

3 Phil. 678

[G.R. No. 1574. April 13, 1904]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. CHOA CHI CO,
DEFENDANT AND APPELLANT.**

D E C I S I O N

TORRES, J.:

February 16, 1903, one of the deputy prosecuting attorneys of the city of Manila filed an information in the Court of First Instance charging Espiridion Yandon, Tan Chan Chang, Choa Chi Co, Chong Quah Co, Lim Tan Co, Uy Bunta, Ny Chin, Lucia Alcantara, Placida Flores, Juana Villara, and Patricia Yandan with the crime of vagrancy, in that on or about the 16th of February, 1903, the said accused lived in and about a house of ill fame, at No. 94 Calle Hang-Hang, Binondo, Manila, Philippine Islands, the said defendants being depraved and dissolute persons, and the women, Alcantara, Villara, Flores, and Yandan being common prostitutes; this against the statute in the case made and provided.

The accused pleaded not guilty. Upon the evidence introduced at the trial the court below on February 20, 1903, condemned Lucia Alcantara to one year's imprisonment at hard labor in Bilibid Prison; Espiridion Yandon to ten months' imprisonment; the Chinamen, Tan Chan Chang, Choa Chi Co, Chong Quah Co, Lim Tan Co, Uy Bunta, Ny Chin, and the women, Patricia Yandan and Placida Flores, to six months' imprisonment, and Juana Villara to one month's imprisonment in the same prison. These accused commenced to work out the penalty on the date of the judgment, February 20, 1903. The Chinaman Choa Chi Co appealed, but the judgment of the Court of First Instance became final as to the other accused,

with whom, consequently, this decision does not deal.

Carl B. Hard and George W. Marshall, detectives, testified that the house, No. 94 Calle Ilang-Ilang, Binondo, was a house of prostitution, and that the women who lived there were all prostitutes; that the house was operated by Lucia Alcantara and a tall Chinaman called Ny Chin, who was arrested in the house together with the other accused; that the first time the witness Hard went to the house to make an investigation he caught the girl Juana Villara and at her own request sent her by train to the town of Malabon, but that upon returning to the house upon another occasion, between 9 and 10 o'clock at night, he found the same girl there again, and that she told him, with tears, that she had been compelled to return to it; that the witness made an examination of the house, and found a number of women there in conversation with some Chinese, and in a number of the rooms found men and women together; that Lucia Alcantara was one of the most widely known of the prostitutes, she having formerly been engaged in the same occupation in Calamba; the witness further stated that this woman was the one who instructed the girls engaged in these practices; that the men arrested at the house were lewd and dissolute fellows, who were always in Company with prostitutes. The witness Marshall testified that he had known the four women and some of the Chinese arrested for some fifteen days; that the women were prostitutes and that the men were of lewd and dissolute habits; that on one of the occasions upon which he had visited the house in question he had found some women in bed with Chinamen; that the Chinaman, Ny Chin, told him that he had a license, and was engaged in business; that Patricia Yandan told the witness that she had been taken to that house by her brother, Espiridion Yandan.

Capt. Ward P. Shattuck, of the Metropolitan police, also testified that the house, 94 Calle Ilang-Ilang, had been regarded with suspicion from the beginning, and that some weeks afterwards he was informed by his men that it was a house of prostitution; that a woman, whose name he did not remember, accompanied by a Chinaman, presented a petition for a license to establish a second-class bar therein ; that the license was not granted because of information received showing that the house had a bad reputation and was the rendezvous of prostitutes.

According to Act No. 519, every lewd and dissolute person who lives in and about houses of ill fame, and every common prostitute, is a vagrant, and upon conviction may be punished by a fine not exceeding \$100, or by imprisonment not exceeding one year and one day, or both, in the discretion of the court.

As to the appellant, Choa Chi Co, there is no evidence other than that he was arrested, together with the other defendants, at the house, No. 94 Calle Ilang-Ilang, known to be a house of ill fame.

There is no evidence whatever to show that the said Choa Chi Co frequented that house or lived in it, or that he was a person of lewd and dissolute habits, without known trade or occupation. On the contrary, the evidence shows that appellant lived at No. 239 Calle Rosario; that he was a clerk in the store established in the house, and that he happened to be found in the house of ill fame on Calle Ilang-Ilang because he had gone there to look for a fellow lodger whom he did not find there. Consequently, there being no evidence of his guilt, he must be acquitted.

For the reason stated, it is our opinion that the judgment of the court below must be reversed with respect to the appellant, Choa Chi Co, and that he be acquitted with one-tenth of the costs of both instances *de officio*. The case will be remanded to the trial court with a certified copy of this decision, and of the judgment to be entered in accordance therewith, for execution thereof. So ordered.

Arellano, C.J., Cooper, Mapa, and McDonough, JJ., concur.

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

