

[ G.R. No. 1751. February 23, 1905 ]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. VICENTE LOZADA ET AL., DEFENDANTS AND APPELLANTS.**

**D E C I S I O N**

**MAPA, J.:**

The appellants, together with another, Patricio Alvarez, who did not appeal, were charged in the Court of First Instance with the crime of robbery *en cuadrilla* and sentenced to imprisonment for three years eight months and one day, as principals in the commission of said crime of robbery *en cuadrilla*.

The only evidence adduced during the trial against the appellants is their own confession made on two different occasions in regard to having committed the robbery. The first- confession, according to the statement of Bernabe Marquez, a corporal of the Constabulary, was made to him while the said appellants were confined in his station. The second was made before the justice of the peace of Mambusao, who conducted the preliminary investigation. The latter confession is corroborated by another witness, Esteban Tupas, who was the clerk of the justice's court.

The defendants acknowledged having made such confessions, but they allege they were forced to it on account of the threats and ill treatment which they received from Corporal Bernabe; that the said Bernabe tied them to the pillars of the station, struck them with his fist and with the butt of his revolver; that he struck them in the stomach with a stone, leveled his revolver at the mouth of one of them, and threatened to kill them if they plead not guilty or retracted the

statements made before the justice's court; that for these reasons and because the corporal was watching them while testifying they made the same confession to the said court. Corporal Bernabe himself testified as to the certainty of the facts alleged by the defendants and he freely admitted that he threatened, abused, and whipped the defendants in order to obtain the confession.

A confession obtained from a person in such manner is null and void and can not be used as evidence against the defendant on trial. This is proverbial in law. Act No. 619 of the Philippine Commission may be said to have even gone too far when section 4 thereof establishes "that no confession of a person charged with any crime shall be taken as evidence against him by any court of justice unless it be first shown to the satisfaction of the court that it was freely and voluntarily made and not the result of violence, intimidation, threat, menace, or of promises or offers of reward or leniency." Section 3 of the aforesaid act provides further that "any Constabulary officer or noncommissioned officer of the Constabulary who countenances, allows, or permits the whipping, maltreatment, abuse, or torture of any native of the Philippine Islands, or of any other person for the purpose of extorting or obtaining any confession, information, or declaration whatsoever, shall be punished by imprisonment for a period not exceeding five years or by a fine not exceeding five thousand dollars, or both such fine and imprisonment, in the discretion of the court." These laws show the praiseworthy endeavor of the legislature that the confession of any person charged with crime shall be made as voluntarily as possible in order to be admitted as evidence.

It is unnecessary to add here that Corporal Bernabe Marquez openly violated the provisions of section 3, above quoted, since he tortured the defendants for the purpose of obtaining the confession. The declaration of the said Bernabe Marquez to the effect that he found a part of the stolen property in the possession of the defendants should receive some consideration were it true, but it is disclosed by the statement of the offended party, Pablo Martinez, that the property delivered by the corporal to the justice of the peace (who afterwards returned same to him as stolen property recovered) had not in reality

been stolen, but saved from the robbery by some women who were living with him in the house where the said robbery took place, and that this property was turned over to the corporal by those women.

Taking, then, the above facts into consideration, we reverse the judgment below and acquit the appellants with the costs in both instances *de officio*. The right to file the necessary complaint against Corporal Bernabe Marquez is reserved to the prosecuting attorney, who shall charge him with the crime provided for and punished by section 3 of Act No. 619, hereinbefore quoted. So ordered.

*Arellano, C. J., Torres, Johnson, and Carson, JJ., concur.*

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