

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. NICOLAS CAKREON ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 4523. November 16, 1908

Ponente: JOHNSON, J.

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JOHNSON, J.:

These defendants were charged with the crime of larceny. They were duly arrested, tried in the Court of First Instance of the Province of Bulacan and were found guilty, "as accessories of the said crime of the theft," and were sentenced, each one, to the penalty of one month and eleven days of *arresto mayor*, with the accessory penalties prescribed by law, to return, jointly and severally to the offended parties, Catalino Barreto and Perfecto Pascual, the sum of P60 received from them, and, in case of insolvency, to suffer the corresponding subsidiary imprisonment which must not exceed one-third of the principal penalty, and each of them to pay one-half of the costs; the above-mentioned imprisonment to be served in the provincial jail of Bulacan.

From this sentence the defendants appealed.

From an examination of the record brought to this court the following facts appear to have been proved:

That on or about the 7th day of April, 1906, in the barrio of Bagbaguin, of the municipality of Polo, in the Province of Bulacan, Catalino Barreto and Perfecto Pascual being then each the owner of a carabao, lost possession of them. The evidence does not disclose in what manner or in what way they lost possession of them; that some two or three days later, while looking for the carabaos, the owners found them in the possession of the defendant, Nicolas Carreon; the owners requested Nicolas Carreon to return to them the said carabaos, whereupon he (Nicolas Carreon) referred them to his brother, Juan Carreon, who was then a councilman of his barrio; the owners went to Juan and informed him that their carabaos were in the possession of Nicolas and demanded possession of the same. Juan refused to deliver to the owners the said carabaos unless they should pay him the sum of P100 or P120. There is some confusion in the testimony about the amount of money which Juan demanded; however, the owners paid the sum of P60, and promised to pay the balance of P100 in a few days, and thereby obtained possession of the carabaos.

There is no evidence in the record showing how the owners lost possession of the carabaos. There is nothing to show that they had been stolen. The proof does not disclose that the defendants had received the carabaos from persons who had stolen them. There is not sufficient proof in the record to show that the defendants were guilty of the crime charged nor of the crime of which they were found guilty in the lower court; therefore the sentence of the lower court is hereby revoked and the defendants are ordered to be discharged from the custody of the law. So ordered.

Arellano, C. J., Mapa and Willard, JJ., concur.
Carson and Tracey, JJ., dissent.

DISSENTING**TORRES, J.,**

In criminal proceedings instituted for the crime of theft or robbery, the courts have constantly upheld the rule, in accordance with the principles of criminal law, that the finding of the stolen property in the possession of a person establishes the presumption that he is the author of the crime, unless it be satisfactorily proven that another person is the author thereof, and that the stolen property found in the possession of the accused, was received from the former. This doctrine has been followed by this court in several of its decisions.

In the case at bar it has been fully established that several carabaos disappeared from the place where they were kept, the owners thereof assuming that the animals were stolen; and that, after a search of fifteen days by said owners, the animals were found in the possession of the accused, who refused, to return the animals to their owners until the latter paid them a ransom of P60.

The accused herein have not proven nor satisfactorily explained why the animals were found in their possession, and, assuming the existence of the crime, and in accordance with the provisions of articles 517 and 518, (No. 2, in its relation with article 68, of the Penal Code, it must be considered that Juan Carreon is an accessory and Nicolas Carreon is the principal thereof.

In my opinion, the judgment appealed from should be affirmed as to Juan Carreon and should be reversed as to Nicolas Carreon, and that the latter should be sentenced to two years of presidio correccional, and to the accessories of article 58, with one-half of the costs. Proceedings for estafa should be instituted against the accused, in case an information be filed by the provincial fiscal, on account of the illegal demand for 60 as a ransom for the animals.

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