

4 Phil. 476

[ G.R. No. 1181. April 27, 1905 ]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. ENGRACIO VILLAFUERTE AND EUGENIA RABANO, DEFENDANTS AND APPELLANTS.**

**D E C I S I O N**

**TORRES, J.:**

By virtue of a complaint filed by Felix Villa, on April 26, 1902, charging his wife, Eugenia Rabano, and Engracio Villafuerte with the crime of adultery, this case was brought against the defendants as principals in said crime.

From the record it appears fully proven by the testimony of three witnesses that Engracio Villafuerte frequented the house of the complainant, Felix Villa, usually at a time when the latter was absent from his house. That Villafuerte left his mother's house and went to live at the house of the offended party three weeks before April 20 of last year. That on the latter day and at a late hour in the evening the two defendants were surprised and seen at a time when they were lying together in the complainant's own house, and then the husband and the witness who accompanied him, having learned what was happening in the interior of the house of the former, went and whipped his wife. That because of information one night, the husband and the witness Basilio Navela, a member of the police force in the town of Lucena, and one other, saw the two defendants one night in Villafuerte's house and from the outside they saw that the defendants were lying together in the interior of the room, inside of a storehouse, and on the following morning when Eugenia Rabano came out she was arrested by them and taken to the police station.

The witness Maria Origenes, a child 10 years old, who lived in the house of the complainant, states that on a certain occasion, while the complainant was absent from the house, she saw both defendants, whom she called "sweethearts," in the act of carnal intercourse.

The above-stated facts, fully proven in this case, are clothed with all the characteristics of the crime of adultery provided for and punished in article 433 of the Penal Code, with the penalty of *prision correccional* in its medium to its maximum degree. The guilt of the two defendants appears sufficiently established in this case as principals in the commission of said crime. Notwithstanding the fact that the defendants pleaded not guilty of the crime charged against them and that no certificate appears in the record of the case to establish the fact of the marriage of the complainant to the defendant Eugenia Rabano, still the case offers sufficient and complete proof that Eugenia Rabano was married to the complainant and that, notwithstanding her condition of being a married woman, she carried on illicit intercourse and relations with Engracio Villafuerte, who is not her husband. These acts executed by them constitute the crime of adultery, and therefore, being criminally liable for this crime, they have incurred the penalty provided for in the above-mentioned article of the Penal Code.

Villa and Rabano lived as husband and wife in their own house when Villafuerte came to interfere with the marital relations and disturb their peace, and for the reason that the fact of Villa and Rabano were united by matrimony was not questioned, the presumption of their being married must be admitted as a legal fact, in the absence of any proof to the contrary, since even the statements of the witnesses for the defense affirm this presumption. And yet, even paying less attention to this presumption than to the presumption of innocence of the defendants, it is true that in the complaint it is affirmed by the complainant that Eugenia Rabano is his legitimate wife, and in addition it appears proven on the trial that they were united, by the bonds of matrimony, which is affirmed not only by the witnesses for the prosecution but also by those of the defense, which produces on the mind a clear conviction of the guilt of the two defendants. If Eugenia Rabano were not united with Felix Villa by the bonds of matrimony and

lived with him only in a state of concubinage, not only the woman but also Villafuerte would have so stated, and they would have denied and contradicted the complaint and would not have consented that in their presence the witnesses for the prosecution and their own witnesses should call Villa and Rabano husband and wife. The fact that they remained silent and did not dare to deny the truth of the marriage bonds which united them was, because they are convinced of their guilt and especially the woman, of her criminal and nefarious infidelity and so, with such proof of their guilt, the presumption of innocence can not be sustained.

In the commission of the crime there are no extenuating circumstances or aggravating circumstances to be considered, for which reason the penalty imposed in the medium degree is in accordance with the law.

Therefore, we are of the opinion that the judgment appealed from should be affirmed and the defendants sentenced to the penalty of three years six months and twenty-one days of *prision correctional* and to pay the costs, one-half each, it being understood that they are relieved from subsidiary imprisonment in case of insolvency for the payment of the costs. This case to be returned 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, and Johnson, JJ.*, concur.  
*Carson, J.*, reserves his opinion.