

5 Phil. 332

[G.R. No. 2019. November 20, 1905]

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ANTONIO FOUMENTOS ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

CARSON, J.:

We find no error in the proceedings in this case prejudicial to the rights of the accused, and the evidence adduced at the trial sustains the findings of the trial court, and establishes the guilt of the appellants as charged in the information, except only in the case of Gregorio Ramos, who was found guilty of the crime of brigandage as defined and penalized in section 1 of Act No. 518 of the Philippine Commission.

We think that there is reasonable doubt as to the guilt of the said Ramos, and therefore, reversing the findings and sentence of the trial court in so far as they apply to him, we find the said Gregorio Ramos not guilty of the crime of brigandage with which he was charged and convicted, and dismiss the information as to him with his proportionate share of the costs *de officio* in both instances.

The trial court, after finding the accused Ramon Castaneda guilty of the crime of brigandage as defined and penalized in section 1 of Act No. 518 of the Philippine Commission, erred in sentencing him to but ten years' imprisonment, instead of imposing the penalty prescribed by said act-that is to say, not less than twenty years' imprisonment.

The said Ramon Castaneda was a youth of but 17 years of age at the time of the commission of the offense, and the trial court was correctly of opinion that this fact should be taken into consideration

as an extenuating circumstance. But there is no provision in the said act authorizing the imposition of any other penalty than that prescribed therein, and aggravating or extenuating circumstances can only be taken into consideration for the purpose of increasing or decreasing the severity of the punishment to be imposed within the limits prescribed in the law penalizing the offense.

We therefore further reverse the said sentence in so far as it imposes the penalty of ten years' imprisonment on the said Ramon Castaneda, and, instead thereof, we sentence him to twenty years imprisonment, the minimum penalty authorized by law.

With these modifications, reversals, and corrections, the sentence appealed from ought to be, and is hereby, affirmed with a proportionate part of the costs of this appeal against the appellants, except in the case of the said Gregorio Ramos, whose proportionate part of the costs have been declared *de oficio*. So ordered.

Arellano, C. J., Torres, Mapa, Johnson, and Willard, JJ., concur.
