

THE PEOPLE OP THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. FRANCISCO LIZARTE, DEFENDANT AND APPELLANT.

G.R. No. 43291. May 11, 1935

Ponente: HULL, J.

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HULL, J.:

Appellant was convicted in the Court of First Instance of Pampanga on his plea of guilty on the following complaint:

"The undersigned provincial fiscal accuses Francisco Lizarte, alias Francisco Canda, of the crime of robbery with homicide committed as follows:

"That on or about the 24th day of December, 1934, at night in the municipality of Angeles, Province of Pampanga, Philippine Islands, and within the jurisdiction of this court, the above named accused, Francisco Lizarte, alias Francisco Canda, being armed with a knife, accompanied by several persons whose identity are not known and with whom he conspired, did with intent of gain, voluntarily, maliciously and feloniously by the use of force, violence, and intimidation go up the house of Jose Panlilio by using a bamboo pole as a ladder which they placed under a window, and entered said house through said window, an opening not intended for entrance or egress and once inside the house of Jose Panlilio the accused Francisco Lizarte, alias Francisco Canda, tried to forcibly open a locked drawer but while in the act of forcibly prying open the drawer, Jose Panlilio was awakened by the noise and proceeded to the room where the noise was coming from after putting on the light but when Jose Panlilio reached the room the accused, Francisco Lizarte, alias Francisco Canda, did with intent to kill, voluntarily, maliciously and feloniously with treachery and evident premeditation, attack, assault and stab with his open knife the said Jose Panlilio as a consequence of which said Jose Panlilio received several mortal wounds on the abdomen, chest and different parts of the body which wounds caused his death a few moments afterwards. The accused was unable to take away anything because of the timely awakening of Jose Panlilio and the timely arrival of help who came because of the outcries for help of the deceased Jose Panlilio and his wife.

"In the commission of the crime, the following aggravating circumstances were present:

"1. The crime was committed during the night time;

"2. The crime was committed with evident premeditation;

"3. The crime was committed with treachery;

"4. The crime was committed in the dwelling house of the offended party; and

"5. The crime was committed by making an unlawful entry, that is, passing through a window, an opening not intended for entrance or egress.

"6. The accused is a recidivist, having been convicted by final judgment of the crime of theft, a crime embraced in the same title of this case, in criminal case No. 4736 of the Court of First Instance of Tarlac.

"All contrary to law."

Appellant was represented by counsel and no evidence was taken by the court. Upon the plea the trial court sentenced appellant to reclusion perpetua, with the accessory penalties prescribed by law, and to pay the heirs of the deceased the sum of one thousand pesos. From that sentence this appeal was taken, and the attorney de oficio reports that, after a study of the record, in view of the aggravating circumstances and taking into consideration the provisions of article 297 of the Revised Penal Code, the sentence awarded is that required by law.

The representative of the Solicitor-General, however, submits that, in view of the fact that appellant has appealed, there is a possibility that he might not have understood clearly the meaning and effect of his plea of guilty, and also refers to a portion of appellant's affidavits made the day of the commission of the crime. A mere possibility of lack of understanding of the meaning of the plea of guilty is not sufficient for this court to direct a new trial which might result, in view of the nature of the complaint, in a death sentence. The presumption of regularity of court proceedings overcomes the mere possibilities that are inherent in all human affairs. Appellant was advised by a member of the bar in good standing before he made his plea. By such a plea he escaped the possibility of suffering the highest penalty known to the law. The suggestions of the representative of the Solicitor-General are therefore deemed without merit.

The sentence appealed from, being authorized by law, is affirmed. No expression as to costs. So ordered.

Malcolm, Vickers, Butte, and Diaz, JJ., concur.

Judgment affirmed.

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