

[G.R. No. 1953. April 11, 1905]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. PAULINO FUENTES ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

WILLARD, J.:

There is sufficient evidence in the case to convict the appellant Victorino Rana without taking into consideration the testimony which he gave before the justice of the peace, to the reception of which testimony his counsel in this court objects.

The offense falls under article 508 of the Penal Code. The defendants were not armed. This fact reduces the penalty to *presidio correccional* in its medium grade to *presidio mayor* in its minimum grade. The value of the property stolen did not exceed 1,250 pesetas; this places the penalty in the medium grade of *presidio correccional*. The defendants were both under 18 years of age; this fact requires the imposition of the penalty immediately inferior to the medium grade of *presidio correccional*. There is some conflict in the decisions of the supreme court of Spain as to what that penalty is, but it is now settled by the more recent decisions that the penalty immediately inferior to the medium grade of *presidio correccional* is the medium grade of *arresto mayor*. (3 Viada's Commentaries on the Penal Code, 394.) The penalty imposed by the court below, so far as the appellant Victorino Rana is concerned, is reduced from two years and ten months to four months. This change of the penalty disposes of the objection made in this court by the counsel for the appellant to the penalty imposed by the court below, so far as it discriminates between him and the other defendant, Paulino Fuentes.

With the exception of this change in the penalty the judgment of the court below is in all respects affirmed as to the appellant, with the costs of this instance to the appellant.

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

Date created: May 08, 2014