

4 Phil. 178

[G.R. No. 1687. January 31, 1905]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. MARIA SOLIS ET AL.,
DEFENDANTS AND APPELLANTS.**

D E C I S I O N

TORRES, J.:

In a complaint dated September 21, 1903, Maria Solis, Fernando Solis, and Maria Castellon were charged with *lesiones graves*.

The complaint stated that at about 8 o'clock in the morning of June 12 of said year Gregoria Magabilin was at the house of Maria Solis at the latter's invitation; that Maria Solis asked Magabilin if she had said that the land in which her father was working had not been granted by her, Maria Solis, but by her brother, Victoriano Solis; that Magabilin replied she had not said such a thing, and that then and there the servant of the house, Maria Castellon, struck Gregoria Magabilin in the mouth with her fist; that Victoriano intervened in the affray and tried to separate them; that when the injured party was trying to defend herself, Victoriano slapped her aggressor; that Fernando Solis in his turn struck Magabilin twice with his fist in the temples and then Maria Solis, taking her by the hair, dragged her along the ground and bit her in the left ear. As a result of this bite, part of the ear was removed, and the pair of earrings which Magabilin had, valued at \$1.25, disappeared. These facts are clearly proven. They have all the characteristics of the crime of *lesiones graves* provided for in subsection 3 of article 416 of the Penal Code.

As a result of the affray and of the injury suffered, Gregoria Magabilin was permanently disfigured because of the loss of the lobule of the left ear. The physician, who recognized the injured party,

testified to this on the trial of the case. The three defendants pleaded not guilty. and nothing was offered of any importance in their defense. Notwithstanding that the witness for the prosecution, Victoriano, did not corroborate in full the statements of Gregoria Magabilin, the injured party, due, perhaps, to the relationship existing between him and one of the defendants, yet he corroborates the fact of the fight and of the injury suffered by Magabilin and caused by Maria Castellon. We have to admit the statements of Gregoria Magabilin as true, because they contain details which are more in conformity with the truth and with the result of the fight It does not appear from the proof that the aggression against the injured party was the result of a conspiracy on the part of the aggressors, hence each of them is individually responsible for his acts and for the damage caused thereby to the injured party. Maria Castellon and Fernando Solis only struck Gregoria Magabilin with their fists, one after the other, and their blows did not produce any serious consequences. But Maria Solis having ill-treated the injured party, and having dragged her along the ground by the hair, inflicted the *lesion grave* for which she is now prosecuted. She caused this by having bitten her, therefore Maria Solis is the only person liable for the *Iesion grave* which was occasioned to Maria Magabilin. The other two defendants can not be considered as participants in this crime. They can only be punished for ill treatment, which is a misdemeanor. The injury caused to the left ear of Gregoria Magabilin was not the result of the joint ill treatment of Fernando Solis, Maria Castellon, and Maria Solis, but resulted from the sole act of Maria Solis, as the evidence establishes.

We agree with the opinion of the Court of First Instance as regards taking into consideration the two extenuating circumstances provided for in subsections 3 and 7 of article 9 of the Penal Code, and also that defined in article 11 of the same code. There are no aggravating circumstances to counterbalance the effect of the two extenuating circumstances, and therefore the defendant Maria Solis should be punished with the penalty next lower than that provided by law in the minimum degree.

Therefore, for the reasons above stated, we are of the opinion that the judgment below should be affirmed as regards Maria Solis, with

one-third of the costs. We reverse the judgment below as regards Fernando Solis and Maria Castellon, who are hereby acquitted of said crime, but as a punishment for their misdemeanor or ill treatment, and for their correction, we impose upon them a fine of P10 each, with subsidiary imprisonment in case of insolvency, the costs to be *de officio*.

This case to be remanded to the court below with a certified copy of this decision and of the judgment which shall be rendered in accordance herewith. So ordered.

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

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