

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. CLEMENTE AMPAR, DEFENDANT AND APPELLANT.*G.R. No. 12883. November 26, 1917*

Ponente: MALCOLM, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-12883/>**MALCOLM, J.:**

A fiesta was in progress in the barrio of Magbaboy, municipality of San Carlos, Province of Occidental Negros. Roast pig was being served. The accused Clemente Ampar, a man of three score and ten, proceeded to the kitchen and asked Modesto Patobo for some of the delicacy. Patobo's answer was; "There is no more. Come here and I will make roast pig of you." The effect of this on the accused as explained by him in his confession was, "Why was he doing like that, I am not a child." With this as the provocation, a little later while the said Modesto Patobo was squatting down, the accused came up behind him and struck him on the head with an ax, causing death the following day.

As the case turns entirely on the credibility of witnesses, we should of course not interfere with the findings of the trial court. In ascertaining the penalty, the court, naturally, took into consideration the qualifying circumstance of alevosia. The court, however, gave the accused the benefit of a mitigating circumstance which on cursory examination would not appear to be justified. This mitigating circumstance was that the act was committed in the immediate vindication of a grave offense to the one committing the felony.

The authorities give us little assistance in arriving at a conclusion as to whether this circumstance was rightly applied. That there was immediate vindication of whatever one may term the remarks of Patobo to the accused is admitted. Whether these remarks can properly be classed as "a grave offense" is more uncertain. The supreme court of Spain has held the words "gato que aranaba a todo el mundo," "ladrones," and "era tonto, como toda su familia" as not sufficient to justify a finding of this mitigating circumstance. (Decisions of January 4, 1876; May 17, 1877; May 13, 1886.) But the same court has held the words "tan ladron eres tu como tu padre" to be a grave offense. (Decision of October 22, 1894.) We consider that these authorities hardly put the facts of the present case in their proper light. The offense which the defendant was endeavoring to vindicate would to the average person be considered as a mere trifle. But to this defendant, an old man, it evidently was a serious matter to be made the butt of a joke in the presence of so many guests. Hence, it is believed that the lower court very properly gave defendant the benefit of a mitigating circumstance, and correctly sentenced him to the minimum degree of the penalty provided for the crime of murder.

Judgment of the trial court sentencing the defendant and appellant to seventeen years four months and one day of cadena temporal, with the accessory penalties provided by law, to indemnify the heirs of the deceased, Modesto Patobo, in the amount of one thousand pesos, and to pay the costs is affirmed, with the costs of this instance against the appellant. So ordered.

Arellano, C. J., Torres, and Araullo, JJ., concur.

Johnson, J., concurs in the result.

Street, J., did not sign.

CARSON, J., concurring:

I concur. I think, however, that the extenuating circumstances attending the commission of the crime fall under the provisions of section 7 of the Penal Code rather than under the provisions of section 5 of that Code as indicated in the opinion.

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.