

4 Phil. 430

[G.R. No. 1727. April 18, 1905]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. JULIO DE LA CRUZ ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

MAPA, J.:

Between 10 and 12 o'clock on the evening of March 16, 1903, the houses of Luciano Rivera and Saturnino Gonzalez, situated in the barrio of Rio Chico, town of Peñaranda, Province of Nueva Ecija, were raided by seven individuals armed with bolos and carrying three guns, the robbers taking clothing belonging to Rivera of the value of 2.50 pesos, two carabaos belonging to Gonzalez of the value of 200 pesos, and a pair of earrings of the value of 2 pesos belonging to the wife of said Gonzalez, all having been secured by means of violence exercised against the persons of the occupants of the houses. This fact was clearly proven at the trial, and we also consider as proven that the four defendants took part in the commission of the robbery and that they are, therefore, liable as principals in accordance with the law.

The facts established constitute the crime of robbery *en cuadrilla*, provided for and punished under article 504 of the Penal Code, and not that of *bandolerismo*, as charged in the complaint, since there is no proof that the defendants formed or were a part of a band of brigands such as is defined by Act No. 518 and Act No. 1121 amendatory thereof. The crime of robbery *en cuadrilla* being necessarily included in that of *bandolerismo*, the defendants can be convicted of the former notwithstanding having been charged with the latter, in accordance with the doctrine established in several decisions of this court.

We affirm the judgment appealed from, it being understood that the crime committed is robbery *en cuadrilla* and not *bandolerismo*, with the costs in this instance to appellants. So ordered.

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

Carson, J., reserves his opinion.

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