto Tan Ben Chuan as follows:

- a) ₱50,000.00 as civil indemnity for the death of Alberto Tan Chuan;
- b) ₱50,000.00 as moral damages; and
- c) ₱30,000.00 as exemplary damages.

Finally, the accused, being a detention prisoner, shall be credited in the service of his sentence with the preventive imprisonment which he underwent by reason of these cases in accordance with the condition set forth in Article 29 of the Revised Penal Code, as amended.

**SO ORDERED.**<sup>6</sup>

On appeal, the accused assigned the following errors, namely:

I

The trial court gravely erred in not appreciating irresistible force as an exempting circumstance.

II

The trial court gravely erred in convicting accused-appellant despite the prosecutions failure to prove his guilt beyond reasonable doubt.

III

The trial court seriously erred in convicting the accused-appellant of two (2) counts of robbery with homicide.<sup>7</sup>

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<sup>6</sup> Id. at 123-124.

<sup>7</sup> *Rollo*, pp. 17-18.

On January 31, 2012, the CA promulgated its decision affirming the conviction,<sup>8</sup> but declaring the accused guilty of only one count of robbery with homicide, *viz.*:

**WHEREFORE**, the decision appealed from is **AFFIRMED** but **MODIFIED** in that appellant is only required to serve one penalty of *reclusion perpetua*. The monetary award remains.

**SO ORDERED.**<sup>9</sup>

Hence, this appeal by the accused.

### **Ruling of the Court**

We affirm the decision of the CA subject to modifications on the civil liability.

First of all, our careful review of the records of the trial persuades us to hold that the guilt of the accused for one count of robbery with homicide was established beyond reasonable doubt.

In this connection, the sole defense put up by the accused was that he had acted under an irresistible force that made him commit the crime charged. However, the CA, thoroughly discrediting his defense, and declaring that he had conspired with Rogelio Arevalo, Jr., since deceased, the person who had supposedly been the source of the irresistible force, observed as follows:

The decision of appellant and Arevalo to illegally obtain the personal belongings of Pilar and Alberto Tan at all costs is shown by their resort to violence which eventually caused the death of the two victims. Prosecution witnesses also confirmed their intention to get the money of "*tanda*," referring to the spouses Pilar and Alberto Tan. Appellant also narrated that Arevalo invited him to join him in his quest to earn extra money. Although appellant vehemently denies assenting to the plan of Arevalo, his actions, subsequent to Arevalo's declaration, disclose a different intention. This shows that their original design was really to rob the victims.

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<sup>8</sup> Id. at 2-23; penned by Associate Justice Magdangal M. De Leon, with the concurrence of Associate Justice Francisco P. Acosta and Associate Justice Angelita A. Gacutan (retired).

<sup>9</sup> Id. at 22.



When a homicide takes place by reason of or on the occasion of the robbery, all those who took part shall be guilty of the special complex crime of robbery with homicide whether they actually participated in the killing, unless there is proof that there was an endeavor to prevent the killing. **The records are bereft of any evidence to prove, or even remotely suggest, that appellant attempted to prevent the killing of either Alberto, who cried for help, or Pilar, who was deprived of any opportunity to resist harm or to call for help. Therefore, the basic principle in conspiracy that the "act of one is the act of all," applies in this case. To be a conspirator, one need not participate in every detail of the execution; he need not even take part in every act or need not even know the exact part to be performed by the others in the execution of the conspiracy. Each conspirator may be assigned separate and different tasks which may appear unrelated to one another but, in fact, constitute a whole collective effort to achieve their common criminal objective. Once conspiracy is shown, the act of one is the act of all the conspirators. The precise extent or modality of participation of each of them becomes secondary, since all the conspirators are principals. To exempt himself from criminal liability, a conspirator must have performed an overt act to dissociate or detach himself from the conspiracy to commit the felony and prevent the commission thereof.**

**We find no credence in appellant's averment that he did not conspire with Arevalo but was merely acting under the compulsion of an irresistible force. He emphasizes his fear of harm from a fellow security guard who was armed with a knife. In the face of an armed co-worker, appellant apparently forgot his bounden duty to protect not only the property but, more importantly, the lives of his employers. As a security guard, he was expected to know how to handle situations like this. In fact, the record of the case shows that appellant had several opportunities to overcome the threat posed by Arevalo. His conspiracy with Arevalo was confirmed from the time he allowed Arevalo to summon the elderly Alberto Tan to the lodging house. He allowed Arevalo to harm Alberto Tan and refused to heed the call of the latter for help. Had he not conspired with Arevalo, as a security guard, he could have stepped forward and fought with Arevalo or he could have run to the nearby police station for assistance to prevent further harm to his employers. Instead, he stayed on and even aided Arevalo in disposing of the body of the bloodied Alberto Tan into the septic tank. He, then, went along with Arevalo to find more loots in Pilar Tan's room. On their way to TIMC building where Pilar Tan was, they passed by the police station and appellant could easily have signaled for help. But he did not. They were also one in trying to rape the household helpers of spouses Tan. In fact, it is evident in the records that each one of them (appellant and Arevalo) had their chosen rape victims beforehand. Hence, appellant cannot disown his actions and participation in the robbery with homicide under the guise of the compulsion of an irresistible force.**

Article 12 of the Revised Penal Code exempts a person from criminal liability if he acts under the compulsion of an irresistible force, or under the impulse of an uncontrollable fear of equal or greater injury because he does not act with freedom. *Actus me invito factus non est meus actus*. An act done by me against my will is not my act. **The force contemplated must be so formidable as to reduce the actor to a mere instrument who acts not only without will but against his will. The duress, force, fear or intimidation must be present, imminent and impending, and of such nature as to induce a well-grounded apprehension of death or serious bodily harm if the act be done. A threat of future injury is not enough. The compulsion must be of such a character as to leave no opportunity for the accused for escape or self-defense in equal combat.**<sup>10</sup> (Emphasis supplied)

Secondly, the CA corrected the RTC by convicting the accused of only one count of robbery with homicide, observing thusly:

The following elements must be established for a conviction in the special complex crime of robbery with homicide:

1. The taking of personal property is committed with violence or intimidation against persons.
2. The property taken belongs to another;
3. The taking is *animo lucrandi*; and
4. By reason of the robbery or on the occasion thereof, homicide is committed.

Essential for conviction for robbery with homicide is proof of a direct relation, an intimate connection between the robbery and the killing, whether the latter be prior or subsequent to the former or whether both crimes are committed at the same time. Moreover, the accused must be shown to have the principal purpose of committing robbery, the homicide being committed either by reason of or on occasion of the robbery. The intent to rob must precede the taking of human life. So long as the intention of the felons was to rob, the killing may occur before, during or after the robbery. The original design must have been robbery, and the homicide, even if it precedes or is subsequent to the robbery, must have a direct relation to, or must be perpetrated with a view to consummate the robbery. The taking of the property should not be merely an afterthought which arose subsequently to the killing.

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<sup>10</sup> Id. at 19-22.

Nevertheless, **We agree with appellant that he should not have been convicted of two counts of robbery with homicide. It bears stressing that in the special complex crime of robbery with homicide, so long as the intention of the felon is to rob, the killing may occur before, during or after the robbery. It is immaterial that death would supervene by mere accident, or that the victim of homicide is other than the victim of robbery, or that two or more persons are killed. Once a homicide is committed by reason or on the occasion of the robbery, the felony committed is the special complex crime of Robbery with Homicide.**<sup>11</sup>

We concur with the CA's correction of the RTC as to the characterization of the offense committed. Under Article 294, paragraph 1, of the *Revised Penal Code*, robbery with homicide is committed "when by reason or on occasion of the robbery, the crime of homicide shall have been committed." Hence, that both victims were killed on the occasion of the robbery warranted the characterization of the crime as a single count of robbery with homicide. The number of persons killed is of no consequence because the robbery intended to be committed was robbery with violence against persons. As such, the accused was guilty of only one count of robbery with homicide.

In *People v. Esugon*,<sup>12</sup> the Court has explained the nature of the composite crime of robbery with homicide in the following terms:

Robbery with homicide is a composite crime, also known as a special complex crime. It is composed of two or more crimes but is treated by law as a single indivisible and unique offense for being the product of one criminal impulse. It is a specific crime with a specific penalty provided by law, and is to be distinguished from a compound or complex crime under Article 48 of the *Revised Penal Code*. A composite crime is truly distinct and different from a complex or compound crime. In a composite crime, the composition of the offenses is fixed by law, but in a complex or compound crime, the combination of the offenses is not specified but generalized, that is, grave and/or less grave, or one offense being the necessary means to commit the other. In a composite crime, the penalty for the specified combination of crimes is specific, but in a complex or compound crime the penalty is that corresponding to the most serious offense, to be imposed in the maximum period. A light felony that accompanies the commission of a complex or compound crime may be made the subject of a separate information, but a light felony that accompanies a composite crime is absorbed.

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<sup>11</sup> Id. at 18-22.

<sup>12</sup> G.R. No. 195244, June 22, 2015.

Thirdly, the penalty for robbery with homicide under Article 294, paragraph 1, of the *Revised Penal Code* is *reclusion perpetua* to death, but the CA prescribed only *reclusion perpetua*. This was because there was no mitigating or aggravating circumstance alleged in the information. The CA thereby fixed the proper penalty, considering that Article 63 of the *Revised Penal Code* provides that the lesser penalty is imposed when the law prescribes a penalty composed of two indivisible penalties, and there is neither a mitigating nor an aggravating circumstance.

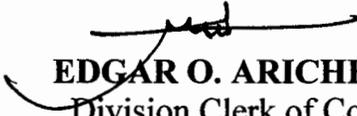
Fourthly, the CA affirmed the awards by the RTC of civil indemnity of ₱50,000.00, moral damages of ₱50,000.00, and exemplary damages of ₱30,000.00 to the heirs of Pilar Huy Cheng Tan (Criminal Case No. RTC 2005-0251), and similar amounts and kinds of damages to the heirs of Alberto Tan Ben Chuan (Criminal Case No. RTC 2005-0307). We raise the amounts to ₱100,000.00 for each of the civil indemnity, moral damages and exemplary damages to conform with jurisprudence. In addition, all the amounts shall earn 6% interest *per annum* from the finality of this decision until their full payment.

**WHEREFORE**, the Court **AFFIRMS** the decision promulgated on January 31, 2012, subject to the **MODIFICATION** that the accused shall pay to the heirs of each of victims Pilar Huy Cheng Tan (Criminal Case No. RTC 2005-0251) and Alberto Tan Ben Chuan (Criminal Case No. RTC 2005-0307) ₱100,000.00 as civil indemnity, ₱100,000.00 as moral damages and ₱100,000.00 as exemplary damages, plus interest of 6% interest *per annum* from the finality of this decision until their full payment.

The accused shall further pay the costs of suit.

**SO ORDERED.**” **SERENO, C.J.**, on official leave; **PERALTA, J.**, acting member per S.O. No. 2103 dated July 13, 2015. **LEONARDO-DE CASTRO, J.**, on official leave; **LEONEN, J.**, acting member per S.O. No. 2108 dated July 13, 2015.

Very truly yours,

  
**EDGAR O. ARICHETA**  
Division Clerk of Court *pk-12*

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The Solicitor General (x)  
Makati City

Court of Appeals (x)  
Manila  
(CA-G.R. CR H.C. No. 04386)

The Hon. Presiding Judge  
Regional Trial Court, Br. 21  
4400 Naga City  
(Crim. Case Nos. RTC-2005-  
0251/0307)

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The Director  
Bureau of Corrections  
1770 Muntinlupa City

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