

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. MARCELO LAREZA ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 48801. August 28, 1942

Ponente: BOCOBO, J.

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BOCOBO, J.:

- CRIMINAL LAW AND PROCEDURE; ROBBERY; SUFFICIENCY OF INFORMATION.—The allegation "by passing through a hole on the ' ceiling of said bazar, an opening not intended for entrance or egress" is sufficient, and the omission of an allegation of violence or intimidation against persons or of force upon things, is not fatal to the prosecution for robbery.

- ID.; ID.; ID.—Article 302 of the Revised Penal Code is complete in itself. An information based upon it need not specifically allege violence, intimidation or force as required in article 293, it being sufficient that any of the five methods enumerated in said article 302 is averred. Each of these five ways implies either force or its equivalent. Paragraphs 2, 4 and 5 relative to the breaking of walls, doors and closed receptacles, respectively, include the use of actual force, while paragraphs 1 and 3 refer to an element that is tantamount to actual force and takes the place of actual force. In other words, entrance through an opening not intended for entrance or egress (par. 1) or by the use of false keys, picklocks or similar tools (par. 3) is deemed by the legislator to have the same effect as the actual breaking of any wall or door. And the drafters of the Revised Penal Code must have seen that the perversity and the public danger in paragraphs 1 and 3 is no less than in the other paragraphs.

- ID.; ID.; PLEA or GUILTY OFFSETS THE CRIME BEING COMMITTED ON THE OCCASION OF WAR; INDETERMINATE PENALTY; RETURN OF STOLEN PROPERTY TO THE OWNER.—The defendants' plea of guilty offsets the aggravating circumstance that the crime was committed on the occasion of war. In accordance with the Indeterminate Sentence Law, each of the accused should be sentenced to an indeterminate penalty of three months of arresto mayor to one year and eight months of prision correccional. The things carried away by the appellants should also be returned to the owner thereof.

APPEAL from a judgment of the Court of First Instance of Manila.

Decision penned by Associate Justice Jorge C. Bocobo.

Mercedes R. Sotelo for appellants.

Assistant Solicitor-General Cañizares and Solicitor Torres for appellee.

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