

THE PEOPLE OP THE PHILIPPINE ISLANDS, PLAINTIFF AND AP- PELLEE, VS. ANSELMO CALALO, DEFENDANT AND APPELLANT.

G. R. No. 43187. January 29, 1936

Ponente: RECTO, J.

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RECTO, J.:

On the night of March 31, 1934, in the barrio of Mangahan, municipality of Dolores, Province of Tayabas, a young bull belonging to Eugenio Canoso was stolen and hours later sacrificed. Justo Bulahan and his son Sixto were apprehended as the perpetrators thereof, and they were charged with and convicted of theft by the Court of First Instance of Tayabas, and are at present serving their sentence. For reasons not of record Anselmo Calalo, who was indicted as co-principal in the crime, was tried separately, and the appeal before us is from a judgment finding him guilty.

We agree with the trial court that the evidence fails to show beyond a reasonable doubt that the appellant had a hand in taking away the stolen animal, but did partake of the sacrifice. The trial court therefore, correctly ruled that the appellant is clear of liability as principal of the crime complained of. But the court made no finding, and we think properly since there is no evidence to support it, that the appellant, at the time he profited by the effects of the crime, had knowledge of its commission. The court, therefore, erred in holding, in the absence of such a finding, the appellant guilty as an accessory after *the fact of the crime charged and penalizing him therefor. To profit by the effects of a crime is an element not of itself sufficient to determine a class, among others defined by law, of accessories after the fact, which constitutes the lowest degree in the graduated scale of criminal liability resulting from the nature, extent, and time of the agent's participation in the punishable act. In this there is lacking the presence of another legal requirement—knowledge by the alleged accessory after the fact of the commission of the crime before or at the time he profited by its effects (article 19, Revised Penal Code) —which, in the case at bar, not being borne out either by the evidence or the findings in the appealed decision, renders the latter untenable.

Wherefore, the appealed judgment is reversed and the appellant acquitted, with costs in both instances de officio.

Avanceña, C. J., Abad Santos, Huill, and Vickers, JJ., concur.

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