

THE UNITED STATES, PLAINTIFF AND APPELLEE. VERSUS TEODORO CASTILLO AND DAMASO MANIQUIS, DEFENDANTS AND APPELLANTS.

G.R. No. 8026. March 27, 1913

Ponente: MORELAND, J.

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MORELAND, J.:

This is an appeal from a judgment of the Courty of First Instance of Nueva Ecija, convicting the accused of the crime of robbery of an inhabited house, being armed, and sentencing each one of them to 12 years and 1 day of cadena temporal under Art. 508, paragraph 4, Penal Code, with the accessories provided by law, to indemnify the family of the offended party in the sum of P500, and to pay one-half of the costs.

It appears that Donato Ur Leon who, with his wife, was the owner of the goods robbed, declared that about 7 o'clock on the night in question his house was assaulted by four men, three of whom carried bolos and the fourth a revolver. He recognized among the four the two accused, Teodoro Castillo and Damaso Maniquis. Teodoro Castillo fired three shots, and then Leon, living his wife, escaped by the window and did not return until after the trunk which he had in the house had been opened and the contents had been taken out and carried away. The contents of the trunk consisted of money and of jewelry. As soon as he had escaped he went to the teniente of the barrio and secured the arrest of the accused; that upon the arrest of Teodoro Castillo he made a confession before many people, admitting that he had committed the crime. Damaso Manique was not arrested until some time afterwards. Leon testified also that among the four thieves Teodoro was the first who entered the house and immediately after him came Damaso Maniquis; that he recognized the two clearly; that he had known Teodoro Castillo before because he had been several times at the house to buy things, and that he had had no trouble with any of these people.

The testimony of this witness is corroborated by that of his wife. Juana Dizon, who adds the information that after Leon had disappeared through the window leaving her alone with the armed robbers, she saw Damaso Maniquis carry the trunk and pass it through the window. She stated also that he did this without her consent and without the consent of her husband. She declared also that of the four individuals she recognized only the two accused. She recognized Damaso because she had seen him before frequently and she identified him in the presidencia soon after he was arrested. She recognized Teodoro Castillo also and asserted that she had heard his confession. She said that while they were in the house they pointed a revolver at her and threatened her with bolos, but they did not do her any personal damage.

The other witnesses called by the prosecution were the two policemen, Julio Sagana and Eligio Gabriel, who testified that Donato told them about the robbery, mentioning Teodoro Castillo and Damaso Maniquis as two of the thieves; that they immediately went to the house of Teodoro where they surprised him and captured him. They captured him on the night of the robbery. When thay found him, he and his wife and one Joaquin were talking in a low voice while still another person was on guard below; that the accused was wet and his trousers were covered

with mud and he appeared to be tired. These two policemen heard the confession of the accused and say that it was made before many people; that they said nothing to him on the way from his house to the house of Donato and that he did not say who were his companions in the robbery.

The defense of the accused is an alibi. They present several witnesses who testify that the accused were not at the place of the robbery on the night in question, but were at other places more or less distant therefrom.

The identity of the accused is proved beyond question. Donato, on the very night of the robbery and immediately after his escape, complained the authorities, naming the individuals here on appeal and stating that they were the persons who had committed the robbery. The court below had no hesitation in finding the accused guilty of the crime of robbery, and we are equally certain, after a careful examination of the whole record, that they have been proved guilty beyond a reasonable doubt. The court found them guilty of the crime of robbing an inhabited house, at the same time carrying arms, in violation of Article 508, paragraph 4, of the Penal Code.

The qualification of the crime and the penalty imposed is not proper. The house was not entered in any of the ways required to bring the case within the provisions of Art. 508 of the Penal Code. The crime should be punished under paragraph 5 of Art. 503, bearing in mind the aggravating circumstances of nocturnity and dwelling.

The judgment is modified and the accused are each hereby sentenced to 6 years, 10 months and 1 day of presidio correccional, to the accessories provided by law, to indemnify Donato Ur de Leon in the sum of P500 and to pay one-half the costs. No costs in this court.

After the expiration of 10 days let judgment be entered in accordance herewith, and 10 days thereafter let the case be returned to the court whence it came for execution.

So ordered.

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