2 Phil. 127

[G.R. No. 1106. April 15, 1903]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. AGUEDO DEL ROSARIO ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

LADD, J.:

The defendants have been convicted of rebellion, under section 3 of Act No. 292 of the Commission. The information is very loosely drawn, but we think it sufficiently charges the crime of insurrection or rebellion. It so designates the crime charged, and it contains language which may fairly be construed as an allegation that the defendants incited and set on foot a rebellion against the authority of the United States in the Philippine Islands, which is the definition of the crime given by the statute. If the information could be regarded as defective in not stating facts which constitute the crime of rebellion, yet, as it specifically designates that crime as the one charged, and as we think the evidence shows the commission of that crime, and as no objection was taken to the information either in the court below or in this court, we are of opinion that the conviction should be sustained.

Taking the admissions made by the defendants at the trial in connection with the documentary evidence introduced by the prosecution, it is clearly shown that on July 5, 1902, the day of the defendants' arrest, they were members of the society known as the Katipunan, as reconstituted by them and others in December, 1901; that this society had for its object the forcible overthrow of the Government of the United States in the Philippine Islands; that it had established what purported to be a Tagalog government of the Archipelago, of which government the defendants were high officials; that it had organized what purported to be an army; and that during a period extending from December, 1901, down to a date subsequent to May 1, 1902, its leaders, including the defendants, were actively engaged •in plotting and organizing insurrectionary movements. These facts are sufficient to support the conviction.

The appellants claimed at the trial that they could not be convicted of the crime of rebellion, because they had never recognized the Government of the United States in these Islands, or taken the oath of allegiance thereto. Their counsel in this court has not insisted upon this defense, and it is so palpably unfounded—being nothing less than a negation of the right of the Government to maintain its existence and authority against a certain class of the population—that we do not think it necessary to discuss it.

The only question raised by counsel in this court is as to the sentence. The crime is punishable by imprisonment for not more than ten years and a fine of not more than $10,000. (Act No. 292, sec. 3.) The court imposed a fine of $5,000 and the maximum of the penalty of imprisonment, without, however, finding the existence of any aggravating circumstance. It is claimed that the penalty of imprisonment fixed for the crime must be divided into grades, and,.in the absence of either aggravating or extenuating circumstances, should be applied in the present case in the medium grade, in accordance with the rules of the Spanish Penal Code.

We are of opinion that the rules of the Penal Code with reference to the circumstances which aggravate and extenuate guilt, and with reference to the application of penalties as affected by the existence or nonexistence of such circumstances, are not applicable to the penal legislation of the Commission. Those rules form a part of a complicated and carefully adjusted system of penalties, and can not be conveniently applied, and in many cases can not be applied at all, except in relation with other parts of such system. They are entirely foreign to the spirit of American criminal legislation, which allows wide discretion to the judge in the fixing of penalties. In the absence of anything in Act No. 292 to indicate that the Commission intended that the penalties therein prescribed should be applied by the courts in accordance with the rules of the Penal Code, we can not presume that such was their intention.

The discretion possessed by the judge as to the penalty was, we think, in the present case, properly exercised. Application was made by the defendants in the court below for the benefits of the amnesty proclamation of July 4, 1902. Counsel in this court has not renewed this application. The defendants are not within the terms of the amnesty proclamation, because the crime of which they have been convicted was committed subsequent to May 1, 1902.

The judgment of the court below is affirmed, and the cause will be returned to that court for the execution of such judgment.

Arellano, C. J., Torres, Cooper, Willard, and M*apa, JJ.,* concur.

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