

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. LORENZO BLANZA, SIXTO BLANZA AND MARCOS BLANZA, DEFENDANTS AND APPELLANTS.

G.R. No. 11497. August 01, 1916

Ponente: MORELAND, J.

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MORELAND, J.:

In this action Lorenzo Blanza, Sixto Blanza, and Marcos Blanza were charged with having on the 3d day of October, 1915, in the Province of Ilocos Sur, with premeditation and treachery, murdered Telesforo Almazan by striking and stabbing him with bolos. They were convicted of homicide and sentenced to fourteen years eight months and one day of reclusion temporal, to the accessories provided by article 59 of the Penal Code, to an indemnity and to pay the costs. In imposing the penalty the trial court gave them the benefits of article 11 of the Penal Code, reducing the penalty accordingly. They appealed.

The guilt of the accused is not denied on this appeal, the only error assigned by counsel for the appellants being that "the court erred in not taking into consideration in sentencing the accused their ignorance and lack of instruction."

Counsel for appellants is in error in assuming that the trial court did not take into consideration the lack of instruction of the accused. The court found that the crime was committed with the aggravating circumstance of superior force, and that finding would have made it necessary to place the sentence in its maximum degree. The court, however, sentenced the accused to reclusion temporal in its medium degree, having compensated the aggravating circumstance with the extenuating circumstance provided in article 11 of the Penal Code, namely, the lack of instruction of the accused and the density of their ignorance, the court saying, referring to the aggravating circumstance of superior force, "but this aggravating circumstance is offset by the extenuating circumstance of race taken in conjunction with the lack of instruction of the accused."

The guilt of the accused is affirmatively proved beyond question by the evidence of the prosecution. The daughter of the deceased, Isidra Almazan, 17 years of age, saw the homicide committed, recognized the persons who committed it, and identified them in court. She arrived on the scene after the attack had been made but while still in progress. She had heard her mother's cry for help and ran to ascertain the trouble and found the accused in the act of murdering her father. She asserted that her father was unarmed and that his only means of defense was his bare hands and arms. Maria Blaza, wife of the deceased, testified that she was in the house cooking; that, finishing the cooking, she went to call her husband to the midday meal when she found him down on the ground surrounded by the three accused; that he got up and began to walk but had hardly turned his back on the accused when they attacked him with their bolos; that all three had bolos and that all three used them on her husband; that he was unarmed and defended himself simply with his bare hands and arms; that he fell under the blows of the accused but rose again and staggered on still pursued by the accused who continued to strike and stab him until he fell for the last time. This witness testified that the motive for the crime was the fact that the accused had, prior to

the commission of the crime here prosecuted, but on the same day, carried away the wall of the deceased's house without his consent and that he later filed a complaint against them for their act. The hearing was set for the day following the killing. On cross-examination the witness testified that she did not go to the help of her husband for the reason that the accused, on seeing her approach, cried to her to leave or they would kill her also.

The evidence establishes the guilt of the accused beyond reasonable doubt.

The judgment appealed from is affirmed, with costs against the appellants. So ordered.

Torres, Johnson, Trent, and Araullo, JJ., concur.

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