4 Phil. 529

[G.R. No. 2169. May 01, 1905]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. CATALINO VECINA ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

MAPA, J.:

Of the three defendants only Julian Aquino appealed from the judgment rendered by the Court of First Instance, Catalino Vecina, sentenced to the same penalty as the former, accepted said judgment, and Pedro Villareal was acquitted of the charges. The penalty imposed on the appellant is that of three years eight months and one day of *presidio correccional*, the medium degree of that provided for in paragraph 5 of article 503 of the Penal Code, which the judge considered applicable to the facts in the case.

We declare the robbery in the complaint sufficiently proven and that the appellant took direct participation therein. The considerations of these facts made by the judge in the judgment apealed from conforms to the merits of the case, and the legal qualification of the crime as robbery is likewise in accordance with the law and with the provisions of the Penal Code above cited, which has been applied to the facts in this case. The judge found that the robbery was committed in an uninhabited place. We are of the opinion that the existence of this aggravating circumstance, has not been fully proven, taking into consideration the testimony of a witness for the prosecution that there is a house at the place of the occurrence; nor do we find any circumstance to consider in favor of the defendant, as was done by the judge below in regard to the circumstance of race established in article 11 of the Penal Code, considering the character of the crime.

Therefore, without any aggravating or extenuating circumstance to consider in the case, the penalty imposed on the appellant of the medium degree of that provided for the crime charged is in accordance with the provisions of the law. The defense alleges that the complaint is insufficient to charge the crime of robbery because it does not state that the money which is said to have been stolen belonged to another person—that is to say, that it did not belong to the defendants. This allegation has no foundation in law. The complaint states that-

“The defendants took possession of 10.75 pesos which Antonio Barcenas *carried* and of 8.25 pesos which Andres Rabong *carried*, with the intention of profiting thereby and with intimidation of the persons.”

By this it is implied that the money of which the defendants took possession was not their property, because the law says he is considered the rightful owner of the money which he possesses until the contrary is shown. Section 6 of General Orders, No. 58, establishes that—

> “It is not necessary to use in the complaint the exact words of the law, but it is sufficient that it be set forth in such manner that a person of ordinary intelligence can understand what is meant and so the court may rule in accordance with the law.”

The complaint in this case fills these requirements and, therefore, is sufficient under the law.

We affirm the judgment appealed from, the defendant being credited toward the fulfillment of this sentence with one-half of the time he shall have remained in prison, for the reason that the value of the money stolen does not exceed 100 pesetas and the penalty imposed on him is correctional, declaring the costs in this instance against the defendant. So ordered.

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

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