

7 Phil. 580

[G.R. No. 2978. March 02, 1907]

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. CASIMIRO DE LOS SANTOS ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

CARSON, J.:

The evidence of record fully sustains the findings of the trial court, and the guilt of the appellants of the crime of brigandage with which they were charged is established thereby beyond a reasonable doubt.

Counsel for Pablo de los Santos contends that the complaint as to him should be dismissed because he has been heretofore convicted and sentenced to six years ten months and one day of imprisonment (*presidio mayor*) on a complaint charging him with the "robbery in an armed band" of a boat load of sugar, this identical robbery being one of the robberies proved at the hearing of this case. It will be observed, however, that in the complaint in this case he is charged with the crime of brigandage—that is, conspiring with others to commit robbery—and that this offense is wholly distinct from the offense of which he was convicted in the former case. Proof of the commission of this act of robbery was introduced in this case, together with evidence touching other robberies committed by the same band, simply as facts which tended to establish the conspiracy to commit acts of brigandage, with which the accused is charged. It is this conspiracy which is penalized in the Brigandage Act, and it is for uniting himself with these conspirators that the penalty is imposed. (Sec. 1, Act No. 518.)

The trial court imposed the penalty of twenty years' imprisonment on each of the accused, that being the minimum penalty prescribed by law, but we are of opinion that in the case of Pablo de los Santos this penalty should be increased, because it appears that he was a deserter from the ranks of the Constabulary. We therefore modify the sentence of the trial court in so far as it imposes twenty years' imprisonment upon the said Pablo de los Santos

and instead thereof we sentence him to twenty five years' imprisonment, and thus modified the judgment and sentence of the trial court is affirmed, with the costs of this instance against the appellants. After the expiration of ten days let judgment be entered in accordance herewith, and ten days thereafter let the case be remanded to the lower court for proper action. So ordered.

Arellano, C. J., Torren, Mapa, Johnson, Willard, and Tracey, JJ., concur.
