

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. LUCIANO BARBERAN, DEFENDANT AND APPELLANT.*G.R. No. 5790. December 16, 1910*

Ponente: ARELLANO, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-5790/>**ARELLANO, C.J.:**

Froilan Benavente, who was engaged in the business of sawing timber, employed several laborers in this work and used to permit some of them to pass the night in a part of his house which he called the dining room, which was separated by a partition from the rest of the house and could be entered through a door opened in the dividing wall. Luciano Barberan was one of the said laborers and, prior to the occasion of the crime prosecuted in this case, had also slept in that part of the house, but about a week before had gone to his mother's home in the sitio of Ygan, to sleep there. It happened that on May 6, 1909, Froilan Benavente had occasion to absent himself from his house, and that on the morning of that day Barberan had been in it. That night Benavente's wife, and one of his daughters who was very young, remained in the house, accompanied only by a nephew of his, named Celestino Basco, and at the customary hour they retired for the night to the room which was separated, as aforesaid, from the dining room, and barred the door communicating with the latter, as well as all the windows of the house. At about 1 o'clock that night Basco, hearing a noise, awoke his aunt, saying that he believed that there was some stranger in the room. By the light which Basco had lit they saw a man hiding behind a column who, on being held by Benavente's wife, gave her a push and escaped through the same window by which he had entered and which had been left partly open. This window, like all the others of the room, was in the outer wall of the house, about 8 varas from the ground. The defendant, climbing over the fence which inclosed the lower part of the house, raised himself to the window, which was fastened by a transverse piece of wood.

"It appears that the defendant made use of a weapon to open that window by applying it to the ends of both sections, which were joined, and, as the window bolt was half worn-out, he was able to raise it and thus opened the window, breaking the bolt; that is to say, between the crack in the wall of the house and the edge of the window a mark was seen which was left by some instrument used to raise the window catch (pp. 23 and 24 of the record)."

The preceding facts were proved.

The only argument offered by the defense is that the defendant did not forcibly enter a house in which he was in the habit of sleeping and considered as his own home.

But the place through which he entered was not a proper entrance to the house, and he did climb up into the house as any stranger might have done who had conceived the same purpose as did the defendant. Moreover, not because he had been authorized to occasionally pass the night in the dining room, was he also authorized stealthily to enter; not the dining room, but the apartment reserved for the family, the doors and windows of which were all closed that night.

"The fact that the defendant," concludes the trial judge, "entered in this manner at a late hour of the night,

when all the inmates of that house were asleep, clearly establishes the fact that he entered against the will of the occupants."

The crime committed falls squarely within the provisions of article 491, paragraph 2, Penal Code. It was perpetrated with violence, this word being understood in the sense already established in the reported cases. (U. S. vs. Clauck, 6 Phil. Rep., 486, and decisions of the supreme court of Spain of April 5, 1890, and February 8, 1899.)

Two aggravating circumstances were taken into account by the trial court, to wit, that of the crime having been executed at night, and by scaling a wall. But this last circumstance, in the present case, is the specific and essential element of the forcible entry itself, so that it must not be considered as an additional circumstance of the crime. However, its omission does not modify the degree of the penalty imposed by the judgment.

Hence, the judgment appealed from, which sentences Luciano Barberan to four years nine months and eleven days of prision correccional, to the payment of a fine of 2,500 pesetas, or, in case of insolvency, to the equivalent subsidiary imprisonment, to the accessory penalties of article 61, Penal Code, and to pay the costs, is hereby affirmed. The appellant shall also pay the costs of this instance. So ordered.

Torres, Mapa, Johnson, Carson, and Moreland, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.