

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. JULIAN SAULOG ET AL., DEFENDANTS. JULIAN SAULOG, APPELLANT.*G.R. No. 8856. November 21, 1913*

Ponente: TORRES, J.

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This is an appeal by the defendant Julian Saulog, from the judgment rendered on February 1, 1913, whereby the Honorable Herbert D. Gale, judge, sentenced him to the penalty of three years eight months and twenty-one days of prison correccional, to the accessory penalties and to the payment of one-half of the costs.

On the 7th of June, 1912, two head of cattle belonging to Doroteo Mangubat, valued at P200, disappeared from a pasture in the pueblo of Dasmarinas, Province of Cavite. A few days afterwards, their owner was informed by an unknown man that there were two cows in the interior of a field planted to bamboo, in the barrio of Malagasang, pueblo of Imus. Mangubat, therefore, accompanied by a cousin and an uncle of his and a policeman, went to the said place and found two cows in the care of the boy Eulalio Jaramillo, which were the same two that had disappeared. The animals were taken away and turned over to the office of the municipal president, with a report of what had occurred.

The following excerpt is taken from the judgment appealed from: "From the evidence adduced, the court finds it to have been well established that, during the last months of the year 1911 and until June, 1912, there existed in the municipality of Imus of the Province of Cavite, a band of robbers engaged in the robbery and theft of large cattle and composed of Julian Saulog, Casimiro Same, Marcelo Same, Pedro Same, Patricio Mascardo, Cayetano Sakilayan, Benigno Same, Jose Malaquinpanga and others whose identity is unknown, under the leadership of Julian Saulog, who was then the teniente of the barrio of Malagasang Primero; that this band was in the habit of concealing and keeping the stolen animals in the said barrio, in an uninhabited part thereof where there was a hut and a corral under the immediate charge of Marcelo Same and his son, Casimiro Same, and where they were herded by Eulalio Jaramillo; that, during the period referred to, the said band stole stock, including carabaos, horses and cows, some of which were ransomed by their owners, others escaped from the herdsman, and still others were butchered; that the product obtained through the ransom of the stolen animals by their owners, as well as a part of the meat from the animals that were butchered, was always delivered to Julian Saulog; that in the month of June, 1912, Doroteo Mangubat was the owner of two cows valued at P200 or 1,000 pesetas; that on June 7, 1912, the said two cows were tethered in the pasture of the said Mangubat, in the district of Dasmarinas of the municipality of Imus, Province of Cavite, from which place they were stolen by Casimiro Same and Cayetano Sakilayan, acting in behalf of the aforementioned band and under the orders of Julian Saulog, and by them taken to a bamboo grove near the hut of Marcelo Same, concealed there and placed in the care of the small boy Eulalio Jaramillo, where they remained for a period of seven or eight days; then, on the next day after the theft of the said animals, Julian Saulog arrived at Marcelo Same's hut where he held a conference with some of the members of his band concerning the ransom price for these two cows, which was fixed at P25 each; that, after the loss of his cows, Doroteo Mangubat, their owner, searched for them everywhere in the municipality of Imus and, on the

night of July 14, learned from a man that this informant had accidentally seen two cows in concealment in a bamboo grove near the hut of Marcelo Same; that, as a result of such information, Mangubat called together his relatives and other residents of his barrio and, early in the morning of June 15, they all went to the place designated where they found, in Marcelo Same's hut, the two bandits Casimiro Same and Cayetano Sakilayan, and at some distance therefrom near the bamboo grove, Eulalio Jaramillo, who indicated to the owner and his companions the place where the two cows were concealed; that the owner, upon identifying these cows as those which had been stolen from him, with the assistance of his companions first took the animals, together with the boy Eulalio Jaramillo, to the house of the teniente of the barrio, the defendant Julian Saulog, but, not finding the latter at home, they went on to the municipal building where they reported to municipal president Abad the circumstances of the loss and recovery of the two animals; and that in Julian Saulog's house the owner and his companions met Marcelo Same's daughter and daughter-in-law who told the boy Eulalio that he should not say anything to the authorities."

From the aforestated facts, duly weighed by the lower court in the judgment rendered, the conclusion is drawn that the unlawful removal of the two head of cattle from the pasture where they had been left by their owner, is an established fact, which removal must be qualified as theft, since they were taken away with intent of gain, without violence against the person or force against the things and without the knowledge or the consent of their lawful owner, a crime provided for and punished by articles 517, No. 1, and 518, No. 3, in connection with article 520, of the Penal Code, pursuant to Act No. 2030; for, as the two cows that disappeared from the pasture were, several days afterwards, found by their owner, a policeman and some companions of theirs, in the interior of a bamboo grove where they were tied, it is to be presumed that they were seized in the pasture, taken to and concealed in the said grove and were there kept tied in order to prevent their escape and return; and, therefore, it can not be believed that they, of their own accord, escaped from the place where they had been put by their owner, but, considering the situation in which they were found, the conclusion is inevitable that they were stolen and taken into the said grove to be concealed therein, with the intent thereby of obtaining unlawful gain.

Of the two defendants against whom this action was brought, Casimiro Same did not appeal from the judgment aforementioned; the appeal is made by Julian Saulog, who was convicted and sentenced as a coprincipal in the said crime.

When a theft of large cattle is committed in any pueblo or rural district of this Archipelago by the members of a gang of thieves, who meet in the country to adopt measures and make plans, either concerning the performance of such criminal acts or for a division of the profits and cash they have derived thereby, consisting in the ransom they obtained by the return of the stolen animals to their owners, which animals had been carefully concealed in a wood until they should be ransomed by the said owners, all the members belonging to the said band shall be considered to be principals in the commission of such acts, although only a few of them actually stole the cattle; all of them shall be held liable for the crime perpetrated, including those who took no material part therein, whenever the performance of the criminal act or acts by any of the members is effected either by direct inducement, by the order or request of the others who took no material part in the crime, or by virtue of a common agreement among them all, or by any other means which, in the hope of unlawful gain, may constitute a real intentional incitement, purposely made, especially by the person among them who exerts an ascendancy and decided influence over the others who take it upon themselves or consent to steal the animals.

Although it was not proved that Julian Saulog, as teniente of the barrio of Malagasang, took any material part in the theft of the two cows belonging to the offended Mangubat, yet, since this defendant was one of the members of the gang organized for the purpose of seizing and making away with large cattle, in order to obtain unlawful gain, it is unquestionable that his share in the commission of the crime was that of a coprincipal, not of a mere

accessary after the fact who received a part of the ransom which the members of the band obtained from the owners of the stolen animals, or sometimes a part of the beef from the animals slaughtered and cut up by the members for their common subsistence; for, in view of the defendant Saulog's great influence in the locality as *teniente* of the *barrio* and of his being, as he was, one of the members who received a share of the profits and products of the criminal undertakings in which the band was engaged, it is natural and logical to presume that he took part in the designs and plans of the other members, and that his proposals and suggestions, as *teniente* of the *barrio*, in a great measure influenced and determined the commission of the numerous thefts of large cattle in which the said band of criminals was engaged; hence, notwithstanding the defendant's plea of "not guilty," the trial record shows convincing proof of his guilt as one of the principals of the crime charged; but, as its commission was attended by neither aggravating nor extenuating circumstance, the penalty prescribed in article 520, in connection with No. 3 of article 518, of the Penal Code must be imposed upon him in the medium degree.

For the foregoing reasons, the defendant Julian Saulog is hereby sentenced to the penalty of four years two months and one day of *presidio correccional*, to the accessories of article 58, and to the payment of the costs of this instance, the judgment appealed from being thus affirmed. No finding is made with respect to indemnity, as the offended party recovered the stolen cattle.

Arellano, C. J., Johnson, Carson, Moreland, and Trent, JJ., concur.

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