

G. R. No, L-6062

[G. R. No, L-6062. March 20, 1954]

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDUARDO SUAREZ, ST AL., DEFENDANTS, FRANCISCO ROXAS Y IGNACIO. DEFENDANT-APPELLANT.

D E C I S I O N

MONTEMAYOR, J.:

FRANCISCO ROXAS y IGNACIO and nine others were charged with robbery in band by means of violence and intimidation committed thus:

“That on or about the 12th day of January 1946 in the City of Manila, Philippines, the accused. Jose Valdez, alias Peping Bombay and Jose Peralta, armed with carbines, while Arnaldo Gancero y Gipeca, Luis Ponciano, Julian Belen and Eduardo Suarez y Encinas, armed with pistols and Francisco Roxas y Ignacio and Alejandro Marcos y Castillo were armed with revolvers, conspiring, confederating together and helping one another, did then and there willfully, unlawfully and feloniously by means of force violence and intimidation, with intent of gain, took, stole and carried away the following personal property belonging to Gorgonio Armobit and his wife, Hosario Armobit to wit:

Cash money in different denomination	P1,026.00
Table model Radio (Grono) 5 tubes	240.00
Four tubes radio	60.00
Child’s earring (red fancy stones	150.00
Two (2) Big Ben watches	12.00
One (1) Westclock	10.00
Hen’s clothings of unestimated number	2,500.00

all valued at P3,998.00. to the damage and prejudice of said

Gorgonio Armobit and Hosario Armobit in the aforesaid sum of P3,998,00, Philippine currency.

“That the crime was committed with the aggravating circumstance of dwelling, as the said robbery was committed in the house inhabited by the offended party.”

When arraigned Francisco pleaded not guilty, but on the day of the trial, assisted by counsel and with the permission of the court, he withdrew his plea of not guilty and instead pleaded guilty to the information above reproduced. He was sentenced for the crime defined and penalized in Article 294, paragraph 5, of the Revised Penal Code in connection with. Articles 295 and 296 of the same Code, to an indeterminate penalty of not less than two (2) years, four (4) months and one (1) day of *prision correccional* and not more than eight (8) years and one (1) day of *prision mayor*, to indemnify the offended party in the sum of P3,998.00, without subsidiary imprisonment in case of insolvency, and to pay the proportionate costs.

Notwithstanding his plea of guilty Francisco appealed from the decision, and no question of fact being involved in the appeal, the same was taken directly to this Court. Atty, Leon S. Viola who was appointed counsel de *officio* for him states in his brief that he believes and so recommends that the decision appealed from should be affirmed. He further tells us that he conferred with the appellant in the Bilibid Prison at Muntinlupa, Rizal; and that apparently to establish his innocence, appellant assured him that he could not have committed the crime of robbery with violence and intimidation attributed to him because at the time of its commission he (appellant) was confined at the Boy's Correctional School at Welfareville, Mandaluyong, Rizal. Acting upon this assurance Atty. Viola went to the Correctional Institution to check up on the record of Francisco in that institution and he found that appellant was confined in that School from March 13th to March 28th, 1946, while the crime of robbery took place on January 12, 1946, that is to say, about two months before his confinement at

Welfareville. From all this, we are convinced that appellant Francisco is really guilty of the crime charged against him, and that seeing no other way of saving himself he thought of this scheme of proving an *alibi*. Fortunately, however, the records of the Boyfe Correctional School at Welfareville are still intact to flatly disprove his false claim. We find the maximum penalty imposed by the trial court to be within the range provided by law. We believe, however, that the minimum penalty could well and should be raised to four (4) years.

With this modification, the decision appealed from is hereby affirmed, with costs.

Paras, C. J., Pablo, Bengzon, Padilla, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador, Concepcion, and Diokno, JJ.,
concur.