

7 Phil. 207

[G.R. No. 3119. December 20, 1906]

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ESTANISLAO CAGAOAN ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

CARSON, J.:

The guilt of the accused of the crime of “robbery *en cuadrilla*” with which they were charged, was proven beyond a reasonable doubt and we find no error in the proceedings prejudicial to the rights of the accused. The trial court properly held the offense committed to be that of robbery *en cuadrilla*, as defined and penalized in articles 504 and 505 of the Penal Code, taken together with paragraph 5 of article 503, marked with the aggravating circumstances that the crime was committed at nighttime and in the house’ of the offended persons.

The accused, Estanislao Cagaoan and Tiburcio Cagaoan, were sentenced to the penalty of ten years’ imprisonment, and their five codefendants to the penalty of eight years’ imprisonment, but the robbery having been committed *en cuadrilla*, the penalty which should have been imposed is that of the maximum degree of “*presidio correccional to presidio mayor* in its medium degree,” and in view of the aggravating circumstances this penalty should have been imposed upon all in its maximum degree. The principal penalty that should have been imposed was, therefore, “from eight years eleven months and eleven days *presidio mayor*” to “ten years *presidio mayor*”

It may be well to note that the English translation of the Penal Code, published at the Government Printing Office in Washington, in 1900, translates article 504 so as to read as follows: “If the crimes referred to in Nos. 3, 4, and 5 of the foregoing article should have been committed in an uninhabited place and by a gang,” etc.; while the correct translation is as follows: “If the crimes referred to in Nos. 3, 4, and 5 of the foregoing article should have been committed in an uninhabited place or by a gang,” etc.

The judgment and sentence is modified by imposing the principal penalty of ten years' *presidio mayor* upon all the appellants instead of the penalty of ten years' imprisonment imposed by the sentence on Estanislao Cagaoaan and Tiburcio Cagaoaan, and eight years' imprisonment on their five codefendants, and thus modified the judgment and sentence of the trial court is affirmed, with the proportionate share of the costs of this instance against each of the appellants. After expiration of ten days let judgment be entered in accordance herewith and ten days thereafter the case remanded to the court below for proper action. So ordered.

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