

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS.
ROSALIO PANCHO, DEFENDANT AND APPELLANT.***G.R. Nos. L-15167-68. December 29, 1960*

Ponente: BAUTISTA ANGELO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/435711dc4a7c/>**BAUTISTA ANGELO, J.:**

Rosalio Pancho was charged with murder before, the Court of First Instance of Cebu for the death of Nicolas Anero and frustrated murder for the injuries inflicted on the person of Esteban Anero in separate informations. The same having arisen out of a single incident, the two charges were, by agreement of the parties, tried jointly. For the crime of murder, he was found guilty and sentenced to suffer reclusion perpetua, with the accessories of the law, to indemnify the heirs, of the deceased in the sum of P4,000.00, and to pay the costs; while for the second charge, he was found guilty of serious physical injuries and sentenced to suffer 8 months of prision correccional and to pay the costs. In both cases, the accused has appealed.

At about 6:30 o'clock in the evening of August 19, 1956, while Nicolas Añero was walking along the road in the municipality of Ginatilan, Cebu, he was suddenly hacked by Rosalio Pancho with a sharp bolo. Having been hit on the right shoulder, Añero raised his hands, covered his head and ran towards the store of Catalino Duterte, but Pancho followed and continued hitting him with the bolo inflicting on him 11 wounds on the neck, breast, thigh, back, spinal column, forearm, and on the abdominal region, as a result of which Añero died instantly due to heart failure secondary to profuse hemorrhage.

After wounding and killing Nicolas Añero, Pancho met Esteban Añero, Nicolas' brother, in the store of Fabing Asion situated 20 meters away and struck him with the bolo on the left face causing him to fall to the ground unconscious. Esteban was treated by the sanitary inspector and transferred to the Southern Hospital where he was released on September 9, 1956, showing permanent deformity on his face.

Rosalio Pancho admits that he was the one who inflicted the wound in the persons of Nicolas and Esteban Añero, but explained that the same were inflicted as follows: that at about 6:00 o'clock in the afternoon of the day in question he was on his way to the poblacion because he was called by Roberto Tacao to prepare a coffin for a child who died; that he carried with him a bolo in going to the house of Tacao; that when he was near the house of Catalino Duterte, Nicolas Añero, who was then holding a stone in his left hand and a Batangas knife in his right, approached him and all of a sudden stoned him on the left breast; that after throwing the stone Añero immediately stabbed him with the knife but he was able to parry the blow; that Añero stabbed him again, and it was at this juncture that he was able to pull out his bolo and hit Añero on the forearm; that when he was about to hack him again, Añero stooped down and was hit on the head; that Anero continued to stab him several times but he was able to parry all the blows, while he inflicted 11 wounds on Anero; that Esteban Añero, Nicolas' brother, who was armed with a hunting knife and a stone, also approached and threw a stone at him; that Esteban also stabbed him and it was then that he struck and wounded Esteban on the face, causing him to fall to the ground unconscious; that thereafter he went home; and that the motive why Nicolas Añero attacked him was that he refused to settle a case of physical injuries Añero filed against him in May, 1955 which resulted in his acquittal, and from that date

on the Añeros harbored a grudge against him.

We agree with the finding that in the evening in question while Nicolas Añero was walking along the road in the poblacion of Ginatilan, Cebu, he was suddenly attacked by appellant and that despite the fact that Añero ran away with his raised hands, appellant pursued him and continued slashing him in different parts of his body causing his instant death, and that thereafter upon meeting Esteban Añero appellant also hacked him on his left face which almost caused his death though it left a scar which caused his deformity. And we are persuaded that such is the true version because it finds support not only in the testimony of Delfin Gravamen, who was present when Nicolas Añero was assaulted on the fateful evening, but also in the testimony of his brother Esteban who survived the attack, corroborated by the rural health nurse who performed the autopsy of the deceased and by Dr. Jorge Espina who treated the wound of Esteban Añero. The trial court found these witnesses trustworthy and deserving of credit.

The effort made by appellant to show that he inflicted the wounds on the two brothers in self-defense is of no avail, for if it were true that he was attacked by the Añeros while he was allegedly on his way to the house of Roberto Tacao to make a coffin for his dead child it is strange that he came out unscathed while the two received serious wounds which caused death to one and deformity to the other. Indeed, according to the autopsy performed on the body of Nicolas Añero, the latter received 11 wounds in different parts which do not jibe with the manner the same were inflicted according to the theory of the defense. This is more so when, according to appellant, the incident happened when he and the two brothers were close to each other and all were armed with deadly weapons. And while we may grant *arguendo* that when appellant met Nicolas Añero the latter immediately threw a stone at him hitting him on the breast and that right after the incident he went direct to the rural health nurse for treatment who promised to give him a certificate to attest to his wound, he, however, never made any attempt to obtain such a certificate, nor has he presented the health officer as a witness to corroborate his claim that he merely acted in self-defense.

On the other hand, the nature, location and number of wounds sustained by the deceased tend to prove that it was appellant who really started the aggression in the manner testified to by Delfin Gravamen whose testimony was given credence by the trial court because he was found to be disinterested and without motive to testify falsely against him. And with regard to the claim that the two brothers were the ones who ambushed and attacked appellant on one single occasion thus implying that appellant merely acted in self-defense, the defense has failed to explain the vital fact that Nicolas Añero died near the store of Catalino Duterte while his brother Esteban fell unconscious near the store of Fabing Asion, the two stores being quite apart from one another, which unmistakably shows that they were indeed attacked in the manner proven by the prosecution.

The contention that all the elements of self-defense are here present cannot also be sustained, it appearing, as already shown, that the aggression did not come from the deceased nor from his brother but rather from appellant. As a matter of fact, the evidence shows that it was appellant who started the aggression with evident treachery when he attacked Nicolas Añero suddenly and without any warning.

The law and the evidence sustain the findings that the crime committed against Nicolas Añero is murder, and there being present the aggravating circumstance of recidivism,[1] without any mitigating circumstance to offset it, the penalty that should be imposed is death. However, for lack of sufficient number of votes, he should only be sentenced to reclusion perpetua.

With regard to the second crime, we also agree that the act committed is merely one of serious physical injuries because it does not appear clear that appellant attacked Esteban Añero with intention to kill him. However, the penalty imposed by the trial court should be modified to make it conformable to the provisions of the

Indeterminate Sentence Law. Following, therefore, the recommendation of the Solicitor General, appellant should be sentenced to suffer for the second crime an indeterminate penalty of not less than 4 months and 21 days of arresto mayor and not more than 2 years 4 months and 11 days of prision correctional.

Wherefore, modified as above indicated, the decision appealed from is affirmed in all other respects, with costs against appellant.

Paras, C.J., Bengzon, Padilla, Labrador, Concepcion, Reyes, J.B.L., Barrera, Gutierrez David, Paredes, and Dizon, JJ., concur.

Judgment affirmed with modifications.

[1] Since recidivism is only an aggravating circumstance (People vs. Melendes, 59 Phil., 164; People vs. Bernal, 63 Phil., 750); it need not be pleaded for it is not an integral element of the offense charged, but it may be proven at the trial, and, if proven, must be taken into consideration in imposing the penalty (U.S. vs. Campo, 23 Phil. 368.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.