

[G.R. No. 2664. August 01, 1906]

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. CELESTINA CAÑETA AND 31 OTHERS, DEFENDANTS AND APPELLANTS.

D E C I S I O N

TORRES, J.:

In a written complaint filed by the fiscal of the Province of Albay on the 2d day of August, 1904, the defendants, Celestina Cañeta, Mamerto Cerdeña, Sergio Biando, Andres Bareng, Apolonio Balaber, Eusebio Barayoga, Francisco Balaber, Pablo Benosa, Angel Valladolid, Bruno Lanosa, Laureano Esplana, Julian Pintor, Teodoro Sapyag, Vedasto Regalaro, Eusebio Sinogoao, Juan Benosa, Gervasio Oasuco, Daniel Blancada, Eladio Infeliz, Eleuterio Oliver, Fructuoso Betui, Esteban Benosa, Roman Pagasinag, Mariano Oliver, Fausto Sumayao, Emigdio Kuara, Balbino Sambriro, Tiburcio Plana, Regino Bayade, Diego Sampuego, Adriano Buensalida, and Mateo Benosa, were charged with the crime of theft in that they, early in the month of July of the said year, at the place of Quinarabasahan, jurisdiction of Malinao and Tabaco, with intent of gain, and without violence to or intimidation of the persons, or force exercised upon the things, took from the land in which it was planted the hemp of Domingo Cañeta to the value of 1,500 pesos, Philippine currency, this without the consent of the owner and in violation of the statute in such cases made and provided.

Proceedings having been instituted upon the said complaint, the court, after hearing the evidence introduced at the trial, entered judgment on the 19th of August, 1904, sentencing Celestina Cañeta to the penalty of three years six months and twenty-one days' imprisonment (*presidio correccional*), Mamerto Cerdeña to four years nine months and eleven days, Vedasto Regalaro to two years four months and one day, and Gervasio Oasuco to six years' imprisonment, all *presidio correccional*, at hard labor in Bilibid Prison, each to pay one-fourth of the costs and to suffer the corresponding accessory penalties. The other

defendants were acquitted.

The facts as they appear from the record in this case are that on one of the first days of the month of July, 1904, upon the complaint of one Domingo Cañeta, who claimed to be the owner of a tract of land in Quinarabasahan, between the towns of Malinao and Tabaco, Province of Albay, the defendants in this case were caught in the act of taking hemp growing upon the said land. The defendants Celestina Cañeta and Mamerto Cerdeña were not present when the others were arrested by the Scouts stationed in the said province. The complainant, Domingo Cañeta, claimed to be the owner of the land, alleging that he had inherited the same from his parents, Atanasio Cañeta and Elena Bondad, who died in 1903 and 1896, respectively; that no formal partition of the hemp and rice lands left by his parents had been made between his sister, Epifania, his brothers, Tomas, Clemente, Andres, himself, and another sister, Celestina Cañeta, a defendant in this case; that his father in his lifetime had given tracts of land to the three elder children, including Celestina, as they were married, as advances on their inheritance, and that Celestina as well as Domingo were agreed that the hemp growing upon the land in question had been planted while their father was still alive.

The defendant, Celestina, alleged that her father died possessed of three parcels of hemp land; that her brother.

Domingo Cañeta, sold the largest of the three parcels and gave her no part of the proceeds of the sale; that she believed she was entitled to the land from which her co-defendants had taken the hemp; that this land had been leased to Mamerto Cerdeña for the sum of 120 pesos, as per a contract entered into between Cerdeña and herself on the 11th of June of the said year, which contract was introduced in evidence and marked "Exhibit A," and that by virtue of this contract the lessee of the land ordered his laborers to harvest the hemp that was then growing upon the land so leased to him.

It having been proved that Celestina Cañeta had leased to Mamerto Cerdeña the land upon which the latter's laborers were caught in the act of harvesting the hemp then growing thereon, and there being no evidence tending to show that the lessee had entered into the said contract of lease in bad faith, we must conclude that Cerdeña acted in good faith and that he did not incur any criminal liability, he having merely exercised a right which he had under the said contract. The laborers, of course, are even less responsible since they did Nothing but obey the orders of the lessee.

If the real owner of the land had a right to bring a criminal action at all, it would be against Celestina Cañeta, who leased the land to Cerdeña.

There is no evidence to the effect that Domingo Cañeta was the sole owner of the land which, according to his own statement, formed a part of the property left by his deceased father, and which had not been at that time distributed among the heirs. It must necessarily be presumed that the said property was still undivided and that the possession of the land by one of the joint owners is understood to be in behalf of all the owners.

The action which Domingo Cañeta may have, if any, in regard to the portion of the estate of his deceased father to which he may be entitled is of a civil nature, since from the evidence of record it can not be said that his sister, Celestina Cañeta, has incurred any liability of a criminal nature.

The judgment of the court below is accordingly reversed and the defendants Celestina Cañeta, Mamerto Cerdeña, Vedasto Begalario, and Gervasio Casuco are hereby acquitted, with the costs of both instances *de officio*, without prejudice to the right which Domingo Cañeta may have to the land in question, which he may enforce in the proper civil action. After the expiration of ten days from the date of final judgment let the case be remanded to the Court of First Instance for execution. So ordered.

Arellano, C. J., Mapa, Carson, Willard, and Tracey, JJ., concur.
