

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. LEON URBANO ET AL., DEFENDANTS. LEON URBANO, MAMERTO URBANO AND RUFINO URBANO, APPELLANTS.

G.R. Nos. 26304 and 26305. March 05, 1927

Ponente: VILLAMOR, J.

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VILLAMOR, J.:

Two separate complaints were filed against the accused for two crimes of robbery, one committed on April 15, 1926 in Washington Street, Manila, and the other on the 18th of the same month in Santa Ana, within the jurisdiction of this city.

The two cases were tried together and the trial court rendered one judgment.

It appears from the evidence that at about dawn on April 15, 1926, the accused Rufino, Leon and Mamerto Urbano repaired to and entered the store of Chua Chac at 1013 Washington Street, Manila, and when within represented themselves as detectives of the City of Manila and displayed to the occupants thereof metal badges similar to those worn by regular police officers. Chua Chac and his companion Chua Huat taking them for real policemen, invited them to have a seat and offered them refreshments. Rufino then feigned taking a revolver from his belt and approaching Chua Huat ordered him to turn over all the money he had. The occupants of the store became frightened and, in view of the aggressive attitude of the three accused, told them that the proceeds of the sales of that day was all the money they had which was in a drawer, which they indicated, whereupon the three accused went to the drawer and took all of the money contained therein amounting to about P16. The three accused then left with the money.

At 12.30 on the morning of April 18, 1926 the same three accused went to the vegetable garden and house occupied by Yao Ton and Chang Pu in Santa Ana, within the jurisdiction of this city, finding Yao Ton in the garden sprinkling the plants. The accused represented themselves to Yao Ton as detectives and displayed metal badges similar to those worn by regular police officers. Rufino stripped Yao Ton of all the money he had in his money belt which amounted to about P80, Leon at the same time going upstairs where he found Chang Pu and two of his companions, and after beating and maltreating the said Chang Pu, the said Leon took the money belt which contained P10. Mamerto remained near the door of the house on the look out and helping his companions.

On that occasion Leon Urbano carried a club made of palma brava (fan palm) and a flashlight with which he lighted the places they had visited; and Rufino had hanging from his belt, a revolver sheath containing a pair of pliers, a screw driver and a small knife, pretending that he was armed with a revolver.

After the three accused had committed the last robbery in Yao Ton and Chang Pu's place, they went to Herran Street where they were arrested by the police officers, Saguit and Mozo, who were on duty. They arrested the accused and called the secret service of the Luneta police station, and after a short while Detective Agapito de la Rosa and another detective arrived upon the scene. As the Chinese Yao Ton and Chang Pu had already informed the Luneta station a few minutes before the arrest of the accused that they had been robbed, the detectives

conducted the accused to the house of Yao Ton and Chang Pu and after confronting them with said accused they recognized them as the three persons who had just robbed and maltreated them, after which all three were conducted and detained in the Luneta police station. All three were then searched and a great portion of the money which they had taken was found in possession of each of them together with the keys that belonged to Chang Pu and which they had found in his money belt.

There is no doubt that the accused are guilty of two crimes of robbery with which they were charged. Not only were they recognized by the offended parties on the night of April 18th as the same persons who had just robbed and maltreated them, but, in addition, a part of the money taken was found in the possession of each of them, together with the keys that belonged to Chang Pu, they having, moreover, made incriminating statements to the police, Exhibits N, O and P.

The court sentenced the accused Leon and Mamerto Urbano in case R. G. No. 26304 to seven years presidio mayor and to pay one-fourth of the costs; and Rufino Urbano, being a recidivist, to ten years presidio mayor with his proportional part of the costs, all of them, jointly and severally to indemnify Yao Ton and Chang Pu in the sum of P56.60, the accused Mariano Villaflor having been acquitted, with his proportional part of the costs de oficio.

In case R. G. No. 26305, the accused Leon and Mamerto Urbano were likewise each sentenced to seven years presidio mayor, with the accessories of the law and to pay one-fourth of the costs; and Rufino Urbano, being a recidivist, to ten years presidio mayor, with the accessories of the law, and to pay his proportional part of the costs, the three accused being further sentenced, jointly and severally, to indemnify the offended party Chua Chac in the sum of P16.

The facts charged constitute two crimes of robbery defined and penalized as follows: That of R. G. No. 26304 by article 508, paragraph 3, of the Penal Code, the accused having entered the store and dwelling of the Chinese Yao Ton and Chang Pu, with simulation of authority, armed, and the value of the property taken not exceeding 1,250 pesetas; and that of case R. G. No. 26305 by article 503, paragraph 5, of the same Code, being robbery committed with violence and intimidation, having produced some of the effects indicated in said article 503, paragraphs 1, 2, 3, and 4.

The penalty provided by article 508, paragraph 3 (R. G. No. 26304), is one degree lower than the penalty provided by said article, paragraph 1, that is presidio correctional in its medium degree to presidio mayor in its minimum degree (two years, four months and one day to eight years), which penalty must be imposed in its maximum degree, in view of the aggravating circumstance of nocturnity. Furthermore, an additional penalty must be imposed upon the accused Rufino Urbano equivalent to half of the penalty imposed by law under the provisions of Act No. 3062, for being an habitual delinquent, according to the allegation of the complaint which was proven in this case.

The penalty provided by article 503, paragraph 3, of the Penal Code (R. G. No. 26305) is that of presidio correctional to presidio mayor in its medium degree, that is, six months and one day to ten years, the same to be imposed in its maximum degree (six years, ten months and one day to ten years) in view of the aggravating circumstance of nocturnity.

The penalties imposed by the trial court are within the limits provided by law and, therefore, the judgment appealed from is affirmed with the sole modification that the penalty imposed upon Rufino Urbano in case R. G. No. 26304, shall be ten years and six months presidio mayor, with the accessories of the law, it being understood that all three must suffer successively the penalties imposed in the two cases. So ordered.

Johnson, Street, Malcolm, Ostrand, Romualdez, and Villa-Real, JJ., concur.

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