

2 Phil. 431

[G.R. No. 1225. August 21, 1903]

THE UNITED STATES, COMPLAINANT AND APPELLEE, RS. SATURNINO DE LA CRUZ ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

WILLARD, J.:

The Solicitor-General asks that the judgment in this case be reversed and that the defendants be acquitted of the charge of brigandage.

We concur in the following statement taken from his brief:

“With respect to the crime of brigandage, the evidence for the prosecution ought to have shown, in such a manner as to leave no room for doubt, that there existed a band of ladrones such as is described in Act No. 518; that the aim and purpose of this band were no other than to commit robbery, by means of force and violence, and that the accused had joined the band as members of the same. “There is evidence in the case which shows the existence of an armed band commanded by Saturnino de la Cruz, and that his codefendants were members thereof; but there is absolutely nothing tending to show the aim and purpose of the band.

“The sequestration of the Chinaman Barretto, for the purpose of compelling him to form part of the Bulacan branch of the Katipunan Society, of which branch the accused Saturnino de la Cruz is colonel and his coaccused soldiers; the fact of the Chinaman’s having recovered his liberty as soon as he had written his signature in the Katipunan book, and without having lost any of his personal property, are facts which, far from showing that the purpose of the band of Saturnirio de la Cruz and his codefendants was to commit robbery, indicate the

contrary. * * *

“In accordance with the above-mentioned Act No. 518, proof that the aim of an armed band is to commit robbery is necessary in order that the members of such band may be considered guilty and convicted of brigandage. And as the prosecution has not offered such proof the conviction of the accused is not justified.”

From that statement there should be excepted, however, the defendant Basilio Reyes. There is no evidence that he was a member of the party which assaulted the house of the Chinaman Barretto. The only evidence in the case to convict him either of brigandage or any other crime, is the statement by one of the police that a dagger was found in the house where he was arrested.

The judgment against all of the defendants-appellants is reversed, and they are acquitted of the charge of brigandage, with costs *de officio*. As to all except Basilio Reyes, there is evidence in the record Avhich requires that they should be prosecuted for rebellion or insurrection under section 3 of Act No. 292, as suggested by the Solicitor-General, and perhaps also for murder.

Arellano, C. J., Torres, Cooper, Mapa, and McDonough, JJ., concur.