

[G.R. No. 2550. August 23, 1906]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. GABINO VENTOSA,
DEFENDANT AND APPELLANT.**

D E C I S I O N

WILLARD, J.:

On the evening of the 30th of March, 1902, in the house of Teodoro Husain, in the pueblo of Cabatuan, in the Province of Iloilo, the people of the town were entertained by the owner of the house for the purpose of celebrating Easter. There were present a great many young people, and more women than men. Supper had been prepared and was being served when the defendant, a corporal in the Constabulary, accompanied by four of his soldiers, appeared in the house. He asked the owner of the house if he had a license for the entertainment. The owner was not able to produce any written license and, as the defendant himself said, he started to suspend the meeting because in the first place no license had been given for it, and secondly because the people made a noise and disturbed the public peace. He remained in the house an hour, compelled some of the people to sign a document and leave the house, stopping the entertainment.

The evidence we think shows that upon protest being made by some of the young men present, he drew his revolver and pointed it at them. He is prosecuted in this case for the crime of *coaccion*, defined in article 497 of the Penal Code. There was no proof in the case of the existence of any ordinance of the pueblo of Cabatuan requiring a license for the holding of such an entertainment, and there is moreover, proof that the owner of the house had secured from the municipal president verbal permission therefor. The evidence is conclusive that the meeting was in no sense illegal, but was a mere social gathering, and it is also conclusive that there was no breach of the peace or any disorder being committed there at the time the defendant interfered. Act No. 175, section 9, gives the Constabulary the right to suppress unlawful assemblies and also provides that "they and each of them are

empowered to make arrests upon reasonable suspicion without warrant for breaches of the peace or other violations of the law." In this case there was not only no breach of the peace and no violation of the law, but the defendant could not have had any reasonable suspicion of the existence of such violation. His act was illegal and he is responsible therefor. Even if there had been an ordinance of the municipality prohibiting such meetings without obtaining a license therefor, it would seem that, by reason of the provisions of section 6 of Act No. 610, the defendant had no authority to make arrests for the violation of such an ordinance.

The judgment of the court below is affirmed, with the costs of this instance against the appellant. At the expiration of ten days from the date of final judgment the case will be remanded to the court below for proper procedure. So ordered.

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