

2 Phil. 21

[G.R. No. 1030. March 11, 1903]

THE UNITED STATES, COMPLAINANT AND APPELLANT, VS. NICOLAS TIQUIO ET AL; DEFENDANTS AND APPELLEES.

D E C I S I O N

MAPA, J.:

The acts with which the defendants are charged, and their guilt as principals, are fully proven in the record. The judge below rightly classified the acts committed as robbery, but he held that the case was covered by paragraph 5 of article 503 of the Penal Code, inflicting upon the defendants the penalty of eight years of *presidio mayor*. The prosecuting attorney appealed against this decision, believing that the crime should be punished in accordance with article 508 of the Code, this being the only question which has been raised on this appeal.

The evidence shows that the malefactors were armed with guns and bolos; that the robbery of the clothes was committed in an inhabited house and the robbery of the carabaos in buildings connected with inhabited houses; that the value of the carabaos stolen (the value of the clothing not having been properly ascertained) exceeded 1,250 pesetas; and finally that the malefactors entered the place where the robbery was committed by scaling a fence which protected it and which was of quite a considerable height.

If any of these circumstances had been lacking the case should have been tried under article 503, paragraph 5, as the judge held. But the concurrence of all these circumstances evidently brings the case Avithin the scope of article 508, and the penalty prescribed therein should be imposed in the maximum degree, in accordance with the provisions of article 509. The robbery was committed by a band, over thirty armed men taking part in it, (Art. 505.)

We therefore impose upon the defendants the penalty of fourteen years and eight months of *cadena temporal*. The judgment below, thus modified, is otherwise affirmed, with the costs

to the defendants. So ordered.

Arellano, C. J., Cooper, Willard, and Ladd, JJ., concur.

Torres, J., did not sit in this case.

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