

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. FAUSTINO MESINA, DEFENDANT AND APPELLANT.*G.R. No. 6717. October 19, 1911*

Ponente: TORRES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-6717/>**TORRES, J.:**

An appeal raised by the defendant from a judgment of conviction rendered in this case by the Honorable Judge George N. Hurd.

On the night of the 18th until the early morning of the 19th of May, 1910, Elena Llanera was asleep in her house situated in the pueblo of Aliaga, Nueva Ecija, her husband, Emilio Soriano, being at the time absent in this city; she was sleeping under a mosquito netting in the parlor of the house with her three minor children and the women Damiana Collado and Elena Molina, and in the dining room of the said house the men named Cenon and Luis Pascual, with their respective wives, were also asleep. At about 4 o'clock in the morning Llanera was awakened by the noise produced on the floor by a man's steps, in the direction of her feet; she therefore awoke Damiana and, on raising one of the sides of the mosquito netting, they saw and recognized Faustino Mesina, for there was then a light in the house; the latter hurriedly went into another room followed by the three women who then saw the said party go out of the window, which on that occasion was open, and from there alight on the ground by supporting himself upon a window of the ground floor. The inmates of the house testified that before going to bed that night they had closed all the windows and doors of the house.

The provincial fiscal, therefore, on September 22, 1910, filed an information with the Court of First Instance of Nueva Ecija, charging Faustino Mesina with the crime of forcible entry, and, this cause having been instituted, the court in view of the evidence and on the 23d of November following rendered judgment by sentencing the defendant to the penalty of four months of arresto mayor, to pay a fine of 500 pesetas, with subsidiary imprisonment in case of insolvency, and the costs. From this judgment the defendant appealed.

The facts related, duly proved in this cause, certainly constitute the crime of forcible entry, performed without violence or intimidation, provided for and punished in article 491, paragraph 1, of the Penal Code, inasmuch as, from the testimony of three eyewitnesses, it was fully proven that, on the owner of the house, Elena Llanera, being awakened, early in the morning of the 19th of May, by the sound of the steps of a person who was walking inside of the house near her bed which was covered with a mosquito netting, both she and her companions who were sleeping with her under the same netting on raising one side of the same saw and recognized the said person, by the light there was in the house, as being the defendant, Faustino Mesina, who, on observing that the said women had awakened and had seen him, immediately and hastily entered the small room of the house, followed by them, and went down out of the building through one of the windows of the said room, which at that moment was open, by supporting himself on a window of the entresol, located thereunder, which must have been the way he got in, for the inmates of the house had closed that room window and all the others in the house the night previous before retiring.

The defendant's denial, his exculpatory allegations and the testimony of his witnesses were unsuccessful in overthrowing the very positive evidence of the prosecution, for his allegation that he was at the said house on the morning of the day aforementioned, for the purpose of making some requests to the husband of the offended woman, Elena Llanera, who, as she was in the granary nearby, had to be called and on arriving at her house he had a long conversation with her and not until after she had had her breakfast did he leave for the sitio of Bibiclat, was not corroborated by the testimony of his two witnesses, Buenaventura Maligsi and Eusebio Landicho, the first of whom testified that he was engaged that morning in hauling rice to the warehouse of Elena Llanera, who was then inside of this building, and the second witness, that he was near the warehouse waiting for his neighbor named Julio; they then saw the defendant enter the house of the offended party and after a short while, during which the latter, called by a little girl, returned to the house, these witnesses saw the defendant come down out of the house. This testimony, far from proving the defendant's statements, completely disproves them and belies the fact affirmed by Mesina relative to the long conversation; besides, the offended party denied that the defendant was in her house that morning.

Moreover, the testimony of the municipal policeman, Timoteo Palis, corroborates the evidence of the prosecution. This witness testified that while he was on guard duty at the municipal building a short while before 4 o'clock on the morning of the said date, the defendant passed by and advised him that the policemen should be ready who were to accompany him, Mesina, to the sitio of Bibiclat, and that the defendant immediately left and witness did not know where the latter went. This testimony, combined with that of the offended party and her two witnesses, and all taken as a whole, produce in the mind a thorough conviction that the defendant did commit the crime under prosecution. It is to be presumed that after passing by the municipal building the defendant went to the house where the crime was committed and climbed up into it through the window, for this was not very high up.

For the reasons stated, the testimony of the wife of the defendant can not be considered as proof of an alibi in his behalf, to the effect that at the hour and on the date mentioned her husband was in his house and that Elena Llanera, subsequent to the denunciation of the crime, had talked with her in order that she might feel no resentment - inasmuch as such statements were not proved and the offended party denied that she had had any conversation whatever with Marcelina Santiago, the defendant's wife.

Article 491, aforesaid, provides that any private person who shall enter the dwelling of another against the latter's will shall incur the penalty specified therein, and although the inmates of the house did not forbid the defendant to enter the same, nevertheless and withal when one enters a house by climbing up into it and passing through a window thereof which had been closed and was opened by the perpetrator of the crime for the purpose of his entry, even though no violence was employed in doing so, it is unquestionable that the entry into the house, by taking advantage of the darkness and when all the inmates thereof were asleep, bears the character of the crime of forcible entry, for the reason that, under such circumstances, it is not necessary that there should have been a previous prohibition to enter by the inmates, since this is presumed, and because the entry into the premises was effected against the will of the occupants thereof, there being no proof that the defendant entered the same with the permission or the consent of any of them.

In the commission of the crime there is no extenuating circumstance whatever to be considered, but there is the aggravating one of nocturnity, since the defendant perpetrated the crime by taking advantage of the silence and darkness of the night: therefore, the penalty fixed by law of *arresto mayor* should be imposed upon him in its maximum degree.

For the foregoing reasons it is our opinion that the judgment appealed from should be affirmed; provided, however, that the defendant shall be sentenced to the penalty of five months of *arresto mayor*, to the other penalties of the judgment of the lower court, and to the costs of this instance. So ordered.

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.