

UNITED STATES, PLAINTIFF AND APPELLEE, VS. JUAN PILOTEO AND JUAN DE LA CRUZ, DEFENDANTS. JUAN PILOTEO, APPELLANT.

G.R. No. 4388. March 02, 1908

Ponente: JOHNSON, J.

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JOHNSON, J.:

ROBBERY "EN CUADBRILLA." (1907); CRIMES AGAINST PROPERTY.—From the Court of First Instance of Bulacan. The court below found the defendant Juan Piloteo guilty of robbery en cuadrilla with the aggravating circumstance of nocturnity and the mitigating circumstance provided for in article 11 of the Penal Code. Piloteo alone appealed. Held, That the mitigating circumstance specified in article 11 of the Penal Code should not be considered in favor of defendants charged with the commission of crimes against property. Judgment modified; penalty increased to imprisonment for ten years, with accessory penalties.

Per Johnson, J,

For appellant: Aniceto Reyes.

For appellee: Attorney-General Araneta.

DECISION

These defendants were charged with the crime of robo en cuadrilla, committed as follows:

"Que en o hacia las dos de la madrugada del dia 19 de Julio de 1907, en el barrio de Perez, del municipio de Meycauayan, de la Provincia de Bulacan, Islas Filipinas, los referidos acusados en numero de mas de tres malhechores armados, voluntaria y criminalmente asaltaron la casa de Hilario de la Cruz, le amarraron juntamente con Jacinto Denilla, Elias Paez, Martina Denilla, Luisa de la Cruz y Balmomera Bargasos y se apoderaron con violencia de los siguientes objetos de la propiedad de estos.

Metalico y papel de Banco

P84.00

Rosario de nacar con tumbaga

18.00

Peine de Tumbaga

5.00

Camisa de calibo

4.00

Un bolo

2.00

Pantalon de cañamo

P114.00

Hecho con infraccion de la ley."

These defendants were duly arrested and brought before the Court of First Instance of the Province of Bulacan; they were duly arraigned and each plead "Not Guilty". After hearing the evidence adduced during the trial of the cause, the Court below found that the evidence was insufficient to support the charges against the said defendant, Juan de la Cruz, and therefore discharged him. The Court below found that the evidence was sufficient to support the charges against the said Juan Piloteo, and considering the aggravating circumstance of nocturnity and the attenuating circumstance provided for in Article 11 of the Penal Code, sentenced the said Juan Piloteo to be imprisoned for a period of six years, ten months and one day of presidio mayor, with the accessory penalties provided for by the law, to return the sum P84.00 and the other articles mentioned in the said complaint which were stolen, or their value, and to pay one-half the costs.

From this sentence of the lower court the defendant appealed to this court.

An examination of the evidence brought to this court shows beyond peradventure of doubt that on the night of the 19th of July, 1907, the defendant, with four others, armed with revolvers, daggers and bolo, did by force and arms enter the house of Hilario de la Cruz, situated in the barrio of Perez, pueblo of Meycauayan, in the Province of Bulacan, and did then and there, by force and arms, after manacling seven persons who were found in said house, take and carry away the money and other articles mentioned in said complaint. The evidence clearly shows that Juan Piloteo was one of the five persons who, in the manner described, assisted in committing the said robbery on the night in question.

The evidence brought to this court seems to implicated the said Juan de la Cruz in the commission of the crime in the same way that the said Juan Piloteo is implicated. We are unable to understand from the record upon what theory the lower court dismissed the complaint as to the said Juan de la Cruz.

These facts fully justify the imposition of the penalty provided for paragraph 5 of Articles 503, and 504 of the Penal Code. The crime was committed at about two o'clock in the morning. The defendants evidently took advantage of the night time for the purpose of carrying out the said acts robbery. Nocturnity, therefore, should be considered as an aggravating circumstance.

The lower court considered the provisions of Article 11 of the Penal Code as an attenuating circumstance in favor

of the defendants. This court has frequently decided that Article 11 should not be considered as an attenuating circumstance in favor of defendants who are charged with the commission of crimes against property.

Considering all the facts adduced during the trial of the cause and the aggravating circumstance of nocturnity, we are of the opinion and so hold that the sentence of the lower court should be modified and that the appellant should be sentenced to be imprisoned for a period of ten years of presidio mayor, with the accessory penalties provided for in Article 57 of the Penal Code, to return the money and other articles mentioned in said complaint, to the parties to whom they belong, and to pay the costs.

It is so ordered.

Arellano, C.J., Torres, Mapa, Carson, Willard and Tracey, JJ., concur.

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