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[G.R. No. 1141. April 04, 1903]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. ELENO LIUANAG ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

LADD, J.:

The appellants, Liuanag, Quinto, Sinambal, and Joaquin, have been convicted by the Court of First Instance of Rizal of *robo en cuadrilla*, under No. 5 of article 503 of the Code, in connection with article 504, and sentenced to six years ten months and one day of *presidio mayor*. They were tried jointly with Fulgencio Magpayo, who was acquitted. The Government did not appeal from the acquittal of Magpayo.

The evidence against the appellants was as follows: Lorenzo Ramos, a Constabulary inspector, testified that he captured Quinto, Sinambal, and Joaquin in a banca in the Atlag River in the pueblo of Malolos, Bulacan, one night in September, 1902; that he found two sewing machines, some money, and two bolos in the banca in their possession; that they admitted they had stolen the sewing machines and the money; that Quinto gave information which led to the apprehension the same night of the other appellant, Liuanag; that they found in Liuanag's possession a large amount of jewelry, some money, and a gun and 150 cartridges; that Liuanag confessed that a part of the jewelry had fallen to him as his share of the proceeds of robberies committed in the barrio of Dampalit, pueblo of Malabon, Rizal, and that he had bought part of it for a small sum from the other robbers.

Leon de la Rosa, also an officer of the Constabulary, who was with Ramos when the arrests were made, confirms in all substantial respects the testimony of the latter.

The sewing machines and a part of the jewelry were brought into court and identified by their owners, who stated that they were taken from their respective houses in the barrio of Dampalit, pueblo of Malabon, by robbers, the witnesses being in their houses at the time of

the robberies. Candida Garcia, the owner of some of the jewelry and one of the sewing machines, testified that the robbers who attacked her house on the occasion when this property was taken were five in number, all armed. None of these witnesses give the date of these robberies, but they all state that they were committed in the nighttime.

No witnesses were introduced by the defense.

The evidence leaves no room for doubt that the appellants belonged to an armed band of outlaws, who committed various robberies in the barrio of Dampalit, pueblo of Malabon, Rizal, on a night just previous to the time of their arrest in September, 1902. The evidence of Candida Garcia shows that the band numbered at least five. All the elements of the crime of *robo en cuadrilla* are established, and the conviction was right.

The court below should, however, have appreciated the aggravating circumstances of Nos. 15 and 20 of article 10 of the Code, and should consequently have applied the penalty in the maximum degree. We fix the penalty at ten years of *presidio mayor* modifying the judgment in this respect and affirming it in all other respects, and the cause will be returned to the court below for the execution of the same. So ordered.

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