

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. PEDRO MALIGALIG, DEFENDANT AND APPELLANT.

G.R. No. 5252. February 16, 1910

Ponente: MAPA, J.

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MAPA, J.:

The defendant herein is prosecuted for the theft of two horses, of which crime he was declared guilty by the Court of First Instance and sentenced as principal therein to the penalty of two years eleven months and one day of presidio correctional, to pay an indemnity of P100 to the injured party for the unrecovered horse, or in case of insolvency to suffer the corresponding subsidiary imprisonment at the rate of one day for every 12¢ pesetas that he failed to pay, and to pay the costs.

The guilt of the accused is so clearly proven in the case that, in this instance, the defense has raised no question whatever in connection therewith. The only question presented is that of the degree of liability which should be charged to him. There is no direct evidence that it was the accused who stole the horses, but they were found in his possession, and he gave no satisfactory explanation as to whence they came; for this reason the court below found him guilty and convicted him as principal in the crime of theft. The defense claims that a person thus charged should only be held liable as accessory after the fact, not as principal.

This point has been repeatedly decided by this court contrary to the claim of the defense. Among others the case of the United States vs. Gabino Soriano (9 Phil. Rep., 445) may be cited, wherein it is said:

"It is the settled rule of the courts, on the question of criminal liability, that the finding of the corpus delicti in the possession of a person establishes the presumption that he is the author of the crime, unless it be proven who was the real author, and that the bearer or holder of the stolen property is the mere accessory of the criminal * * *."

The judgment appealed from is hereby affirmed with the costs of this instance against the appellant. So ordered, Arellano, C. J., Torres, Johnson, Carson, and Moreland, JJ., concur.

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