

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. CARLOS VILLA ABRILLE, DEFENDANT AND APPELLANT.

G.R. No. 12722. August 29, 1917

Ponente: MALCOLM, J.

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MALCOLM, J.:

Does a private individual who, claiming to be the owner of a parcel of land, with companions comes upon this property under cultivation by another and there by the use of a revolver to intimidate drives the tenant away and cuts six cavans of palay, claimed as payment for rent, commit the crime of coercion as charged in the complaint and as found by the trial court, or the crime of robbery as recommended by the Attorney-General? This question contains the salient points necessary for resolution, putting others as to which there is doubt to one side.

The Attorney-General supports his contention that the crime of robbery has been committed with the citation of the decision of the Supreme Court of Spain of January 18, 1887, and the case of *U. S. vs. Albao* ([1914], 29 Phil. Rep., 86). We believe, however, that the facts herein follow rather other decisions of this court, of which *U. S. vs. Vega* ([1903], 2 Phil. Rep., 167); *U. S. vs. Tupular* ([1906], 7 Phil. Rep., 8); *U. S. vs. Tremoya* ([1908], 10 Phil. Rep., 89) ; and *U. S. vs. Mena* ([1908], 11 Phil. Rep., 543) are the most prominent. Thus, in the first case of *United States vs. Vega*, the crime charged was robbery. The facts as set forth in the decision were as follows:

"One morning in March, 1898, the four accused, provided with bolos and firearms, went to a granary belonging to Ponciano Alba, situated at the place called Tansa Norte, within the limits of the town of Capiz, Panay, and, under threats of death, compelled Basilio Difon, the person left in charge by the owner, to leave the house and to deliver the palay which was stored there under lock and key. This Difon did and made delivery of the palay by measure, this operation lasting two days. It appeared that there were 447 cavanese of palay, which were taken out and carried away on sleds, in the presence of witnesses, to the house of Fernando. They also carried away agricultural instruments, a caldron, 2 barotos, 43 boards, 5 beams, a milk cow, and 10 carabaos which were in the field."

Note the similarity of the facts in the *Vega* case and in the present instance—use of firearms, intimidation, palay unlawfully taken. Note further that Mr. Justice Torres, speaking for the court, states: "Notwithstanding the fact that Fernando Vega, who was the principal offender in this case, alleges that he was the owner of the property of which he took possession by means of this coercion of the person left in charge of it, it is not permissible to take the law into one's own hands, and to seize the property of a third person without being authorized to do so, and entirely disregarding the authorities whose duty it is to settle disagreements between private individuals and to give each one that which is his due, in accordance with the law." Note, finally, that the court held that the facts proven constituted the offense of coercion and not robbery.

The distinction between the two lines of decisions, the one holding to robbery and the other to coercion, is deemed to be the intention of the accused. Was the purpose with intent to gain to take the property of another by the use of force or intimidation? Then, conviction for robbery. Was the purpose, without authority of law but still believing himself the owner or the creditor, to compel another to do something against his will and to seize

property? Then, conviction for coercion under article 497 of the Penal Code. The motives of the accused are the prime criterion. (5 Groizard, Código Penal, p. 716.) And there was no common robber in the present case, but a man who had fought bitterly for title to his ancestral estate, taking the law into his own hands and attempting to collect what he thought was due him. (See *Villa Abrille vs. Banuelos*, [1911], 20 Phil. Rep., 1, involving title to land occupied by complainant.) Animus furandi was lacking.

Finding no error in the judgment of the lower court, sentencing the accused to two months and one day of arresto mayor, with the accessory penalties of article 61 of the Penal Code, to pay a fine of three hundred pesos, or to suffer subsidiary imprisonment in case of insolvency, and to pay the costs, the same is affirmed with the costs of this instance. So ordered.

Arellano, C. J., Johnson, Carson, Araullo, and Street, JJ., concur.

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