

UNITED STATES, PLAINTIFF AND APPELLEE, VS. EPIFANIA LANUZA, ESCOLASTICO LANUZA, TIMOTEO LANUZA, ANTONIO LANUZA, ISIDORO FLORES, DEFENDANTS, EPIFANIA LAYUZA, ESCOLASTICO LANUZA, ...

G. R. NO. 9549. September 10, 1914

Ponente: JOHNSON, J.

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JOHNSON, J.:

UNITED STATES, PLAINTIFF AND APPELLEE, VS. EPIFANIA LANUZA, ESCOLASTICO LANUZA, TIMOTEO LANUZA, ANTONIO LANUZA, ISIDORO FLORES, DEFENDANTS, EPIFANIA LAYUZA, ESCOLASTICO LANUZA, APPELLANTS. body { font-family: Verdana, Geneva, Arial, helvetica, sans-serif; font-size:80%; background-color:#FFFFFF; margin:0 2% 0 2%; text-align: justify; } h1 { font-family:times; } h2 { background-color:#cccccc; padding:10px 0 10px 0; font-weight: bold; text-align: center; } h3 { font-weight: bold; text-transform: uppercase; text-align: center; } div#footer { font-size:9px; }These defendants were charged with assaulting an agent of the authorities, alleged to have "been committed as follows :

"That on or about the 21st day of September, 1913, in the City of Manila, Philippine Islands, the said Epifania Lanuza,

Escolastico Lanuza, Timoteo Lanuza, Antonio Lanuza and Isidoro Flores, conspiring and confederating together and helping one another, did then and there wilfully, unlawfully and feloniously assault, employ force against, attack with weapons, to wit: with bottles, iron pipes, sticks and other things, and seriously resist one J. P. Worthington, a duly appointed, qualified and acting member of the Police Department of this City, and therefore an agent of the authority, while the said J. P. Worthington was discharging his duties as such police officer and agent of the authority, to wit: while the said J. P. Worthington was about to search the premises of said defendant at No. 907 Calle Clavel of this City when the said defendants and each one of them, for the purpose of intimidating said officer and preventing him from performing his duties, as aforesaid, attacked him and beat him over the head and other parts of his body, with bottles, iron pipes, sticks and other things.

Contrary to law."

Upon said complaint each of the defendants was duly arrested, arraigned, plead not guilty, and was tried. At the close of the trial, the Honorable George N. Hurd, Judge, found that the evidence was not sufficient to show that the defendants, Timoteo Lanuza, Antonio Lanuza and Isidoro Flores were guilty of the crime charged and dismissed the complaint against them and discharged them from the custody of the law, with costs de oficio.

After hearing the evidence, the Judge found that the same was sufficient to show that the defendants, Epifania Lanuza

and Escolastico Lanuza were guilty of the crime charged, and taking into consideration their ages, sentenced each of them to be imprisoned for a period of two months and one day of arresto mayor, with the costs. From that sentence each of

the defendants appealed to this court.

In this court the appellants present a very interesting brief, in which they attempt to show that under the facts proven during the trial of the cause, and the law applicable thereto, they are not guilty of the crime charged.

From an examination of the record, we find that on the 19th day of September, 1913, the Judge of the Municipal Court of the City of Manila, upon an affidavit presented, issued a search warrant, ordering Jose Gervasio to make a search on the person of one, John Doe, in the house situated at No. 907 Calle Clavel, District of Binondo, City of Manila, for the purpose of ascertaining whether or not any utensils could be found in connection with the game commonly known as "monte"; that on the afternoon of the 21st day of September, 1913, the said Gervasio, in company with two other policemen, Worthington and Gonzalez, went to the house above mentioned, for the purpose of carrying out the order contained in the said search warrant; that upon arriving at said house, the said Jose Gervasio went around to the rear, while Worthington and Gonzalez went to the front door; that when Gervasio arrived at the rear of the house he saw a number of people (the number not known) escaping from the house; that Worthington and Gonzalez being unable to enter the front door, went to a window and found the defendant, Epifania Lanuza, inside, that they made known to Epifania Lanuza their desire to enter the house, showing to her at the same time their search warrant; that Epifania Lanuza requested them to wait a minute; that while they were waiting Jose Gervasio entered the house from the rear and opened the front door and directed Worthington and Gonzalez to enter; that immediately upon entering the house, and without disclosing to any of the persons therein the purpose of their entering, they started up stairs; that about the middle of the stairway Worthington met Escolastico Lanuza coming down; that Worthington, by force and threats, compelled the said Escolastico Lanuza to return to the top of the stairs; that upon arriving at the top of the stairs, a general melee ensued, during which Worthington was struck several times with bottles, with an axe and perhaps other things, including slippers; that the said Escolastico Lanuza and Epifania Lanuza probably participated in the melee; that then and there all of the above defendants were arrested and carried to the police station and later the above complaint was presented against them; that the said Epifania Lanuza was a young girl of seventeen years of age; that the said Escolastico Lanuza was a young man of nineteen years of age and that they are both students in the schools of the city of Manila.

Without attempting to discuss the legal questions discussed by the appellants, and after a full consideration of the facts, taking into consideration the fact that perhaps Epifania Lanuza did not understand the purpose of Worthington and his companions in entering the house, as well as the fact that Escolastico Lanuza knew absolutely nothing concerning the purpose of Worthington and his companions in the house at that time, and the fact that Worthington himself provoked said melee, and considering the ages of the defendants, we are of the opinion that there is no sound reason why they should be punished for the acts which they committed. In this conclusion, however, we do not desire to be understood to have decided that the acts of the defendants, under other conditions, might not have constituted the crime charged in the complaint.

It is our judgment, therefore, that a sentence be entered revoking the sentence of the lower court, with costs de oficio.

It is so ordered.

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

CONCURRING**MORELAND, J.**

I agree to the result in this case.

I base my decision on the fact that the appellants were not informed of the purpose for which the officials were visiting the place; that the young lady was not fully dressed and resented the entrance of the complaining witnesses for that reason in particular; that the two appellants were not alleged to have been engaged in the gambling which was alleged to have taken place in the building; and were not shown to have had any motive whatever leading them to frustrate the efforts of the police to raid a gambling game; that the controversy arose from misunderstanding, fear and apprehension on the part of the appellants provoked by the action of the authorities.

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