

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. GUILLERMO FIDELDIA, DEFENDANT AND APPELLANT.

G.R. No. 6729. March 26, 1912

Ponente: CARSON, J.

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CARSON, J.:

Defendant was convicted in the court below of the crime of rapto (abduction) as defined and penalized in article 446 of the Penal Code.

It appears that the defendant, a youth aged 18, while attending school in Manila, and living in the house of his uncle, induced his cousin, a daughter of the Jouse, to accompany him, without the consent of her father, to the home of defendant's father, the woman's uncle, and there to spend with him, at her uncle's home, and before she returned to her father, a vacation of two or three months; that while she was living at his home, she had illicit relations with defendant; and that the visit was made in order to establish and to carry on these illicit relations with greater impunity than was practicable in her own home.

We think that the woman having been over 18 years of age at the time of the alleged abduction, the defendant was erroneously convicted of that crime.

Articles 445 and 446 of the Penal Code are as follows:

"ART. 445. The abduction of a woman against her will and with lewd designs shall be punished by reclusion temporal.

"The same penalty shall be imposed in every case if the female abducted be under twelve years of age.

"ART. 446. The abduction of a virgin over twelve and under twenty-three years of age, committed with her consent, shall be punished by prision correctional in its minimum and medium degrees."

Under the provisions of the latter section, while they were in force, one who induced a woman, of her own free will and accord, to leave her home without the consent of her father or other lawful guardian, as in the case at bar, was guilty of the crime of abduction, as defined and penalized in this section, if she was over 12 years of age or less than 23. In declaring that a woman may be abducted, with her own consent, up to the notably advanced age of 23, the legislator evidently had in mind the provisions of the former law touching the status of women less than 23 years of age. Under that law a woman less than 23 years of age was placed under the strict control of her father or other legal guardian; and so strict was this control that until she arrived at this age. she could not marry without his consent, and he had the right to restrain her freedom so as to prevent her from doing so. With the change of sovereignty however these strict provisions have been somewhat relaxed, and the age at which a woman may leave her home and marry without the consent of her father or other legal guardian is fixed at 18 years. We think that this change of the status of women between 18 and 23 years of age draws with it, by necessary implication, a modification of the penal provisions of the above cited article 446 of the Penal Code, and that the age limit under which a woman may be abducted, with her own consent, must be held to be the same as the age limit under which

she is forbidden to marry without the consent of her father or other legal guardian.

The woman whom the defendant is charged with abducting was over nineteen years of age, and we are of opinion therefore that the proofs do not establish the commission of the crime with which he is charged.

It may be that he was guilty of seduction or some other allied offense; but the complaint in this case was for the crime of abduction, of which defendant is manifestly not guilty if our conclusions as to the modifications of the age limit set out in article 446 are correct.

The judgment of the court below convicting the defendant and imposing sentence upon him is reversed, and he is acquitted of the offense with which he is charged, with the costs of both instances de oficio.

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

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