

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. TOMAS MACABABBAG AND MARIA BALISI, DEFENDANTS AND APPELLANTS.

G. R. No. 10564. August 06, 1915

Ponente: JOHNSON, J.

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JOHNSON, J.:

These defendants were charged with the crime of amancebamiento. The complaint alleged: "That on or about, and for some five months prior to, July 11, 1914, in the municipality of Tuguegarao, Province of Cagayan, P. I., the said Tomas Macababbag, being legally married to Dominga Bulaqui, did willfully, unlawfully, and criminally, with gross insult to and contempt of the latter, take into the conjugal home and there keep the other accused, Maria Balisi, as his mistress, with scandal to the public and in violation of the law."

Upon the said complaint the defendants were duly arrested, arraigned, tried, found guilty of the crime charged, and sentenced in accordance with the provisions of article 437 of the Penal Code. Tomas Macababbag was sentenced to be imprisoned for a period of two years and four months of prison correctional, and to pay one-half the costs. Maria Basili was sentenced to suffer the penalty of destierro for a period of two years and four months, and during that period to remain away from the center of the municipality of Tuguegarao, and not to come nearer than a distance of 25 kilometers, and to pay one-half the costs. From that sentence each of the defendants appealed to this court.

While the appellants make no specific assignments of error, they argue that the evidence adduced during the trial of the cause was insufficient to show that they are guilty of the crime charged. The appellants argue that "according to the provisions of article 437 of the Penal Code, no crime is committed, unless the acts alleged to have been committed were committed under scandalous circumstances." The appellants argue that there was no public scandal connected with the commission of the crime charged in the present case. The appellants, however, have not carefully read said article 437. A married man who keeps a mistress in his conjugal dwelling is guilty of the crime of concubinage. "Scandalous circumstances" are not necessary to make him guilty of said crime. It is only when the mistress is kept elsewhere that "scandalous circumstances" become an element of the crime. We find no reason for modifying the sentence of the lower court after a careful examination of the evidence brought here. The same is, therefore, hereby affirmed, with costs. So ordered.

Arellano, C. J., Torres, Carson, Trent, and Araullo, JJ., concur.

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