

[G.R. No. 1181. July 01, 1905]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. ENGRACIO VILIAFUERTE ET AU, DEFENDANTS AND APPELLANTS.

D E C I S I O N

TORRES, J.:

Counsel for the defendant Engracio Villafuerte asks for a revision of the decision rendered in the second instance and that a new hearing be granted in this case, but, notwithstanding the reasons alleged by him to this effect, we are of the opinion that the motion aforesaid should be denied.

It is fully proven in the record of the case that the defendants, adulterers, were duly informed and knew well about the charges made against them, of the motive and origin of the charges, and of the character of the sentence, for which reason on pleading not guilty of the crime charged to them they knew perfectly well the nature and condition of the crime which was imputed to them. The complaint which begins the record is in accordance with the provisions of section 6 of General Orders, No. 58, and no fault or defect can be alleged to be contained which could constitute an infraction of section 5 of the act of Congress dated July 1, 1902. The complaint which is signed by the husband, Felix Villa, expressly states that Eugenia Rabano was and is his wife; that both lived together in marital relations in the same house; that the defendant Villafuerte went to live in the same house and that both defendants were several times caught in the act of sexual intercourse; and therefore on being informed of the charges made against them they were well aware that the crime imputed to them was adultery for the reason that Rabano and Villafuerte had lain illicitly

together, Rabano being a married woman., A man and woman who are living in marital relations under the same roof are presumed to be legitimate spouses, united by virtue of a legal marriage contract, according to paragraph 28 of section 334 of the Code of Civil Procedure. This presumption can only be rebutted by sufficient contrary evidence, which has not been presented by the petitioner. It must be noted, considering the testimony of the witnesses on both sides, Villa and Rabano had the reputation in the town where they lived of being married legitimately.

A complaint should not allege any facts other than those which constitute the crime. The defense or the allegations of the defendant are not essential elements of the crime, since if they were proven the action would be null and void and of no effect. In the decision which this court rendered and which the defense asks to have set aside, the existence of the crime of adultery was found, as well as the guilt of the defendants, by virtue of the clear proof of the facts adduced by the prosecution as these facts appear fully and clearly related in the decision, and not because of the silence of the defendants.

Furthermore, the court having accepted the consideration of the facts made by the judge as proven, it is not permissible, nor should it be, to allow same to be impugned. The judge, as well as this court, rightfully found that the crime of adultery had been committed and proven from the presumption, which was also proven, that Villa and Rabano were legally married, and this finding can not and should not be modified validly without anything to the contrary being shown.

By virtue of the reasons above stated, we are of the opinion that the motion should be denied with the costs.

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

CONCURRING

CARSON, J., with whom concurs **WILLARD, J.,:**

All the bases of this motion were fully discussed in the oral

argument and in the printed brief of the defendants and were taken into consideration by this court before dictating its decision, and therefore I am of the opinion that the motion for a new trial should be denied.

Date created: April 25, 2014