

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. ROMUALDO RODRIGO, DEFENDANT AND APPELLEE.

G.R. No. L-18507. March 31, 1966

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

The Solicitor General appeals from the order of the Court of First Instance of Masbate affirming the order of the Justice of the Peace Court of Pio V. Corpuz, which dismissed the following amended complaint:

"Undersigned Special Counsel, under oath accuses ROMUALDO RODRIGO of the crime of THEFT OF LARGE CATTLE, committed as follows:

"That on or about March 8, 1960, and months previous at Tubod, Pio V. Corpuz, Masbate, and within the jurisdiction of this Honorable Court, the abovenamed accused deliberately did then and there wilfully, unlawfully, feloniously, and criminally kept in his possession one male horse which is specifically described under Certificate of Ownership of Large Cattle No. 4685981, legally belonging to FELIX MUERTIGUE, said accused knowing as he does that the aforementioned horse was stolen from the ranch of said Felix Muertigue at Casabangan, Pio V. Corpuz, Masbate, and deliberately failed as he did fail to deliver the same to the authorities or to its owner. The value of the aforecited horse is no less than ONE HUNDRED FIFTY PESOS (P150.00), all to the damage and prejudice of said owner of the aforementioned amount."

The only question raised is whether or not the lower court erred in ruling that the foregoing complaint is defective because the element of "intent to gain" is not alleged.

A complaint or information is sufficient if it states the name of the defendant; the designation of the offense by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate time of the commission of the offense, and the place wherein the offense was committed (Section 5, Rule 110, Revised Rules of Court). The acts or omissions complained of as constituting the offense must be stated in ordinary and concise language without repetition, not necessarily in the terms of the statute defining the offense, but in such form as is sufficient to enable a person of common understanding to know what offense is intended to be charged, and enable the court to pronounce proper judgment (Section 8, Id.).

The complaint in question designates the offense charged as "theft of large cattle." This is the crime defined in Article 310 of the Revised Penal Code, in connection with Article 308 thereof.

"Art. 308. Who are liable for theft.—Theft is committed by any person who, with intent to gain but without violence against, or intimidation of persons nor force upon things, shall take personal property of another without the latter's consent.

"Theft is likewise committed by:

"1. Any person who, having found lost property, shall fail to deliver the same to the local authorities or to its owner;

"2. Any person who, after having maliciously damaged the property of another, shall remove or make use of the fruits or object of the damage caused by him; and

"3. Any person who shall enter an inclosed estate or a field where trespass is forbidden or which belongs to another and, without the consent of its owner, shall hunt or fish upon the same or shall gather fruits, cereals, or other forest or farm products."

"Art. 310. Qualified theft.—The crime of theft shall be punished by the penalties next higher by two degrees than those respectively specified in the next preceding article, * * * if the property stolen is * * * large cattle."

Under the first paragraph of Article 308 the essential elements of theft are (1) the taking of personal property; (2) the property belongs to another; (3) the taking away was done with intent of gain; (4) the taking away was done without the consent of the owner; and (5) the taking away is accomplished without violence or intimidation against person or force upon things (U.S. v. De Vera, 43 Phil. 1000). But under paragraph 2, subparagraph (1), the elements are (1) the finding of lost property; and (2) the failure of the finder to deliver the same to the local authorities or to its owner. In this kind of theft intent of gain is inferred from the deliberate failure to deliver the lost property to the proper person, the finder knowing that the property does not belong to him.

Appellee contends that since the complaint refers to a stolen horse it does not fall under said particular paragraph, "stolen property" not being the same as "lost property." The argument is without merit. The word "lost" is generic in nature, and embraces loss by stealing or by any act of a person other than the owner, as well as by the act of the owner himself or through some casual occurrence. If anything, the finder who fails deliberately to return the thing lost may be considered more blameworthy if the loss was by stealing than through some other means.

We therefore find that the complaint filed against defendant-appellee satisfies the requirements of Rule 110, sections 5 and 8, in charging the offense of theft of large cattle defined in Article 310, in relation to Article 308, paragraph 2, subparagraph 1, of the Revised Penal Code.

The order appealed from is set aside and the case remanded to the lower court for further proceedings. No pronouncement as to costs.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, J.B.L., Barrera, Regala, Bengzon, J.P., Zaldivar, and Sanchez, JJ., concur.

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