

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
ANACLETO UY ALMEDA BT AL., DEFENDANTS. ANACLETO UY
ALMEDA, APPELLANT.**

CA-No. 507. November 19, 1945

Ponente: PARAS, J.

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PARAS, J.:

This is an appeal from a judgment of the Court of First Instance of Laguna, convicting the appellant, Anacleto Uy Almeda, of the offense of qualified trespass to dwelling and sentencing him to undergo imprisonment for the indeterminate period of from four months and one day of arresto mayor to two years, four months and one day of prison correctional, with the accessories of the law and one-third of the costs.

The facts established during the trial are substantially as follows: On the morning of November 13, 1940, the appellant, in company with other persons, arrived at the house of Honorata Limpo in the municipality of Bifian, Province of Laguna. The latter was thereupon informed by appellant's companion, Potenciano Villano, that they were going to demolish and repair her house, to which Honorata Limpo objected, specially in view of the absence of her husband at the time. Unheeding this opposition, and upon express orders of the appellant, his companions Potenciano Villano and Antonio Dysionglo proceeded to gain entry into the house by means of two ladders which they placed against the front wall and to remove some boards and iron sheets that served to cover the front side. Appellant's designs were put to a stop, however, only by the arrival of Honorata's son named Francisco, who called a policeman to the scene.

It appears that the house in question was built on a lot inclosed by a stone fence having an iron grill gate. On the same lot the appellant had a warehouse; and as he had freely used said gate in going to his property, it is now contended that his entry into the yard of Honorata Limpo, which was a part of her "dwelling," could not have been unauthorized or against her will, so as to warrant his conviction under article 280 of the Revised Penal Code. Appellant's argument would require some inquiry if the lot on which Honorata's house was erected were exclusively hers and the appellant had not admittedly used its gate in common with Honorata, and if said argument would not further lead to a plainly unacceptable, nay undesirable, result that simply because he had free entry into and passage on the common lot, he could have the same right as regards Honorata's house.

Another defense pressed in this appeal is that the opposition registered by Honorata Limpo was directed against the demolition or repair of her house and not against the original entry of the appellant and his companions into the yard or premises of her dwelling, and that although the removal of some boards and iron sheets, done by the appellant through his companions after their lawful entry, may constitute an independent offense, the said subsequent act cannot be the trespass denned and penalized by article 280 of the Revised Penal Code. This contention is of course partly disposed of in the preceding paragraph. It is only necessary to add that Honorata could not have consented to appellant's intrusion into the house, which made him a trespasser, for the very purpose already objected to by her. Moreover, the method employed by appellant's men in effecting entry

suggests prior refusal on the part of Honorata to admit them through its stairs. Neither is there any point in appellant's pretense that, one week before the occasion in question, he had notified Honorata about the intended repairs, because said notice did and could not mean her subsequent conformity.

The appellant next tries to exculpate himself by maintaining that there is absolutely no proof as to his criminal intent in entering the yard or even the house of Honorata. Indeed, it is insisted that he merely wanted to repair said house over which he was claiming ownership. Appellant thus pretended to have bought the house for P70 from the estranged wife of Honorata's son against whose father he subsequently filed a suit to recover the premises. This case was however, decided against him. We are of the opinion that the alleged ownership is immaterial, for even supposing that the house belonged to the appellant, that fact alone did not authorize him to do anything with or enter the house against the will of its actual occupant. He could have invoked the aid of the court for the exercise or protection of his alleged proprietary rights. What is intended to be protected and preserved by the law is the privacy of one's dwelling, and, except in those cases enumerated' in the third paragraph of article 280 of the Revised Penal Code, criminal intent inheres in the unwelcome visit of a trespasser.

The judgment appealed from is affirmed, with costs.

Moran, C. J., Jaranilla, Feria, Pablo, and Briones, JJ., concur.

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