

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
SILVERIO NEBREJA ET AL., DEFENDANTS, SILVERIO NEBREJA,
APPELLANT.***C.A. No. L-762. February 06, 1946*

Ponente: FERIA, J.

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The appellant Silverio Nebreja was charged with several others and found guilty of the crime of grave coercion by the Court of First Instance of Batangas, and sentenced to suffer imprisonment of four (4) months of arresto mayor, with the accessories of the law, to pay a fine of P100 with subsidiary imprisonment in case of insolvency, and to pay one-seventh of the costs. The other accused pleaded guilty of light coercion and were sentenced to serve the corresponding penalty and did not appeal.

The following facts are established in this case. The appellant was an encargado of Mateo Maningat, an hacendero of Balayan, Batangas, who bought the Lian Estate, situated in Lian, Batangas, from the corporation El Colegio de San José, but the buyer could not take possession of a portion of the land due to opposition of the occupants, among them the offended party Nicomedes Jonson. In the morning of October 5, 1942, while Nicomedes Jonson, assisted by Felipe Balbal, Marcelo Jonson and Alfonso Jonson, was plowing a parcel of the said land claimed by him and in his possession, the seven defendants led by the appellant, all armed with bolos except the appellant and Mariano Magno, ordered Nicomedes Jonson to stop plowing the land because the defendants would plow it. Nicomedes Jonson answered that he had a right to continue plowing the land as it was still in his possession, and that while it was involved in a litigation there was as yet no decision and order of the court to deliver possession thereof to somebody else. The appellant retorted that if they (Nicomedes Jonson and his companions) did not stop plowing they would get hurt, and grabbed the rope of the carabao of Nicomedes Jonson, while his co-accused, with their hand on the handles of their bolos, surrounded Nicomedes Jonson and his companions. Cowed by this hostile attitude of the defendants, Nicomedes Jonson and his companions had to stop plowing, thus enabling the defendants to take possession of and plow the land. Nicomedes Jonson immediately reported the matter to the local authorities, and returned with Sergeant of Police Amando Caraig and five policemen. Upon arriving at the place, they found Silverio Nebreja standing on the land while three of the defendants were plowing and the rest were standing guard. Sergeant Caraig approached and asked the appellant if it was true that he had stopped Nicomedes Jonson from plowing the land, to which the latter answered in the affirmative, stating that it was he who should plow the land. The Sergeant then warned the appellant that if he and his men did not stop the plowing they would be taken to the municipal building; and as the defendants refused to stop and the appellant said that he was ready for any eventuality, they were arrested and taken to the municipal jail.

Appellant's defense is an alibi, that is, that in the morning of October 5, 1942, when the alleged crime was committed, he was at the Central Azucarera Don Pedro in Nasugbu, Batangas, talking with a certain Captain Mauchi, and that when he returned to Lian, Batangas, in the afternoon of the same day, he was arrested and thrown in jail.

This alibi set up by the appellant has no probative value, because it is not supported by evidence, for neither Captain Mauchi nor any one from the sugar central was presented to support it. The negative testimony of some of his co-defendants, who pleaded guilty and were convicted, to the effect that the appellant was not in the land when they were arrested are not strictly in support of the alibi that the appellant was in said sugar central, and is contradicted by Arsenio Nebreja, one of his co-accused who was presented as a witness for the defense, who categorically testified that the appellant was among those arrested in the place where the offense was committed in the morning of October 5, 1945, and by the positive testimony to that effect of the offended party, Felipe Balbal and Sergeant Caraig. Besides, considering the short distance between the Municipality of Lian and Nasugbu and the available means of transportation, it was not impossible for the appellant, according to the lower court which took judicial notice of that fact, to have been in the sugar central at Nasugbu in the morning of October 5, 1942, and to have returned to Lian in the same morning in time to commit the offense charged.

The contention of attorney for the appellant that the latter, being an "encargado" of the owner of the land, had the right to eject forcibly the offended party from the land and prevent him from plowing it, does not deserve serious consideration, for no person may take the law into his own hands.

In view of the foregoing, we hold that the evidence shows beyond reasonable doubt the appellant's guilt of the crime charged and of which he was convicted, and that the penalty imposed is in conformity with the law, and, therefore, the sentence appealed from is hereby affirmed with costs to the appellant. So ordered.

Morán, C. J., Parás, Jaranilla, Pablo, and Briones, JJ., concur.

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