

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. CRISTOBAL PARAY, DEFENDANT AND APPELLANT.*G.R. No. 5804. November 23, 1910*

Ponente: TORRES, J.

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TORRES, J.:

At noon on Saturday, March 21, 1908, Cristobal Paray, who lived in the house next to that of Severina Estabillo, after having been talking about the latter in an improper manner, left his house and went to that of the said Estabillo, who, on seeing him approach the stairs of her house in a violent temper and threatening her with death, forbade him to ascend and enter the house; at the same time she closed the door which was the entrance to the house from the said stairs and, together with her daughter, Damasa Pascual, held it closed from the inside, notwithstanding which Paray pushed the door violently from without and soon succeeded in entering the house, where he ill-treated the occupants thereof, Severina Estabillo and her daughter, Damasa Pascual, by slapping and kicking them, after which he went away. As a result of the assault the women received various slight bruises and suffered bodily pains.

For the foregoing reasons, and in view of the preliminary investigation had in the justice of the peace court of Gerona, before which the offended woman made complaint, the provincial fiscal filed an information with the Court of First Instance of Tarlac, on August 5 of that year, charging Cristobal Paray with the crime of forcible entry, and the case having come to trial, the judge, upon evidence adduced therein, sentenced the defendant to the penalty of two years and five months of prision correccional, to the accessory penalties, to pay a fine of 325 pesetas and, in case of insolvency, to suffer the corresponding subsidiary imprisonment, and to the payment of the costs, allowing him credit for one-half the previous detention served by him. From this judgment the defendant appealed to this court.

From the facts hereinbefore related, and which were conclusively proved in this cause, it is concluded that the crime of forcible entry was actually committed, qualified by acts of violence performed against the persons of the inmates of the house, for, notwithstanding the opposition of the latter and their express prohibition to him not to enter the house, on their seeing him approach the stairs in a furious manner with the intention of mounting, he at the same time threatening them with death, and notwithstanding the fact that the offended parties, on seeing the determination of the accused, closed the door, yet withal Cristobal Paray entered the house by violently pushing against the door and, after having succeeded in entering, even maltreated the said inmates by slapping and kicking them; all of which acts constitute the crime before specified, which is provided for and punished by article 491, paragraph 2, of the Penal Code. This article is of the following tenor:

"Any private individual who shall enter another's dwelling against the will of the tenant thereof shall be punished with arresto mayor and a fine of from 325 to 3,250 pesetas.

"If the deed were committed with violence or intimidation, the penalty shall be prision correccional in its medium and maximum degree and a fine of from 325 to 3,250 pesetas."

Notwithstanding the denial of the accused and his exculpatory allegations, which, though accorded faith, would not weaken the force of the accusation nor the certainty of the criminal act, it is unquestionable that the cause furnishes conclusive proof of the guilt of the accused as the sole proved perpetrator by direct participation of the crime under prosecution, for he knowingly violated the aforesaid provision of the law which prohibits a person from passing across another's threshold against the owner's will, lest one of the most sacred personal rights of all those recognized by law be wantonly disregarded. The only limitation upon this prohibition is that provided for in the following article 492 of the same code and the necessary power of due inspection which pertains to the sovereign authority and to its representatives.

The accused was warned by the women, the inmates of the house, that he should not climb the stairs of nor enter the same, and, confirming the prohibition which they had communicated to him a few moments before, they had shut the entrance door of the house and so held it from the inside; but the accused, determined to execute his criminal purpose, with manifest disregard of the rights of the offended parties, violently entered the house and, what was still more, maltreated them without any right whatever to do so, which acts of violence qualify the crime and determine the imposition of a severer penalty, though in applying the same it is proper to make an allowance in favor of the accused on account of the attendance of the special circumstance provided for in article 11 of the Penal Code, due to his scant education, without any aggravating circumstance to counterbalance its effects.

For the foregoing reasons and esteeming the judgment appealed from to be accordant with the law, it is proper, in our opinion, to affirm and we hereby affirm the same with the costs against the appellant.

Arellano, C. J., Johnson, Moreland, and Trent, JJ., concur.

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