

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. VICTOR SOLINAP, DEFENDANT AND APPELLANT.

G.R. No. 5683. December 27, 1910

Ponente: CARSON, J.

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CARSON, J.:

The defendant in this case was convicted of the crime of stealing two carabaos, on proof that these carabaos were stolen from the corral of the complaining witness on the night of the 16th of March, 1909, and that one of them was found in defendant's corral on the 24th of the following April.

Defendant admitted that the carabao found in his corral was not his property, and, in explanation of its presence there, attempted to prove that it had been intrusted to his care by a man named Iping, deceased at the time of the trial. We are of opinion, however, that the evidence introduced by the defendant in support of his explanation of the presence of this carabao in his corral can not be credited, because not only is it self-contradictory in various minor details, but also, and chiefly, because if believed, we would be forced to the conclusion that the animal was not taken from the corral of the complaining witness on the night of the 16th of March, 1909, defendant's witnesses testifying, as they did, that Iping had turned the animal over to the defendant long before the night when the complaining witness claims to have lost it. But the evidence of the loss of the identical carabao found in defendant's corral from the corral of the complaining witness on the night of the 16th of March is so positive, definite, and conclusive that it does not admit of doubt, and we are of opinion therefore that defendant's explanation of the presence of the stolen animal in his corral is not worthy of belief, and is not sufficient to rebut the presumption of his guilt arising from the discovery of the stolen carabao in his corral not long after the crime was committed.

There is evidence in the record which tends to disclose that the other carabao stolen from the complaining witness was also found in defendant's corral; but the evidence as to the identity of the second carabao found in defendant's corral with the second carabao stolen from the complaining witness is not conclusive, and we therefore refrain from any attempt to make a finding on this point. But whatever may be the fact as to the identity of the second carabao, the unexplained discovery of one of two carabaos, stolen on the same night from the same corral, in the possession of the defendant not long after the commission of the crime, is sufficient in itself to sustain a finding of the guilt of the defendant of the theft of both the animals.

The judgment of conviction and the sentence imposed by the trial court should therefore be affirmed with the costs of this instance against the appellant. So ordered.

Arellano, C. J., Torres, Mapa, and Johnson, JJ., concur.

Moreland and Trent, JJ., dissent.

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