

4 Phil. 483

[G.R. No. 1932. April 27, 1905]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. MARIANO PANGANIBAN ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

MAPA, J.:

The robbery with which the defendants are charged has been fully proven on the trial of this case. The guilt of the defendants Francisco Santos and Pedro Pineda as principals by direct participation in the crime has been correctly appreciated by the lower court in the judgment appealed from.

As regards the other defendant, Panganiban, there is no evidence to establish his liability, not even as accomplice in said robbery, which was the crime of which he was found guilty by the Court of First Instance. As the prosecution says correctly in its brief:

“The fact that at the time of the occurrence he was in the stable and the robber took therefrom a ladder to climb into the house does not argue any act of complicity or concealment, much less if we take into consideration the statement of the defendant alleging in his favor that he was sleeping at the time.”

The robbery was carried out in an inhabited house with arms and by means of scaling, and is thus within the provisions of article 508 of the Penal Code; as the value of the effects stolen exceeded 1,250 pesetas, they being of the value of 2,253.80 pesos, the penalty which should be imposed on the defendant is that provided for in paragraph 1 of said article, viz, that of *presidio mayor* in its medium degree to *cadena temporal* in its minimum degree, and, whereas the act was committed by a gang (*en cuadrilla*), there being six robbers and all armed, the penalty should be imposed in the maximum degree in conformity with the provisions of article 509 of the Penal Code.

Therefore, with a reversal of the judgment appealed from, we sentence the defendants Francisco Santos and Pedro Pineda to the penalty of thirteen years' *cadena temporal* with the accessories provided for in article 56 of the Penal Code, to reimburse Porfirio Espinosa and his wife, Juliana Puno, in the sum of 2,253.80 pesos, without having to suffer subsidiary imprisonment in case of insolvency on account of the nature of the principal penalty, and to pay two-thirds of the costs in this instance.

We freely acquit Mariano Panganiban, with the balance of the costs in both instances corresponding to him *de officio*. So ordered.

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