

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. SEBASTIAN DE GUZMAN, DEFENDANT AND APPELLANT.*G. R. No. 10145. September 25, 1915*

Ponente: ARELLANO, C.J.

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The accused herein, Sebastian de Guzman, has been sentenced to 4 years 2 months and 1 day of presidio correctional, to the accessories of the law and the payment of a sixth part of the costs, the rest being declared de officio. He was found guilty of the theft of 3 carabaos, valued at P290, supposed to belong to Tomas Romano. In the complaint, five other individuals besides Guzman were charged with the same crime. They were Celestino Joaquin, Rufino Agaton, Narciso Caraig, Julio Joaquin, and Licerio Eugenio. A complaint was filed in the court of the justice of the peace by Tomas Romano, wherein he alleged the theft of not only three carabaos, but also of a caraballa and a male and a female calf. He also indicated one Alejo de Leon as being among the thieves above-named and added the words "et al." to the list.

At the commencement of the proceedings Narciso Caraig was excluded from the complaint in order that he might be used as a witness for the prosecution. After the evidence was all in, the case was dismissed with respect to the other defendants with the exception of Sebastian de Guzman, and the said Sebastian de Guzman was the only one convicted.

Of seven persons named and others not named, all accused as thieves, there has turned out to be but one thief, and of the six animals—three carabaos, one caraballa and two calves—claimed to have been stolen there remains as corpus delicti but one carabao. And even with respect to this we find at page 21 of the record: "Counsel for the Defense. If the prosecution is willing, I propose that the carabao which, according to the evidence presented by the Government, was found in the possession of Sebastian de Guzman, be held to be registered in accordance with Act No. 1147 in the name of Narciso Macaraig (the same Narciso Caraig who was excluded from the complaint) and that the latter transferred it to Jacinto de Guzman, father of the accused Sebastian de Guzman, in accordance with the law.

"Fiscal. I agree.

"Court. Let it appear of record."

Sebastian de Guzman, being finally convicted in the proceedings, moved for a new trial and presented the deed of sale, but it does not appear that any action was taken on this motion.

The six defendants were deprived of their liberty from December 16, 1913; the five as to whom the case was dismissed were not set at liberty until April 17, 1914, and the one Held to trial was released on bail only in July.

And the act which gave rise to this prosecution arose from the following simple circumstance. Lucio Villa, a member of the Constabulary, one day in August, 1913, saw a carabao in a pasture; he noted that Sebastian de Guzman took the carabao away from the pasture; Tomas Romano came to him and claimed the carabao; he went

to see in whose name the animal was registered and found the registration in the name of Sebastian de Guzman, it furthermore appearing therein that Sebastian had bought said animal from Narciso Carajg. This is all of the testimony of this witness who was the cause of the present proceedings. Narciso Carajg admitted having signed the document in which he said it was true that he had sold the carabao to Sebastian de Guzman; but, after being excluded from the proceedings, he varied his statement in attempting to give some reason for implicating the accused Guzman. Other testimony was adduced which leads to nothing, the origin of the proceedings being known.

The person who claimed to be the owner of the carabao in question has not proven, nor has he in any manner offered to prove, his ownership. With absolutely no proof of the former existence and later loss of the carabao which he claims to be his, six persons have been deprived of their liberty, a thing that should not have happened unless the crime were proven and probable reasons advanced for implicating some given person in its commission. From the very beginning the person who instituted these proceedings found out that the possession of the carabao was sufficiently justified by a document of title which has not been subsequently impugned in the course of the proceedings. And even if it were, from the standpoint of criminal law, action should have been filed against the vendor rather than against the purchaser; but in these proceedings the vendor, Narciso Carajg, or Macarajg, was used as a witness instead of being a priori the only person proceeded against if his possession as vendor, from which the purchaser derived his title, was illegal and constituted an attempt upon the property of another.

There was not, nor is there now, any reason for prosecuting the case after hearing the declaration of the constabulary soldier Villa, in which it appeared, he himself being the prime mover of the proceedings, that the possession alleged to have arisen from a theft was not such, but the effect of a title of ownership.

So evident is the defect in the proceedings that in the judgment no finding whatever was made with respect to the ultimate possession of the carabao alleged to have been stolen. The supposed thief was not sentenced to restore the carabao or to indemnify the true owner therefor. It was not found, because no such finding could be made, that Tomas Romano is the lawful owner of the carabao, still less that the owner was Narciso Carajg, or Macarajg, because this would have the effect of assisting Carajg to possess himself of the carabao sold, after he had already pocketed its price.

If it was not proven that the supposed theft actually occurred it follows that it has not been possible to show any reason for imputing the crime to Guzman or to any of the other five defendants. So that at page 21 we find the court says: "For lack of proof against the other defendants, with the exception of Sebastian de Guzman, the case is dismissed with respect to them, and Julio Joaquin and Celestino Joaquin are ordered to be immediately placed at liberty; the bail bonds furnished by the others who are at liberty thereunder are ordered cancelled, with the costs corresponding to them de officio. So ordered." With equal or greater reason should this order be made with respect to Sebastian de Guzman.

The judgment appealed from is reversed and the case is dismissed for lack of cause, with the costs de officio. So ordered.

Torres, Johnson, Carson, Trent, and Araullo, JJ., concur.

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