

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DEMETRIO NABUAL, LUIS NABUAL, AND ELPIDIO BACHICHA, DEFENDANTS-APPELLANTS.

G.R. No. L-27758. July 14, 1969

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/c19ad36da22e/>

PER CURIAM:

This case is before Us on automatic review of a decision of the Court of First Instance of Samar, convicting defendants Demetrio Nabual, Luis Nabual and Elpidio Bachicha, of the crime of robbery with homicide, under an information alleging:

"That on or about the 7th day of January, 1967, in the Municipality of Calbiga, Province of Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and helping one another with one Cresencio Mabute who is still at large, armed with guns and a knife, with intent to kill and to gain, by means of force, violence against and intimidation of persons, and at nighttime, did then and there willfully, unlawfully and feloniously enter the house of one Carlota P. Ocenada, and once inside thereat, pointed their guns at said Carlota P. Ocenada and demanded money from her and because of fear that she might be killed, said Carlota P. Ocenada handed said accused money in cash which was placed inside their trunk, amounting to One Hundred Thirty Five (P135.00) Pesos, and accused forcibly opened the suitcase and got another money in cash amounting to Four Hundred (P400.00) Pesos, which the said accused took, stole and carried away with them, to the damage and prejudice of the said owner in the total sum of Five Hundred Thirty Five (P535.00) Pesos, Philippine currency; and accused, pursuant to their conspiracy and on such occasion thereof and for the purpose of enabling them to take, steal and carry away with them said amount of money, did then and there willfully, unlawfully and feloniously attack, assault and stab several times one Pablo Ocenada, husband of said Carlota P. Ocenada with said knife with which the said accused had conveniently provided themselves for the purpose, there-by inflicting upon said Pablo Ocenada several wounds on the different parts of his body which wounds caused his death.

"That in the commission of the crime the following aggravating circumstances were present: (1) Nighttime; (2) the crime was committed in the dwelling of the offended party, the latter not having been giving provocation for it; (3) habituality or reiteration, they having been convicted on September 5, 1962, in the Court of First Instance of Branch I, Catbalogan, Samar, for murder, in Criminal Case No. 6074, and was sentenced to imprisonment from 4 years and 2 months of prision correccional to 8 years of prision mayor, with accessory penalties provided by law and indemnify jointly and severally the heirs of Loreto Cabrillas and pay the costs; as to accused Luis Nabual and Demetrio Nabual; (4) evident premeditation; (5) taking advantage of superior strength in number and arms."

When the case was called for arraignment, counsel de oficio for the defendants informed said Court of their intention to enter a plea of guilty, whereupon His Honor, the trial Judge, propounded to them the questions and the defendants gave the answers quoted here-under:

COURT - (To the three accused)

"Q - Your lawyer has manifested to this court that you desire to enter the plea of guilty to the offenses charged.

Do you agree to that manifestation of your lawyer?

"A - Yes, sir (all the three accused)

"Q - Do you know that by so agreeing to that manifestation of your lawyer you will be admitting the commission of the crime charging you with robbery with homicide?

"A - Yes, sir (all the three accused)

"Q - And for which this court will sentence you to death or of imprisonment for which length of time that it will determine?

"A - Yes, sir (both the three accused).

"Q - And, notwithstanding what was explained to you you still insist your desire to enter the plea of guilty to the offense charged?

"A - Yes, sir (both the three accused).

"Q - The court would like to inform you again that this robbery with homicide is punish-able with reclusion perpetua with death.

"A - Yes, sir (both the three accused).

"Q - And there is a likelihood that you might be sentenced to death.

"A - Yes, sir (both the three accused).

"Q - And, notwithstanding what is explained to you by the court you still insist in your desire to enter the plea of guilty?

"A - Yes, sir (both the three accused).

"COURT

Arraign the accused.

"INTERPRETER

(Reading the information to the three accused).

"INTERPRETER

"Q - Did you understand what was read to you? (Interpreter asking the same question to the three accused)

"A - Yes, sir (both the three accused).

"Q - What is your plea Demetrio Nabual?

"A - Guilty.

"Q - What is your Luis Nabual?

"A - Guilty.

"Q - What is your plea Elpidio Bachicha?

"A - Guilty.

COURT

"Q - Why did you enter the plea of guilty to the crime charged?

"A - I pleaded guilty because I have done it. (Both the three accused answering one by one)."

Thereupon, the trial court rendered judgment finding the de-fendants guilty of robbery with homicide, with the aggravating circumstances of nighttime, dwelling, evident premeditation and abuse of superior strength, in addition, insofar as Luis Nabual and Demetrio Nabual are concerned, to the aggravating circumstance of reiteration, with no mitigating circumstance in favor of any of said defendants except that of plea of guilty, which is, however, insufficient to offset all of the aforementioned aggravating circumstances, and, accordingly, sentenced them to death, to jointly and severally indemnify the heirs of Pablo Ocenada in the sums of P6,000 and P535, which latter sum represents the amount stolen, and to pay the costs. Hence, the pre-sent automatic review.

During the pendency thereof, or on December 24, 1968, Demetrio Nabual died in consequence of injuries sustained when prison guards fired at him, as he, together with other prisoners, tried to escape from the New Bilibid Prisons, where he was undergoing preventive imprisonment. By resolution of this Court, dated February 21, 1969, the case against him was, therefore, dismissed, so that the present decision refers exclusively to defendants Luis Nabual and Elpidio Bachicha.

Conceding the propriety of the judgment of conviction against these defendants, their counsel de officio maintains[1] that the lower court erred in considering that the crime charged was committed with the aggravating circumstances of reiteration, nighttime and evident premeditation; that the commission of said crime was attended by no other aggravating circumstances than those of dwelling and abuse of superior strength; that these two (2) aggravating circumstances should be deemed offset by the plea of guilty entered by the defendants, so that they should be sentenced merely to life imprisonment; and that said judgment should be modified accordingly.

As regards the aggravating circumstances of reiteration and nighttime, it is urged that, according to the information, the defendants had been previously "convicted" of the crime of murder and "sentenced" therefor; that there is no allegation that they had served the sentence; that actual punishment or service of the sentence is essential to the aggravating circumstance of reiteration,[2] unlike recidivism, for which previous conviction of a crime falling under the same title of the penal code is sufficient; and that the information fails to aver that nighttime had been purposely or especially sought or that the defendants had taken advantage thereof in order either to facilitate the commission of the offense or to afford them impunity. We deem it unnecessary, however, to discuss these aggravating circumstances, because even if we discarded them, the result would be the same.

Indeed, appellants affirm that evident premeditation is inherent in the crime of robbery and that robbery with homicide is essentially a crime against property. It is true that in the case of *People v. Valeriano*,[3] which was one of robbery with homicide, it was held that:

"Evident premeditation is not considered as an aggravating circumstance in crimes of robbery because the same is inherent in the crime specially where it is committed by various persons; they must have an agreement, they have to meditate and reflect on the manner of carrying out the crime and they have to act coordinately in order to succeed. x x x"

However, in the same case, this Court added:

"x x x But in the crime of robbery with homicide, if there is evident premeditation to kill besides stealing it is considered as an aggravating circumstance. x x x In the instant case, it has been proven that the accused, on various occasions before committing the crime, planned and decided not only to steal but also to kill Judge Bautista. Hence, there is present evident premeditation."

Similarly, in the case at bar, the information explicitly alleges that the "accused conspiring, confederating together

and helping one another x x x armed with guns and a knife x x x with intent to kill x x x did x x x willfully, unlawfully and feloniously enter the house" of the offended parties and steal the aggregate sum of P535, and "pursuant to their conspiracy, x x did x x stab several times x x Pablo Ocenada x x with said knife with which said accused had conveniently provided themselves for the purpose, thereby inflicting upon said Pablo Ocenada several wounds x x x which x x x caused his death." This allegation was admitted by the defendants, who acted, therefore, with evident premeditation to kill.

Independently, therefore, of the aggravating circumstances of nighttime and reiteration, evident premeditation, dwelling, and abuse of superior strength should be considered present at the commission of the offense. In the light of the conditions obtaining in the present case, we believe that defendants' plea of guilty is insufficient to offset these three aggravating circumstances, and that the extreme penalty was properly meted out to. Luis Nabual and Elpidio Bachicha.

We have not overlooked the fact that, in *People v. Apduhan*,^[4] we refrained from imposing the extreme penalty, for lack of the number of votes necessary therefor, despite the existence of three aggravating circumstances as against the mitigating circumstance of plea of guilty. Such case should not be construed, however, as implying that this mitigating circumstance has as much weight as three aggravating circumstances, whatever the latter may be. Obviously, some aggravating circumstances are graver than others. Indeed, the same aggravating circumstance may connote a greater degree of malice or perversity in one case than in another. Conversely, the same mitigating circumstance may merit more weight in one case than in another, depending upon the conditions surrounding each. In the very nature of things, judges must exercise their sound judgment in the appraisal thereof.

In the present case, the defendants had planned not only the robbery. They had entered the house of their victims with the intent to kill. For this purpose, they had armed themselves with deadly weapons. This, notwithstanding the fact that they had been previously convicted of and sentenced for murder. Even if the legal feasibility of considering such conviction and sentence as sufficient to establish the aggravating circumstance of reiteration may be debatable, said fact is undoubtedly indicative of the marked moral perversion of the defendants and of the grave danger they pose to society.

Then, again, there is every reason to believe that the plea of guilty entered into by them was prompted, not by a feeling of regret or remorse and a willingness to pay their debt to society, but by a desire to avail of the only means to create a possibility, no matter how remote, of preventing the imposition of the death penalty, by establishing one mitigating circumstance in their favor. This assertion is based upon the fact that otherwise the prosecution would have, in all probability, proven that nighttime had been purposely sought or taken advantage of, and that the defendants had not only been convicted of and sentenced for murder, but, also, served the sentence therefor. In fact, the lower court found - upon informal examination of the documents that the prosecution intended to introduce in evidence, had the defendants chosen to proceed to trial - that Luis Nabual and Demetrio Nabual were parolees, so that they must have served part of their aforementioned sentence. In short, had a plea of not guilty been entered, there was a great likelihood that the following aggravating circumstances would have been established, namely: (1) nighttime; (2) dwelling; (3) abuse of superior strength; (4) evident premeditation; and (5) as regards Luis Nabual and De-metrio Nabual, reiteration. With no mitigating circumstance to offset any of these aggravating circumstances - in the absence of a plea of guilty - defendants' chances of avoiding the extreme penalty were nil. Hence, they had no choice but to enter said plea.

WHEREFORE, modified as to the indemnity of P6,000 which is hereby increased to P12,000,^[5] in addition to the stolen sum of P535, the decision appealed from is hereby affirmed, in all other respects, with costs against defendants Luis Nabual and Elpidio Bachicha.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Capistrano, Teehankee, and Barredo, JJ., concur.

Fernando, J., took no part.

[1] Citing *People v. Matbagon*, 60 Phil. 887, 891-893; *People v. Trumata*, 49 Phil. 192; *U.S. v. Billedo*, 32 Phil. 574, 579.

[2] Citing the Revised Penal Code by Judge Luis B. Reyes, 2nd ed., 1956, p. 188. See, also, *The Revised Penal Code* by M. A. Albert, 1946 ed., 119.

[3] 90 Phil. 15, 34. Underscoring supplied.

[4] L-19491, August 30, 1968.

[5] *People v. Pantoja*, L-18793, Oct. 11, 1968; *People v. Gutierrez*, L-25372, Nov. 29, 1968; *People v. Buenbrazo*, L-27852, Nov. 29, 1968.

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.