

3 Phil. 1

[G. R. No. 1415. December 02, 1903]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. ANASTASIO MANGUBAT ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

JOHNSON, J.:

The defendants were charged with "*robo en cuadrilla* or *bandolerismo*" as follows:

That the said accused, on the 9th of December, 1902, in San Pablo, of the Province of Laguna, conspired together and formed a band of ladrones and robbed various persons by means of force and violence, in an uninhabited place, and went upon the highways armed with deadly weapons.

On the 10th of July, 1903, the judge of the Court of First Instance of the Province of Laguna found the accused guilty of the crime of *bandolerismo* and sentenced each of them to be imprisoned for a period of twenty years, to indemnify the persons robbed, and to pay the costs.

The defendants demurred to the complaint filed in the said cause, alleging that it contained allegations of two distinct causes. The trial judge overruled the demurrer. The court held that the complaint contained but one cause, and that the allegation *robo en cuadrilla* or *bandolerismo* simply set out the same fact in different aspects. There was no error in overruling the demurrer.

The proof taken in the trial of the said accused showed conclusively that they had joined in robbing, with violence, Aurelio Rivero, Alejo Punto, and Gregorio Ilaog, of personal property belonging to them of the value of 13, 6, and 4 pesos, respectively. There was much conflict in the evidence relating to the question whether the accused were armed, as charged in the complaint.

This proof was not sufficient to convict the said accused of *bandolerismo* under Act No. 518 of the Philippine Commission because it was not shown that the said accused were armed. It was sufficient to convict them of the crime of robbery. The said accused are therefore hereby found to be guilty of the crime of robbery with force and intimidation. The offense proven is punished under subsection 5 of article 503 of the Penal Code.

There were neither aggravating nor extenuating circumstances proven. Therefore the medium degree of the penalty provided should be imposed. By applying the rule laid down in article 82 of the said code, the medium degree is found to be six years and ten months of *prision mayor*.

The sentence of the court below is hereby modified, and the said accused Anastasio Mangubat, Antonio Bondad, Prudencio Celino, and Esteban Guevara, and each of them, are hereby sentenced to six years and ten months of *prision mayor*, to indemnify the said persons robbed in the sum of \$23, Mexican, and to pay all costs.

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