

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. TOMAS MOLINA ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. 4764. September 18, 1908*

Ponente: CARSON, J.

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On or about the 6th day of May, 1907, several carabaos disappeared from the fields where they were at pasture, in the municipality of Solana, in the Province of Cagayan, two of which have never been found by their owner. Some days thereafter Calixto Balubal, the owner of the lost carabaos, discovered the head of one of the animals in the lot of the defendant, Tomas Molina, and swore out a search warrant, in the court of the justice of the peace, by virtue of which a search was made in Molina's house, and a considerable portion of the carcass of one or more carabaos, divided into quarters, was discovered in and near his house. One of the witnesses testified that while the owner of the carabao was procuring the search warrant, he was left to keep watch on the head, meat, and bones, which were found in the yard of Tomas Molina, and that he saw the defendants, Tomas Molina, Sixto Beran, and one Cipriano de Asis, carrying a quantity of carabao meat from under the house into the yard where they left it.

The defendants did not go upon the witness stand nor offer any explanation as to why the head of the carabao belonging to the complaining witness was found in the yard of Tomas Molina, or why so large a quantity of carabao meat was found in and about his house.

We think the foregoing facts which were conclusively established by the testimony of record constitute prima facie proof of the fact that the lost carabaos of the complaining witness, valued at 300, were stolen by Tomas Molina, the owner of the house, in whose possession the meat was found, and no evidence having been offered in rebuttal of this presumption of guilt, the court properly convicted the said Tomas Molina of the crime of theft with which he was charged. (U. S. vs. Gimeno, 3 Phil. Rep., 233; U. S. vs. Paguio, 6 Phil. Rep., 436; U. S. vs. Soriano, 9 Phil. Rep. 441.)

We do not think, however, that the guilt of the defendant, Sixto Beran, was proven beyond a reasonable doubt. The only evidence against him was the testimony of the witness who stated that he had seen this defendant and Tomas Molina carrying some of the carabao meat which was found upon Molina's lot, from under the house. This defendant is a nephew of Tomas Molina, and while the fact that he was assisting Molina in carrying the meat out of the house was a very suspicious circumstance, and tends strongly to raise a suspicion of guilt as to him, nevertheless as the meat was not found in his house or under his control, and as it does not appear that he had any knowledge of the origin of the meat or his uncle's object in removing it from the house, we do not think that it can be said that he is guilty of the theft of the meat beyond a reasonable doubt. The presumption of guilt of the crime of theft, which arises from the unexplained possession of stolen goods soon after the time when the theft was committed, can not be legitimately extended beyond the person in whose possession and under whose control such property is found, and the mere fact that other persons may have assisted him, at his request, in dealing with such stolen property, does not necessarily imply that such persons rendered such assistance knowing the property to be stolen, or that they themselves were parties to the theft.

The judgment of conviction and the sentence of the trial court, in so far as they affect the defendant Sixto Beran, should be and are hereby reversed, and this defendant is hereby acquitted, with his one-half share of the cost of both instances de oficio and he will be set at liberty forthwith.

The judgment of conviction and the sentence of the trial court, in so far as they affect the defendant, Tomas Molina, should be and are hereby affirmed, with one-half the costs of this instance against this defendant. So ordered.

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

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