

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ANTONIO SAN PEDRO, DEFENDANT AND APPELLANT.

G.R. No. 1588. April 12, 1905

Ponente: CARSON, J.

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CARSON, J.:

Antonio San Pedro, the appellant in this case, was found guilty of the crime of robbery in the Court of First Instance of Bulacan and sentenced to five years' presidio correccional and to pay the costs of the trial. Counsel for the appellant urges that the information upon which the accused was tried is fatally defective in that it fails to allege that the property taken "was not the property of the accused," and that it was taken con animo de lucro.

Article 502 of the Penal Code defines the crime of robbery as the taking of property not one's own, with violence against the person and con animo de lucrarse.

The information in this case alleges that the accused, with force and violence, took a pistol from the possession of the complaining witness. Unless the contrary appears, the animo de lucro is presumed, where all the other facts which would constitute the crime of robbery have been established, and it is also presumed "that things which a person possesses are owned by him, unless the contrary appears." (Decision of the supreme court of Spain, June 16, 1884; par. 10, sec. 334, Code of Civil Procedure.)

While it would have been better to allege specifically all the essential elements of the crime charged, we are of opinion that the information in this case was not fatally defective and that the evidence adduced at the trial fully sustains the finding of the trial court, and establishes the guilt of the accused beyond a reasonable doubt.

The sentence appealed from should be affirmed, with costs against the appellant, and it is so ordered.

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

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