

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. SIA TEB BAN (ALIAS JUAN TONINO, ALIAS JUAN ANTONIO, ALIAS PEDRO ANTONIO), DEFENDANT AND APPELLANT.

G.R. No. 31695. November 26, 1929

Ponente: ROMUALDEZ, J.

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ROMUALDEZ, J.:

Found guilty of qualified theft and habitual delinquency, the defendant was sentenced by the municipal court of Manila, and on appeal, by the Court of First Instance of this City, to two years, four months, and one day presidio correccional, with costs, and to the additional penalty of twenty-one years' imprisonment.

He now contends that he is not guilty of the crime with which he is charged.

But it has been proved that he took the watch described in the information without the owner's consent, having been overtaken a few moments later by a friend of the offended party, who found the stolen Watch on the appellant. It is alleged that animus lucrandi has not been proved. We find it sufficiently established, as the acts of the accused (one's intention may be gathered from one's deeds) unequivocally show.

It is a fundamental doctrine of law that the act penalized by the law is presumed to be voluntary unless the contrary is shown (art. 1, Penal Code). And from the appellant's felonious acts, freely and deliberately executed, the moral and legal presumption of a criminal and injurious intent arises conclusively and indisputably, in the absence of evidence to the contrary (sec. 334, No. 2, Act No. 190).

In view of the fact that we find no merit in this appeal and that the law provides for the imposition of accessory penalties, the appealed judgment is modified, the appellant being sentenced to the accessory penalties provided in article 58 of the Penal Code, the said judgment being affirmed in all other respects, with costs against the appellant. So ordered.

Avanceña, C. J., Johnson, Street, Malcolm, Ostrand, and Johns, JJ., concur.

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