

THE PEOPLE OP THE PHILIPPINES, PETITIONER, VS. RAFAEL PASCUA AND PORPIRIO PAGADUAN, RESPONDENTS.

G.R. No. 47081. January 31, 1941

Ponente: LAUREL, J.

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LAUREL, J.:

This is a petition for a writ of certiorari to review the decision rendered by the Court of Appeals in the above-entitled case principally on the ground that said court erred in not forwarding the case to this court under the provisions of sections 138 and 145-K of the Revised Administrative Code as amended by Commonwealth Acts Nos. 3 and 259. It is contended by the petitioner that the penalty for the complex crime or robbery with homicide prescribed by article 294, No. 1, of the Revised Penal Code is reclusion perpetua to death, and that, therefore, the Court of Appeals should have certified the case to this court under the provisions of the sections already referred to above.

Section 145-K, as amended, of the Revised Administrative Code refers specifically to criminal cases which should be certified by the Court of Appeals to the Supreme Court under certain conditions. Although the offense committed here is designated as a complex crime of robbery with homicide, the facts involved and not the classification of the offense charged are controlling, and we are inclined to assume that if the Court of Appeals declined or failed to elevate the case to this court, this was advisedly done by the Court of Appeals upon review of the records and consideration of the evidence presented. On the other hand, to all intents and purposes, the present petition is an exception to and an appeal by the Government from a judgment of conviction, a practice not sanctioned by law or authority. The petition is denied without costs. So ordered.

Avanceña, C. J., Imperial, Diaz, and Horrilleno, JJ., concur.

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