

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. BENITO MANANSALA ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 4023. January 09, 1908

Ponente: TRACEY, J.

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TRACEY, J.:

The shop of a Chinaman, Sinqui, in Calulut, Province of Pampanga, was broken into and robbed of 257. Upon trial Valentin Manansala was acquitted, but Benito Manansala and Cesareo Tayag were adjudged guilty and each sentenced to seven years of presidio mayor with the accessories specified in article 57 of the Penal Code, to return the stolen property or indemnify Sinqui therefor in the sum of P257 and to pay one-third part of the costs.

When the attack commenced Sinqui and his wife fled, the wife taking refuge in the house of Martin Roque. She was followed there by the two condemned men, who compelled her, together with Flaviana Salta, the wife of Martin Roque, to accompany them to the shop and to furnish them the keys of the drawers, which they opened and from which they abstracted the contents. These defendants were fully identified by Martin Roque, who had seen them in the moonlight, although the two women who saw them testified that through fear they did not dare to raise their eyes, so as to enable them to recognize them now.

The defense of an alibi failed and no doubt remains of the guilt of the accused. The Attorney-General asks that the judgment be modified and that the crime be punished under article 508 of the Penal Code as robbery committed with arms in an inhabited house. It is the settled rule of this court that where robbery is accompanied with violence or intimidation, the offense falls under article 503, rather than article 508, even if there exist all the elements of the crime defined in the latter article.

The judgment is correct and is affirmed with costs of this instance. So ordered.

Arellano, C, J., Torres, Mapa, JoHnnon, Carson, and Willard, JJ.,concur.

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