

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. REMIGIO BUSTAMANTE ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 3409. October 03, 1907

Ponente: CARSON, J.

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CARSON, J.:

Remigio Bustamante, Ramon Garlitos, and Feliciano Villanueva, the appellants in this case, armed respectively with a revolver and two Remington rifles, committed a number of robberies on divers days during the month of July, 1904, in the barrio of San Felipe of the municipality of Moncada, in the Province of Tarlac.

The property taken consisted of chickens, rice, and small sums of money, which the accused demanded of various residents of the barrio under the pretense that they were collecting the money as a contribution to be forwarded to Manila, though for what purpose does not appear from the evidence of record. The owners were compelled to part with their property by threats of bodily harm, threats which the accused, who made their raids together, enforced at the point of their rifles.

Counsel for accused contends that there is no proof in the record of the organization of a band, or that the object of the alleged band was to steal money or other personal property in accordance with the provisions of section 1, Act No. 1121 of the Philippine Commission, amending Act No. 518, defining and penalizing the crime of brigandage. But we are of opinion that where it is proven, as in this case, that three or more armed persons, on divers occasions and in various places, unite in the commission of the crime of robbery, this fact in itself is sufficient to maintain a finding of the organization of a band and of a conspiracy to commit such robberies without further proof of the existence of such a conspiracy.

Remigio Bustamante and Ramon Garlitos alleged in their own defense that they had voluntarily surrendered to their coaccused, Feliciano Villanueva, who was at that time *teniente* of the barrio of San Felipe. The purpose for which the defense introduced this testimony is not quite clear, but it may be presumed that they intended thereby to set up a claim of immunity from prosecution, based upon some private promise of the local municipal officials. The record does not sustain a finding that such promise was actually made, and in any event promises of immunity made by such officials constitute no defense in a criminal action. (*U. S. vs. Unselt*, 6 Phil. Rep., 456.)

Feliciano Villanueva testified in his own defense and denied all knowledge of the robberies committed by his coaccused, or that he had taken any part therein. He was positively identified by the witnesses for the prosecution as one of those who were present at the commission of the robberies and his guilt of the crime with which he was charged, as well as the guilt of his coaccused, was established at the trial beyond a reasonable doubt.

The trial court sentenced Feliciano Villanueva to twenty-five years' imprisonment and each of his coaccused, Remigio Bustamante and Ramon Garlitos, to twenty years' imprisonment. We think that the minimum penalty prescribed by law should have been imposed upon each of the accused alike, in view of the comparatively harmless nature of the conspiracy in which they were engaged, and the fact that unlike most cases of brigandage the operations of the band do not seem to have been attended with the commission of other offenses than the

robbery of insignificant sums of money, chickens, and small quantities of rice.

Modified by reducing the penalty of twenty-five years' imprisonment imposed upon Feliciano Villanueva to twenty years' imprisonment, the judgment and sentence of the trial court is affirmed, with the costs of this instance against the appellants. So ordered.

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

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