

Summary of Judgement [No. 48 \(Kr\)](#) 12 May, 2011, PP Court of First Instance

Keywords: premeditated murder (manslaughter/homicide), not present at the location during the commission, minor (Juvenile), trial *in absentia* (default judgment).

Period: December 2008 (incident occurred), one person arrested (March 11, 2010), arrested (March 15, 2010), final submission (November 2009), Closing Order (December 2009), trial (April 2011), and judgment (May 2011).

Facts of the Case and Decision: The adult victim was reported to have sustained injuries (at 1 am, night) and died 6 days after the incident while in a car heading to a hospital in Vietnam. Witnesses offered differing accounts, suggesting either robbery or a traffic accident. There were two police reports, but no official record of the scene. Only one witness saw the incident (two suspects who told him to leave the scene), but the witness did not identify or recognize the suspects. Approximately 10 witnesses, including police, only attested to hearing rumors that a group of people committed the act. A key police witness only heard rumors about a killing and received the suspects' names from others (with no further interrogation), and upon checking the suspects' houses, found that they had fled. On the day of the trial, only one defendant attended, while some defendants (6 individuals) were represented by lawyers. One of the defendants was 15 years old. The 15-year-old defendant and his lawyer claimed that it might have been a traffic accident, arguing that the client did not commit the crime, and that there was reasonable doubt. They further asserted, "my client was not at the scene of the incident."

The Prosecutor acknowledged that there were two reports (robbery and traffic accident) and no official record at the scene, stating this was a working method but left the matter for the judge's consideration.

The Trial Chamber acknowledged that the victim died 6 days after the incident. The Chamber noted that after the incident, all named defendants fled. A witness who was a relative of one of the defendants went to visit the victim's mother to ask if someone might come to negotiate a settlement, *suggesting an intention to negotiate compensation with the victim's family*. One witness saw the victim fall unconscious, and when the witness tried to help, the offenders shouted at the witness to turn away, *indicating that the group of offenders had indeed committed an act of robbery and murder to take the victim's property*.

The court concluded that this act of robbery constituted the offense of premeditated murder (homicide).

Decision: The defendants must jointly pay the victim \$7,500 for mental suffering and damages (The claim was \$200,000 for mental suffering and medical expenses). Six defendants, aged between 20 and 22 years old, were sentenced to 15 years in prison. The one individual aged 15 years old was sentenced to 7 years in prison.

Notes: **A.** The compensation awarded seems somewhat small. **B.** There are still many doubts regarding the facts, especially whether the suspects committed the crime or not. **C.** premeditated murder requires the preparation of a plan to commit the act or lying in wait (Article 82 of Cambodia's 2010 Penal Code). The Penal Code was not yet in force in 2008 (the year of the incident), but it was in force in 2011 (the year of the trial). **D.** Premeditated murder requires the intention to cause death. In this case, the victim did not die immediately. **E.** The act that

causes death could be intentional or unintentional homicide, with the severity of the punishment depending on the type of offense. **F.** The time elapsed from the date of the incident to the date of the trial was 2 years and 7 months.

Questions that could be raised: Does inflicting injuries that the suspect knew were likely to cause the victim's death demonstrate intent? What is the difference between premeditated murder (homicide), murder (immediate intent to kill), and unintentional homicide?