

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. AGAPITO SERRANO AND FAUSTINA ANANIAS, DEFENDANTS AND APPELLANTS.

G.R. No. L-9772. October 16, 1914

Ponente: ARAULLO, J.

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ARAULLO, J.:

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. AGAPITO SERRANO AND FAUSTINA ANANIAS, DEFENDANTS AND APPELLANTS. body { font-family: Verdana, Geneva, Arial, helvetica, sans-serif; font-size:80%; background-color:#FFFFFF; margin:0 2% 0 2%; text-align: justify; } h1 { font-family:times; } h2 { background-color:#cccccc; padding:10px 0 10px 0; font-weight: bold; text-align: center; } h3 { font-weight: bold; text-transform: uppercase; text-align: center; } div#footer { font-size:9px; }After trial of the above-named appellants for the crime of adultery, charged in a complaint filed by Bernardo Alega, the husband of Faustina Ananias, the Court of First Instance of Tayabas, on December 24, 1913, found them guilty and sentenced them to the penalty of three years six months and twenty-one days of prision correccional, to the accessory penalties of the law, and to pay the costs. From this judgment they have appealed.

It was fully proved that Faustina Ananias, while legally married to Bernardo Alega, lay several times with Agapito Serrano and that he, knowing that the said woman was married, also lay several times with her. These facts were not denied by counsel for the defendants and were expressly admitted by them at the trial.

There is no proof that the complainant, Bernardo Alega, abandoned his wife, the accused, and left her in poverty without means of obtaining a livelihood, and even though he had done so, such abandonment could not serve her as an excuse nor free her from the criminal responsibility she incurred by her breach of the fidelity she owed her husband, for she has means within the law to compel him to fulfill the duties imposed upon him by marriage.

Neither was it proved that her husband wrote her the letter presented by the defense at the trial, which states that he authorized her to consort with whomsoever she pleased and informs her of his purpose not to live with her again. On the contrary, he testified that it was his wife, the accused, who separated from him and, notwithstanding his entreaties, would not resume their marital life. This statement is corroborated by the fact that the accused remained separated from her husband, after the latter had been absent some time from the town where he had his residence, and continued her criminal relations with the other defendant, Agapito Serrano, notwithstanding her husband's presence in the same locality where they both were. It was this conduct of Tiers that brought about the filing of the complaint.

Finally, there is nothing that can less justify the conduct both of the woman and her accomplice and that is less entitled to consideration as a ground of defense in their behalf or of exemption from the criminal responsibility which they have incurred, than the plea of the defense that she lay with the man for a money payment, because, as the prosecution says, an immoral consideration, as the price of sexual intercourse, or an immoral agreement, such as is invoked by the defendant, is no agreement at all in the eyes of the law, nor can it ever serve to justify a criminal act "which, while it violates morality and good customs, tends to disturb social order by relaxing family

ties."

Both the accused having confessed and having been convicted of the crime of adultery, provided for and punished by article 433 of the Penal Code, and the commission of the said crime not being attended by any circumstance that modifies their responsibility, the penalty as imposed upon them by the lower court, in the medium degree, is proper. No error was incurred in the judgment appealed from, which is in accord with the merits of the case and with the law.

We therefore affirm the said judgment, with costs in equal parts against the defendants and appellants. The defendant Agapito Serrano, who is now in prison, will be allowed one-half of the time he has been held in detention.

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

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