

5 Phil. 272

[G.R. No. 2371. November 11, 1905]

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS, MAXIMO AUSTRIA ET AL.,
DEFENDANTS AND APPELLANTS.**

D E C I S I O N

TORRES, J.:

In a complaint filed February 24, 1904, Maximo Austria and Angel Manajan, among others whose names appear therein, were charged with the crime of brigandage, in that between the dates of November 15, 1902, and November 15, 1903, they entered into a conspiracy in the Provinces of Rizal, La Laguna, and Bulacan, with Luciano San Miguel, Julian Santos, Ciriaco Contreras and others, some of them unknown, and formed a band of outlaws with the object of stealing carabaos and other personal property by means of force and violence, and thus confederated and united in a band, and provided with deadly weapons, committed robbery of carabaos and other personal property.

After the case had been presented, the court, as a result of the trial, dismissed the complaint with respect to one of the defendants, acquitted six others, and sentenced the said defendants Manajan and Austria, the former to twenty years' imprisonment, and the latter to twenty-five years' imprisonment, both at hard labor.

From the evidence adduced during the trial it appears that said Austria and Manajan formed a part of a considerable band of malefactors led by Luciano San Miguel, in which the former figured as a colonel who had charge of providing food supplies for the subsistence of the band, and who as a chief, was provided with a revolver, and the latter as a private soldier armed with a rifle.

The persons composing the band, sometimes collectively, and sometimes in smaller divisions, engaged in highway robbery and marauding in certain pueblos of the said provinces and had engagements with the Constabulary and other agents of the authorities whenever they were met by them.

The case offers no evidence as to whether the defendants in their incursions as bandits penetrated the territory of the city of Manila, or whether they committed therein any of the acts of robbery and outlawry in which they were engaged, nor is it shown that they were at any time arrested, especially the two appellants Austria and Manajan, within the city limits.

It is proved, however, that they were arrested and held in the pueblo of Tinajeros in the Province of Rizal, and hence the Court of First Instance of Manila has no jurisdiction in the present case, the jurisdiction over which belongs to the court of Rizal.

Section 3, Act No. 518, says:

“Persons guilty of the crime defined in section one may be punished therefor in the Court of First Instance in any province in which they may be taken or from which they may have fled.”

None of these acts of detention or flight took place within the territory of the city of Manila, and consequently if it is not within the competence or jurisdiction of any judge of this capital to hear this case or render legal judgment therein, all legal proceedings thus far formulated are null, and it becomes proper to dismiss the proceedings.

In view of section 23 of General Orders, No. 58, this case is declared dismissed with the costs *de officio*, without prejudice to the filing of a new complaint in the Court of First Instance of Rizal, this action to be communicated to both judges and to the Solicitor-General. The case will be returned to the court of

its origin with a certified copy of this decision and of the action which will be taken at the proper time for its execution. So ordered.

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

Johnson, J., dissents.

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