

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. PEDRO FLORES, DEFENDANT AND APPELLANT.

G.R. No. 3887. October 12, 1907

Ponente: JOHNSON, J.

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JOHNSON, J.:

On the 20th day of June, 1905, the provincial fiscal of the Province of Pampanga presented a complaint in the court of said province against Pedro Flores and Jacinto Sonsa, accusing said persons del delito de lesiones mutuas.

On the 11th day of July, 1905, the defendant, Pedro Flores, was duly arraigned upon said complaint and pleaded "not guilty." On the 14th day of July of the same year the attorney for the defendant, Pedro Flores, presented a motion in the lower court asking that his client be given a separate trial and that the court order the fiscal to present a complaint against each of the accused, which motion was duly granted.

On the 18th day of July, 1905, the fiscal of said province presented a separate complaint against the defendant, Pedro Flores, charging him with the crime of lesiones graves, and on the 22d day of July of the same year the defendant, Pedro Flores, was arraigned upon the new complaint, charging him with the said crime of lesiones graves, and he pleaded "not guilty" to the crime charged in the new complaint, without having made any objection thereto. The objection, therefore, being made for the first time in this court, it can not be considered. (U. S. vs. Sarabia, 4 Phil. Rep., 566; U. S. vs. Cajayon, 2 Phil. Rep., 570; U. S. vs. Mabanag, 1 Phil. Rep., 441.)

After hearing the evidence adduced during the trial, the lower court sentenced the defendant to be imprisoned for a period of four years of prision correctional in accordance with the provisions of paragraph 2 of article 216[1] of the Penal Code, with the accessory penalty of article 61 of said code, and to indemnify the person injured, Jacinto Sonsa, in the sum of P40, and, in case of insolvency, to suffer subsidiary imprisonment with a deduction of onehalf of the prision preventive which he may have, suffered, and to the payment of the costs of this instance. From this decision the defendant appealed to this court.

An examination of the evidence adduced during the trial of the cause shows beyond peradventure of doubt that the defendant committed the crime in the manner and form charged in said complaint. Therefore the judgment of the lower court is hereby confirmed with costs. So ordered.

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

[1] Article 416.

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