

**BRUNO AREVALO AND CECILIO AREVALO, PETITIONERS, VS.
RICARDO NEPOMUCENO, JUDGE OF FIRST INSTANCE OF NUEVA
ECIJA, AND THE PROVINCIAL FISCAL OF NUEVA ECIJA
RESPONDENTS.**

G. R. No. 45332. October 27, 1936

Ponente: AVANCEÑA, C.J.

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AVANCEÑA, C.J.:

In the Court of First Instance of Nueva Ecija, an information for the crime of murder was filed against Bruno Arevalo and Cecilio Arevalo, alleging that Bruno was armed with a knife and Cecilio with a revolver. After the accused had pleaded not guilty upon arraignment, and upon proceeding with the trial of the case on the day fixed therefor, a witness was presented who testified that it was Bruno who carried the revolver and Cecilio, the knife. Alleging that according to the information it was Bruno who carried the knife and Cecilio the revolver, the attorney for the defense "filed an objection to said testimony. The court stated that if the fiscal did not amend the information, it would sustain the objection. The fiscal filed an amended information alleging that it was Bruno who carried the revolver and Cecilio the knife. The court admitted said amendment Bruno and Cecilio Arevalo, the petitioners in this case, who are the accused in said information, filed this petition for certiorari and ask that the resolution so rendered be declared null and void on the ground that the court exceeded its jurisdiction and abused its discretion in permitting the amendment to the information.

We are of the opinion that the court did not abuse its discretion. The amendment to the information was merely a matter of form. It neither affects nor alters the nature of the crime because, whether it be Bruno or Cecilio who inflicted the mortal wound, the crime would be the same. Neither does it affect the extent of the liability of the appellants because, it being alleged in the information that both accused conspired and helped each other to commit the crime, they would be liable to the same extent, whoever inflicted the wound which resulted in the death of the deceased. Therefore, it is purely an amendment of form which does not substantially alter the information nor affect the rights of the accused.

The petition is denied, with the costs to the petitioners. So ordered.

Villa-Real, Abad Santos, Imperial, Diaz, and Laurel, JJ., concur.

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