

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
NAPOLEON LIBRE, ET AL., DEFENDANTS AND APPELLANTS.***G. R. No. L-5195. May 04, 1953*

Ponente: REYES, J.

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REYES, J.:

Seven persons were accused of robbery with homicide in the Court of First Instance of Occidental Negros. Three were acquitted but the other four were found guilty as charged and sentenced to life imprisonment, indemnity, and costs. From this sentence the four appealed. They were Napoleon Libre, Felix Caparida, Ricardo Micapotin, and Roberto Cañete.

The evidence shows that at about 4 o'clock in the afternoon of February 24, 1948, these appellants, together with their three co-accused, had gathered at Jose Abadilla's yard in the barrio of Lalong, municipality of Calatrava, Occidental Negros, to get possession of a gun which Abadilla had as a subdelegate of the barrio. Three of the appellants, namely, Napoleon Libre, Felix Caparida, and Ricardo Micapotin, were each armed with a rifle, while the fourth, Roberto Cañete, was carrying a bolo. The first was apparently the leader of the band. Not finding Jose Abadilla in his house, what the leader did was to order his companions to go and fetch the now deceased Maximo Omblero, who lived some 120 brazas away. As those ordered were coming back bringing Maximo Omblero with them, Libre met them in the yard of Narcisa Jimenez some 20 meters from Abadilla's house. There Libre asked Omblero for money, threatening to shoot him if he refused. Omblero replied that he had no money and offered to give food instead. But this did not please his captors, and as he turned his back to them and started to go home he was fired upon by Libre and Ricardo Micapotin. Receiving two wounds, Omblero fell and died from bleeding later in the day. After shooting him down, appellants went to his house, threatened his wife, took their trunk, broke it open, and took therefrom money amounting to P400, which belonged to the spouses. This done, appellants set fire to the house and then left with their loot.

Apprehended and investigated after the crime, the appellants admitted their participation therein, signing or thumbmarking their written admissions and later affirming them under oath before the justice of the peace. The weapons used by appellants were also recovered and identified in court.

In his written confession, Napoleon Libre admitted his part in the killing and in the robbery, while Ricardo Micapotin and Felix Caparida, in their separate sworn statements, admitted participation in the robbery but pointed to Napoleon Libre as the only one who shot the deceased. Roberto Cañete on his part explained in his sworn statement that he merely led Napoleon Libre to the house of Jose Abadilla and that he had to do so because he was threatened with death.

Testifying in court, appellants denied the acts imputed to them, and while Napoleon Libre claimed that his confession had been extracted through threats and violence, Felix Caparida on his part would attribute the accusation against him to a grudge which, according to him, the witnesses Esteban Abadilla and his brother Jose Abadilla harbored towards him for courting the latter's daughter against their will.

There is nothing to the claim that Libre's confession was obtained through force. Though he declared that he was maltreated in the presence of all the persons that were with him in jail, he did not present any of them to corroborate him, and he himself admitted that he sustained no contusion or wound of any sort. He did not even inform his lawyer about his alleged maltreatment and when he appeared before the justice of the peace to swear to his signed confession and the justice of the peace asked him if he had been intimidated into signing it, he answered in the negative.

The motive attributed to the Abadilla brothers for testifying against the appellant Felix Caparida is insufficient to cast doubt on their testimony. Moreover, there were other witnesses who testified against this appellant, as well as against the others.

The controversy as to whether the deceased was shot by Libre alone or by Libre and some of his companions has no importance since it is evident from the testimony of the prosecution witnesses and appellants' own confessions that they all took part in the robbery. And it is settled that when a homicide is committed on the occasion of a robbery, all those who took part as principals in the perpetration of the robbery will also be held guilty as principals in the complex crime of robbery with homicide, unless it appears that they endeavored to prevent the killing. (Guevarra, Revised Penal Code, p.578, citing U. S. vs. Macalalad, 9 Phil., 1 U. S. vs. Santos, et al., 4 Phil., 189.)

From the fact that the killing and the robbery did not take place in the same place, the appellants contend that the crime committed cannot be robbery with homicide. But it appears from the facts proved that appellants had the intention of robbing Omblero when their leader asked him for money and threatened him with death if he refused, and that after shooting him down and thus eliminating an obstacle to the effectuation of their unlawful design they repaired to his house, which was nearby, and by force took his money therefrom. It is thus clear that the killing and the robbery are not isolated acts, for there is a direct connection between the two. The killing sprang from the idea of robbing and was but a step in the perpetration of the robbery. In the circumstances, we have no hesitation in saying that the killing was done by reason or on the occasion of the robbery, so that appellants are guilty of the special complex crime of robbery with homicide (article 294, paragraph 1, Revised Penal Code).

"When there is direct relation and intimate connection between the robbery and the death of the owner of the property stolen, by reason of the death having preceded the robbery and of the fact that the crime sprang from the idea of robbery, the accused beginning the criminal act by killing their victims, such crimes cannot be separated into two distinct crimes of robbery and of homicide or murder, nor consequently, can the criminal liability of the defendants be divided in accordance with such participation as they may have had in one part of the crime or the other, nor can they be sentenced for the crime of robbery independently of that of homicide or murder. In other words, if there is 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 be committed at the same time—it is unquestionable that they constitute the complex crime defined in article 294, paragraph 1, of the Penal Code." (Guevarra, Revised Penal Code, p. 576, citing *People vs. Hernandez*, 46 Phil., 48.)

And as the crime was perpetrated by an armed band, the penalty impossible is death (article 295, first paragraph, Revised Penal Code). There being, however, no sufficient votes for the imposition of this penalty, appellants should be sentenced only to life imprisonment.

Wherefore, the sentence appealed from is affirmed, with costs against the appellants.

Paras, C. J., Feria, Pablo, Bengzon, Tuason, Montemayor and Jugo, JJ., concur.

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