

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. PERFECTO LAMADRID ET AL., DEFENDANTS. JUAN YEBRA, APPELLANT.*G.R. No. 9147. March 10, 1914*

Ponente: MORELAND, J.

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This, is an appeal from a judgment of the Court of First Instance of the Province of Ambos Camarines convicting the appellant, among others, of the crime of robbery and sentencing him to three years six months and twenty-one days of presidio correctional, to indemnify the injured party, The Gumaus Placer Company, in the sum of P320, with subsidiary imprisonment in case of insolvency, and his proportionate part of the costs.

It is alleged: "That on or about the night of the 16th day of January, 1913, at the barrio of Gumaus of the municipality of Paracale, Ambos Camarines, the said accused Perfecto Lamadrid, Pedro Galo, Marcelo Ballena, Pedro Tolentino, and Juan Yebra, with intent to gain, and after having broken by force the small window of the dredging machine owned by The Gumaus Placer Company, did maliciously, feloniously, and unlawfully take 5 gantas of sand containing gold of the value of P800 owned by said company, and without its consent * * *."

It appears from the evidence that on the 20th of January, 1913, and prior to that date, The Gumaus Placer Company was the owner of a dredge located in the municipality of Paracale, Ambos Camarines, which was being operated by that company for the recovery of gold from the sand of the water in which it was placed. In said month of January William Kane, the superintendent of the dredge, noticed that there had been taken from the dredge a quantity of auriferous sand or amalgam which had been collected by the dredge, which contained about 500 ounces of gold. On inspecting the depository where the tables were located upon which the gold-bearing sand or amalgam was treated, he noticed that one of the doors which had been closed to prevent the ingress of water was open, that the boards composing it had been partly torn therefrom for the purpose of obtaining entrance, and that there were tracks where the persons forcing entrance had come and gone.

On the 16th of January, 1913, at about 6.30 in the afternoon, Sotero Galero and Mariano Banal saw the appellant, Juan Yebra, together with Perfecto Lamadrid in Gumaus; Galero first saw him lying upon his face in a small house back of the dredge, while his companion carried a sack; Galero followed these two individuals as they quitted the place where they were discovered, leaving Banal near the dredge where he then was. The appellant and Lamadrid went to some bushes and from there to a small house belonging to Lucas Rojo. Galero followed them and recognized Yebra as the man that was lying upon his face back of the dredge and Lamadrid as the one who carried the sack. As Galero passed in front of Rojo's house, Yebra asked him where he came from and he answered that he came from Iraya and was looking for work. Banal, after waiting for half an hour and Galero not returning, went to look for him and found him at Rojo's house talking with Yebra and Lamadrid. Banal asserts that Yebra and Lamadrid were talking of the sack of sand which they carried. After this conversation Yebra left, followed by Lamadrid carrying the sack. On that occasion Yebra was substantially nude, having nothing on but a taparrabo, which was wet Yebra, on leaving Rojo's house, left his hat there, which was found, upon examination, to be thoroughly wet and to have upon it auriferous sand or sand with amalgam. Galero took the hat and hid it in

some bushes and later carried it and the sand which it contained to the sergeant of police, who delivered it to Mr. Kane. The latter found a considerable quantity of amalgam in the sand.

The witness Marcelo Venita testified that Juan Yebra delivered to him some nuggets of gold from which he made for him some jewelry.

There were filed in the case written confessions made by Juan Yebra, executed before a notary public. They were accepted over the objection of the accused. They are alleged to have been procured by promises made by a police officer, who stated to the appellant that if he would make the confessions in question he would see to it that nothing happened to him. This evidence is uncontradicted. For this reason we regard the confessions as inadmissible. We do not believe, however, that the judgment of conviction should be reversed for this reason, as there is abundant evidence, in our judgment, to sustain the conviction apart from these confessions. In addition to the evidence already referred to we have the testimony of the chief of police, Rosalio Sendon, who testified that, while Lamadrid and Yebra were in jail under his custody, a guard, Gregorio Fernandez, came to him saying that the two prisoners wanted to speak to him.

Upon going to them Lamadrid said: "Chief Sendon, we want you to let us go free because we want to go away. If you will do this, we will give you whatever you desire, because we feel very bad here."

After further talk Sendon asked them what they were going to give him, and they replied: "We will give you jewelry and money to the amount of P60 and also a carabao if you wish it."

The witness then asked them where these things were that they proposed giving him and they replied that they were in a place called Casalogan. He asked them where this place was and how they were going to get there and they told him where it was and assured him that they could go and come in two hours. The following day the witness and the two prisoners went to the place designated and there found the articles which the prisoners had mentioned. They were turned over to the witness. Upon receiving them he asked Lamadrid who had manufactured the jewelry and he replied that Juan Yebra had procured it to be made by Marcejo Venida, a silversmith. In order to substantiate this assertion the witness went with them to the silversmith, and he assured him that what the prisoners had told him was true. This witness also testified that later Juan Yebra told him that the gold which had gone to make up the jewelry referred to had been obtained from the dredge; that this statement of Juan Yebra was voluntary and was without force, intimidation, deceit, or promise of any kind.

We are satisfied that the judgment of conviction is correct and should be sustained.

The judgment appealed from is affirmed, with costs against the appellant.

Arellano, C. J., Carson, Trent, and Araullo, JJ., concur.

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