

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. ROMAN CAPA, DEFENDANT AND APPELLANT.

G.R. No. 35963. March 31, 1932

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

This is an appeal by the accused Roman Capa from the sentence of the Court of First Instance of Cebu, convicting him of triple murder qualified by evident premeditation, with the generic aggravating circumstance of treachery offset by the mitigating circumstances of, passion and obfuscation, and lack of instruction, and sentencing him for each of said crimes to seventeen years, four months, and one day of cadena temporal, P1,000 indemnity to the heirs of each of the deceased, with the costs of the prosecution.

In support of his appeal the appellant assigns the following alleged error as committed by the trial court in its judgment, to wit:

"The trial court erred in sentencing the accused to the penalty of fifty-two years and three days, and the amount of P3,000 as indemnity to the heirs of the deceased victims."

In arguing the legal question raised in his brief, counsel for the appellant contends that the trial court erred in convicting the accused solely upon his plea of guilty, and without having received evidence to determine the circumstances under which the defendant committed the three murders to which he pleaded guilty.

The accused was accompanied by his counsel de oficio, Pedro G. Aragon, when he was arraigned and pleaded guilty. Before the court pronounced sentence, counsel prayed that only one aggravating circumstance be taken into account, and two mitigating, namely, treachery, and obfuscation and ignorance. The prosecuting attorney was agreeable to this petition, and the court below imposed the sentence hereinbefore mentioned.

In the present instance the appellant mentions no other extenuating or justifying circumstance which would have to be considered if the circumstances under which the crime was committed had been investigated. Inasmuch as the counsel de oficio, who was present when the accused pleaded guilty, prayed the court to consider the mitigating circumstances of passion and obfuscation, and ignorance only, it is to be assumed that he was acquainted with all the details of the case and could find no other extenuating circumstance that might be taken into account in favor of his client. This request of the defendant's counsel de oficio in behalf of the man he was defending, implying as it does that he had investigated all the circumstances of the crime, rendered it unnecessary for the court to make a further investigation, for no one could know better than the defendant's own counsel de oficio the circumstances under which the crime was committed, or could have more interest in having those favorable to his client taken into account by the court.

Wherefore, the judgment appealed from is modified so that the defendant is further sentenced to the accessories of law, and the total penalty is reduced to forty years, according to article 88, paragraph 2, of the Penal Code, and affirmed in all other respects, with costs against the appellant. So ordered.

Avanceña, C. J., Johnson, Street, Malcolm, Romualdez, and Imperial, JJ., concur.

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