

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
SEVERO CORONEL, ET AL., DEFENDANT SEVERO CORONEL,
DEFENDANT AND APPELLANT.**

G. R. No. L-19091. June 30, 1966

Ponente: REGALA, J.

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REGALA, J.:

Review of a judgment of the Court of First Instance of Rlzal imposing the death penalty upon Severo Coronel.

In an amended information dated September 19, 1947, the above named accused, with several others, were charged before the lower court for the complex crime of robbery with multiple homicide committed as follows:

"That on or about the 7th day of September 1947, in Barrio Hulong Duhat, Municipality of Malabon, Province of Rlzal, Philippines, and within the jurisdiction of this Court, the above-named accused, conspiring and confederating together and mutually helping one another, and each and all of them armed with deadly weapons, such as carbines, automatic rifles, pistols, grease guns, and hand grenades, and machine guns, did then and there willfully, unlawfully and feloniously break into and enter the house of Judge Basillo Bautista, then occupied by the latter and his family, in said Barrio Hulong Duhat, Malabon, Rizal, and once inside, with intimidation of and violence upon persons and force upon things, break open a wardrobe and other furniture, and with intent of gain and against the consent of the owner, take, steal and carry away the following personal properties valued at P1,360, to wit:

* * * * *

to the prejudice and damage of the owners thereof in the aforesaid sum of P1,360;

"That on the occasion of the same robbery and in pursuance of their conspiracy and to carry out their criminal designs and purposes, the above named accused, with intent to kill, did then and there willfully, unlawfully and feloniously assault, attack and shoot with their aforementioned weapons the said Judge Basilio Bautista and his son Crispin Bautista and the MFC soldiers, Privates Jesus Alejandro, Emilio Magsisi and Bernabe Diosomito who, in the performance of their duties, came to the aid of Judge Basilio Bautista and his family, causing upon the aforementioned persons mortal wounds which caused the immediate death of Basilio Bautista and Pvt. Jesus Alejandrino, and the death of Crispin Bautista and Pvts. Emilio Magsisi and Bernabe Diosomito a few days thereafter;

"That the commission of the crime was attended by the aggravating circumstances of evident premeditation, abuse of superior strength, use of motor vehicle, dwelling, night-time, which was purposely sought and taken advantage of to facilitate the commission of the crime, and by an armed band."

Since the apprehension and arrest of all the accused were not effected at the same time, separate trials were had. The record shows that in a decision dated October 9, 1947, Bonifacio Valeriano and Benjamin Cruz were sentenced to the capital penalty of death, while David de la Cruz was sentenced to reclusion perpetua. This was affirmed by the Supreme Court per curiam on September 19, 1951. On March 20, 1948, Faustino Cruz was also

sentenced to the death penalty. The remaining others, except Severo Coronel, however (Rufino Pascual, Gregorio Uriam and Magno Carpio) were not sentenced to the death penalty but were merely made to suffer reclusion perpetua because of mitigating circumstances attendant in their favor.

When the accused Severo Coronel was arraigned on September 19, 1955, he entered a plea of "Not Guilty? Trial thus proceeded and after the Government had rested its case, the defense filed a motion to dismiss on the ground that the facts and circumstances of the case and the nature of the evidence presented show that the crime committed is not robbery with multiple homicide as charged, but rebellion, thus a mistake had been made in charging the proper offense. This motion, however, was denied, the lower court finding that "there is nothing in the evidence introduced against the accused Severo Coronel, both oral and documentary, to show or even hint that the present crime for which the accused stands charged has been committed by the Hukbalahap Organization in the furtherance of its resistance movements against the government."

At the resumption of the hearing, and after several postponements for the presentation of evidence had been granted to the defense, the accused voluntarily entered a plea of "Guilty" at the same time invoking the mercy of the court for a lighter penalty. The said accused has shown that he surrendered to Col. Benjamin G. Molina on June 2, 1954 at Camp Murphy. He also presented evidence consisting of excerpts from a decision of the then Hon. Judge Oscar Castelo tending to show that the crime charged was committed by the accused in the furtherance of the Hukbalahap rebellion movement.

The evidence for the defense having been submitted, the court rendered judgment finding the accused guilty of the crime charged, imposing upon him the death penalty, and ordering him to indemnify the heirs of each of the deceased victims, to wit: Basilio Bautista, Pvt. Jesus Alejandrino, Crispin Bautista, Pvts. Emilio Magsisi and Bernabe Diosomito, the sum of P6,000.00, and to indemnify the family of Judge Basilio Bautista in the amount of P1,360.00, the value of the stolen articles, and to pay the proportionate costs.

Since the accused appellant has admitted his guilt, this review is confined to the matter of penalty.

In begging for a lighter penalty, the appellant once again reiterates his contention that he should have been charged for rebellion under articles 134 and 135 of the Revised Penal Code, instead of robbery with homicide. We believe that the following quoted observation of the trial court on this regard is sufficient to dismiss this contention:

**** In addition to what has been ruled by Judge Victoriano in his Order of April 21, 1958, it is to be stated at this instant that with his plea of guilty, the herein accused has admitted the truth of all the allegations in the Information above-quoted, and inasmuch as in said Information the crime charged is that of 'Robbery with Multiple Homicide' and there is no showing therefrom that the same was committed in the furtherance of the rebellion movement of the Hukbalahap organization, the criminal liability of the accused must necessarily be for the offense subject of the Information. It is further to be observed that although it is true that in the Decision of the Honorable Oscar Castelo dated October 9, 1947, mention was made of the Hukbalahap organization as being linked with the commission of the crime, the very Decision quoted by counsel for the accused and marked as Exhibits '3' and '3-a' shows nevertheless that the robbing and killing of Judge Basilio Bautista and others could not be considered essential elements or ingredients of the crime of rebellion so as to be absorbed by the latter. It is to be remembered that the principal crime committed in this case was robbery which is one offense which definitely cannot be countenanced and sanctioned as one of those which may be considered as necessary and essential to the commission of the political crime of rebellion. The attack and assault of Judge Basilio Bautista and his son, Crispin Bautista, on the occasion of said robbery, which attack resulted in their death and that of several others has served merely to aggravate the principal offense of robbery under the provisions of paragraph 1 of Article 294 of the Revised Penal Code. Robbery being the main crime committed by the herein defendant, no amount of argument in his behalf can convince this Court that the said

offense was consummated to further the interests and insure the success of the rebellion movement of the hukbalahap organization."

There is no question that the appellant enjoys in his favor the lone mitigating circumstance of voluntary surrender, which, however, is not sufficient to offset the aggravating circumstances found to be attendant in the commission of the crime. While the accused entered a plea of guilty, he did it only during the continuation of the trial so that this circumstance may not, under the law, be considered to mitigate the liability of the accused. We feel, though, that such an admission of guilt indicates his submission to the law and a moral disposition on his part to reform. This considering, and considering further that not all those involved in the crime were sentenced to the extreme penalty of death, this Court cannot give the sufficient number of votes to affirm in toto the decision of the lower court.

WHEREFORE, the decision under review is modified in that the penalty imposed is changed to life imprisonment. The decision is affirmed in all other respects.

Concepcion, C.J., Reyes, Barrera, Dizon, Makalintal, Bengzon, Zaldivar and Sanchez, JJ., concur.

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