

6 Phil. 431

[G.R. No. 3045. September 08, 1906]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. TIBURCIO ZABALA,
DEFENDANT AND APPELLANT.**

D E C I S I O N

TRACEY, J.:

The accused, dissatisfied with his inheritance and with a vague notion of forcing a readjustment of his relations with his brother, and while intoxicated, set fire to his own house, his exclusive property. The fire consumed not only his residence but the adjoining one belonging to a relative, valued at 40 pesos. The neighbor's house was at the time vacant, but in his own house there was himself and his son.

In the opinion of the majority of the court he is not criminally liable for the fire set to his own house nor did he intend or foresee the burning of the house of his neighbor; consequently his act can not constitute the crime of arson. It does, however, fall within the terms of article 568 of the Penal Code, punishing as reckless negligence (*imprudencia teneraria*) an act which if actuated by malice would have constituted a grave crime.

The sentence of the court below is reversed and the defendant, for the crime of criminal negligence (*imprudencia teneraria*), is sentenced to six months imprisonment (*arresto mayor*), the indemnification of 40 pesos to Mariano Tandoc, and, in case of failure to pay, to the corresponding subsidiary imprisonment, with costs. After the expiration of ten days let judgment be entered in accordance herewith and ten days thereafter the record be remanded to the court from whence it came for proper action. So ordered.

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

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