

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. PEDRO FLORES (ALIAS GREGORIO ALBAY), FRANCISCO CATAPANG, BENITO HERNANDEZ, RICARDO MARQUEZ AND CIRIACO LIMBO, DEFENDANTS. CIRIACO ...

G.R. No. 8528. October 22, 1913

Ponente: CARSON, J.

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CARSON, J.:

The appellant Ciriaco Limbo, together with four others, was charged with the theft of two horses in the Court of First Instance of Laguna Province. All of the defendants were convicted. None of the defendants, except Limbo, appealed from the judgment convicting and sentencing them in the court below. Limbo was sentenced to five years' imprisonment and to pay a fine of 2,000 pesetas.

The record discloses that the appellant Ciriaco Limbo was an employee of the Bureau of Printing; that he stole several blank certificates used for the registration of large cattle from the bookbinding department of that Bureau and sold them to one of his codefendants Pedro Flores, for the sum of P15 each; and that these registration certificates were used by Flores and the other codefendants in effecting a sale of the two horses for the theft of which they were convicted.

There is nothing whatever in the record other than the facts just set forth to show that the appellant took any part, direct or indirect, either in the stealing of the horses or in selling them after they had been stolen. The certificates appear to have been stolen by him and sold to Flores in the city of Manila some time before the commission of the theft, and it does not appear that he had any knowledge whatever as to the commission of the crime of theft by his codefendants, or that he entered into any conspiracy or arrangement with them looking to the commission of the crime, or that he received any share of the proceeds of the sale of the horses. He has already been prosecuted and convicted in the Court of First Instance for the theft of the certificates, and sentenced to serve six months in Bilibid and to pay a fine of P100, together with the accessory penalties prescribed by law. The trial judge found him guilty as a complice (accessory before the fact), but we are of opinion that the evidence of record does not sustain a finding of his guilt of the crime with which he is charged in this information either as principal, complice (accessory before the fact) or accessory after the fact.

There can be little doubt that when the appellant sold the stolen certificates to his codefendant for the sum of P15 each he must have suspected that the purchaser intended to make use of them for some unlawful purpose; but it would be going far to hold him guilty as principal or accessory of any and every offense in the commission of which the purchaser of the certificates may have made use of them, in the absence of proof either of knowledge on the part of the vendor of the crime which the purchaser intended to commit with the aid of the stolen certificates; or of a community of purpose between the vendor and the purchaser to commit such crime or some other crime of which it was the natural and probable consequence. Viada (Vol. I, p. 370), discussing the provisions of article 15 of the Penal Code which declares who shall be deemed to be complices, says:

"In accordance with this definition, and completing it in the portion referring to the principals, we will say that a complice in a crime is he who cooperates in its execution by previous or simultaneous acts, provided that he has not taken direct part in such execution, or forced or induced others to execute it, or cooperated in its perpetration by an indispensable act, for should any of these circumstances exist, he would not be a complice but a principal. Thus, he who lends a murderer the dagger or pistol for executing the crime is a complice in the crime, because he cooperates in its execution by a previous act, which, however, cannot be characterized as indispensable, for it is easily conceivable that, had he not lent the weapon, the murderer might have been able to secure it in some other way. Likewise, and for the same reason, he is a complice in the crime of robbery who secures for another the false or skeleton key that facilitates entrance into the dwelling it is proposed to rob; in the crime of rape the pharmacist who, knowing the criminal purpose of another, furnishes him the drug with which he will put his victim to sleep in order to rape her is equally a complice in the crime, for he has cooperated in its execution by a previous act, although not an indispensable one, as some one else might have furnished the drug; he who, while robbers are assaulting a house, entertains its owner so that he may not return thereto until after the robbery is consummated, is also a complice in the crime, for he has cooperated therein with a simultaneous act, although not an indispensable one for its accomplishment."

It may not always be easy to distinguish the cases wherein one whose act has made possible the commission of a crime is or is not to be held guilty as a complice, but speaking generally, it seems clear that guilt of a crime as complice cannot be predicated on the commission of a particular act, unless the act was done in the furtherance of the commission of the crime by one who knew that others intended to commit it or some other crime of which it was the natural or probable consequence. In other words, there must be a community of unlawful purpose at the time the act was committed. The common purpose need not be to commit the particular crime which was in fact committed, but the crime actually committed must have been committed in pursuance of the common purpose to commit some offense, or as a natural or probable consequence thereof.

In the case at bar there does not appear to have been any community of purpose between Limbo and his codefendants to commit the theft of which they were convicted, nor was the theft committed in pursuance of any arrangement between them to commit some other offense of which it was the natural or probable consequence. We are of opinion therefore that the evidence of record does not sustain his conviction as a complice (accessory before the fact).

It may be convenient, in connection with this discussion as to the nature of the act which will render one guilty of the commission of a crime as complice, to indicate that the English word "accomplice" and the Spanish term "complice," although often treated as equivalents in translation, are not in fact identical, although derived from the same Latin root. The English word "accomplice" is defined by Bouvier to be "One who is concerned in the commission of a crime," and it is said that the term in its fullness includes in its meaning all 'persons who have been concerned in the commission of a crime, all participes criminis, whether they are considered in strict legal propriety as principals in the first or second degree, or merely as accessories before or after the fact (Fost. Cr. Cas., 341; 1 Russ. Cr., 21; 4 Bla. Com., 331; 1 Phil. Ev., 28) whereas the word complice as defined in the Spanish Penal Code (art. 14) is applicable only to one who, not being included in article 13 (i. e., a principal) cooperates in the execution of the act by previous or simultaneous acts. Under this definition a more accurate legal equivalent of the Spanish word complice in English would appear to be the technical term "accessory before the fact;" and in general, the English word "accomplice" should be rendered into Spanish by the use of some such phrase as "participante en el delito" (particeps criminis).

The judgment of the court below, in so far as it convicts and sentences this appellant, should be reversed and the information dismissed as to him, with his proportionate share of the costs in both instances de officio. So ordered.

Arellano, C. J., Torres, Mapa, Moreland, and Trent, JJ., concur.

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