

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. GABINO SORIANO, DEFENDANT AND APPELLANT.

G.R. No. 3949. October 19, 1907

Ponente: JOHNSON, J.

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JOHNSON, J.:

This defendant was charged with the crime of larceny in the Court of First Instance of the Province of Occidental Negros, was found guilty as accessory to the crime of theft, and was sentenced to pay a fine of 1,875 pesetas, with costs, and in case of insolvency to suffer subsidiary imprisonment at the rate of 12½ pesetas for each day, the subsidiary imprisonment not to exceed six months.

The lower court also found that the defendant had been convicted and sentenced for the crime of larceny in four other cases pending in that court.

From this sentence the defendant appealed to this court.

The only question submitted by the proof presented by the attorney for the appellant is whether or not the evidence adduced during the trial of the cause in the lower court is sufficient to show that the defendant was guilty of the crime for which he was convicted.

An examination of the evidence brought to this court shows beyond peradventure of doubt that on or about the 17th day of December, 1904, some person stole from Rafael Medel a carabao of the value of P100; that on or about the 21st day of December, 1904, the defendant had the carabao in question registered with the municipal treasurer of the pueblo of Silay; that on or about the 9th day of January, 1905, the defendant sold the carabao in question to one Buenaventura Lopez for the sum of P100; that the said carabao was found in the possession of the said Lopez and was recovered from him by the Constabulary of said province for its original owner.

The defendant admitted that he had obtained the registration of said carabao on the 21st day of December, 1904, with the municipal treasurer of the pueblo of Silay, and attempted to show that he had been the owner of the carabao in question since the month of January, 1901, and that he had purchased the same in the latter year of some one unknown in the municipality of Pontevedra.

The fact that the carabao in question belonged to the said Medel and was stolen from him on or about the 7th day of December, 1904, was proven beyond peradventure of doubt; therefore the contention of the defendant that he had been the owner of the said carabao from the month of January, 1901, until the 9th day of January, 1905, when he sold the same to the said Lopez, can not be true. The fact that the defendant, according to his own statement, had not registered the said carabao until a few days after the said larceny is sufficient to convince us that his testimony can not be believed. His possession and sale of the carabao in question, a few days after the larceny, in the absence of any valid explanation, convinces us that he was guilty of the crime charged in the said complaint.

It is therefore the judgment of this court that the sentence of the lower court: be modified, and that the defendant be sentenced to be imprisoned for a period of six months of arresto mayor, to indemnify the said Buenaventura

Lopez in the sum of P100, and in case of insolvency to suffer subsidiary imprisonment, which shall not exceed one-third of the penalty of imprisonment imposed, and to pay the costs. So ordered.

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

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