

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. SEVERINO BAROT, DEFENDANT AND APPELLANT.

G.R. No. 5596. March 15, 1910

Ponente: MORELAND, J.

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MORELAND, J.:

The defendant was convicted of the crime of robbery in the Court of First Instance of the Province of Tarlac and, there being present the aggravating circumstances of nocturnity and morada, was condemned to the penalty of eight years of presidio mayor, the accessories provided by law, to indemnify the injured party in the sum of P4, and to pay the costs of the action.

It appears that about 12 o'clock midnight of the 12th of May, 1908, two individuals entered the house of Dorotea de Luna, situated in the barrio of Sinigpit, in the Province of Tarlac, and once inside discharged a revolver which they had for the purpose of intimidating the occupants of the house; that the accused maltreated Dorotea de Luna and her daughter Pelagia Soberano with a bolo which he carried, while his companion took out of a tampipi in the house the sum of P4, all of the money which was found in the house.

The guilt of the defendant Barot is clearly proved by the testimony of Dorotea de Luna and her daughter, who identified positively the defendant as one of the two individuals who broke into the house; by the testimony of Carlos Felio and of Julian Tadian, a municipal policeman, who testified that the defendant Barot freely and voluntarily, without promise of reward, and not having been threatened with violence or injury, confessed that he was one of the parties who broke into and robbed the house of said Dorotea de Luna.

It does not appear in the case that the crime was committed by more than three armed persons and, therefore, the crime charged in the complaint, namely, robo en cuadrilla, is not sustained by the proofs. The facts proved, however, constitute the crime of robbery with violence and intimidation of the person, which crime is defined and punished in subdivision 5 of article 503 of the Penal Code.

The guilt of the defendant being clearly established and the punishment prescribed by the court below being within the law, the judgment appealed from is affirmed, with costs against the appellant. So ordered.

Arellano, C. J., Torres, Mapa, Johnson, and Carson, JJ., concur.

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