

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. JUANA AYARDI, DEFENDANT AND APPELLANT.*G.R. No. 4621. November 02, 1908*

Ponente: JOHNSON, J.

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This defendant was charged with the crime of larceny of the sum of P284 which sum it was alleged consisted of 14 twenty-pesos bills and 2 two-peso bills. The defendant was duly arrested and tried in the Court of First Instance of the city of Manila, was found guilty and sentenced to be imprisoned for a period of one year eight months and twenty-one days of prison correccional, to indemnify the offended person, Lorenza Bautista, in the sum of 284, and in case of insolvency to suffer subsidiary imprisonment. The lower court further ordered that a twenty-peso bill, which was identified as one of the fourteen which had been stolen, should be returned to one Tan Shing, from whom the said twenty-peso bill had been taken by the police during the investigation.

From this decision of the lower court the defendant appealed. An examination of the record fully sustains the following facts: That on or about the morning of the 6th day of August, 1907, one Lorenza Bautista, a tienda keeper in the city of Manila, had in her possession 14 twenty-peso bills and 2 two-peso bills, Philippine currency, together with some other loose money in a small sack; that the said bills were rolled up in a piece of paper; that on the said date the said Lorenza had occasion to take out of said sack some of the loose money, and at the same time laid the roll of bills upon a table in her tienda; that at that time the defendant was present in the tienda; that while Lorenza was negotiating with a third person for the purchase of some crabs the defendant left the tienda, and went to her home near by, soon returning, however, to the tienda again; that before the defendant returned to the tienda Lorenza discovered that her money was gone; that upon the return of the defendant to the tienda she assisted Lorenza in searching for the lost money; that on the day following Lorenza reported the loss of her money to the police of the city of Manila; that one of the twenty-peso bills in said package was marked by the initials of the said Lorenza Bautista, The police made an investigation and found this particular twenty- peso bill, marked with the initials of Lorenza, in the hands of one Tan Shing, a Chinese tienda keeper in that part of the city where Lorenza lived. Upon investigation, it was found that, the said Chinaman had received the twenty- peso bill from the woman who did the laundering of the defendant; that the laundry woman had received the twenty-peso bill from the accused, on the same day that the money was lost. The defendant attempted to show during the trial that she had received the twenty-peso bill which she had given to the laundry woman from her sister. The lower court did not believe this statement of the defendant. Neither do we, for the reason that the bill was identified as one of the 14 twenty-peso bills which had been stolen, by reason of the marks which the said Lorenza had placed upon it. These facts seem to justify beyond peradventure of doubt the culpability of the defendant, to the extent at least that she was the person who had taken from the said Lorenza at least P20.

The attorney for the defendant in this court argues that it was not proven during the trial that the accused had taken all of the P284 from Lorenza. It is true that the authorities were unable to find more than this one twenty-peso bill; but it was proven, and the fact was not disputed, that Lorenza had in the one bundle of bills,

rolled in a paper as above stated, 14 twenty-peso bills and 2 two-peso bills, Philippine currency; and while, of course, the guilt of the defendant can not be presumed, yet we believe that under all the circumstances it is perfectly reasonable to assume, it being proven that she had stolen one of the bills, that she had stolen all.

The judgment and order of the lower court are thererfore hereby affirmed, with costs. So ordered,

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

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