

6 Phil. 253

[G.R. No. 2315. May 05, 1906]

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. MACARIO GANDOLE ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

WILLARD, J.:

The defendants were convicted of the crime of vagrancy, defined and punished in Act No. 519, and were sentenced to imprisonment for nine months and to the payment of a fine of 100 dollars each. The charge in the complaint was that the defendants associated with known thieves or ladrones and wandered about the country at unusual hours of the night.

We agree with the Solicitor-General that the conviction can not be sustained. The only evidence as to Macario Gandole is proof that a band of ladrones came to his house one night when he was sick in bed, and stayed there about two hours, gambling.

The only evidence in the case as to the other defendant, Leon Lovena, is proof that this same band of ladrones on the same night went to his house and stayed there about an hour, gambling. The only witness who testified to this fact stated that the leader of the ladrones took the men from the house of Lovena to the house of one Terciado. It does not clearly appear whether the defendant Lovena was taken with the rest or not.

The judgment of the court below is reversed and the defendants are acquitted, with the costs of both instances *de officio*.

After the expiration of ten days from the date of final judgment let the case be remanded to the court below for execution of said judgment. So ordered.

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

Date created: April 30, 2014