

1 Phil. 304

[G.R. No. 310. July 30, 1902]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. JACINTO ASIAO ET AL.,
DEFENDANTS AND APPELLANTS.**

D E C I S I O N

TORRES, J.:

Late on the night of the 28th or early in the morning of the 29th of December, 1897, a wooden trunk, containing clothing and jewelry to the value of 9 pesos and 7 reales, and the sum of 56 pesos and 50 cents in silver, and 5 reales in fractional coin, were taken from the house of Dolores del Rosario, situated in the town of Milaor, of the Province of Camarines Sur. In order to enter the house the thief or thieves had entered by the street door, which they succeeded in opening by thrusting a hand through the nipa wall and then drawing the wooden bolt. By chance the woman Dolores woke up, and, missing the trunk from her room, immediately opened the window toward the street and then saw two men who were running away with the trunk. She recognized one of them as Jacinto Asiao, and as he lived with Atanasio Copendit, she immediately concluded that these two were the men who had stolen her trunk, which was subsequently found some distance away, with the top broken in and the money missing, the clothing and jewelry, however, having been recovered. The damage done the trunk is estimated at 50 cents.

These facts, proven by competent testimony, constitute the crime of robbery without arms, in an inhabited house, of goods and money of which the total value does not exceed 1,250 pesetas, and the breaking of a locked trunk, outside of the place from whence it was taken—a crime defined and punished by article 502 and the last paragraph of article 508 of the Penal Code.

Notwithstanding this, however, the record does not sufficiently demonstrate the guilt of the two accused, inasmuch as the unsupported allegation of the complaining witness that she recognized Jacinto Asiao on the night of the robbery as one of the men she saw from the

window of her house running away with the trunk, is not sufficient to satisfactorily establish the responsibility of Jacinto Asiao, nor is the testimony of a servant of the complaining witness who identified Atanasio Copenit in the ring of prisoners as the other of the two thieves. This same witness testified elsewhere that owing to the darkness of the night of the occurrence he could not recognize the man whom he challenged when running after the two thieves. Therefore, there being no other evidence for the prosecution in the record to support the accusation of the complaining witness in view of the contradictory statements made by the witness referred to, the defendants are entitled to an acquittal. They must be presumed to be innocent until their guilt is proven by satisfactory testimony, and even in case there is a reasonable doubt as to their innocence they are entitled to an acquittal. Therefore, in accordance with section 57 of General Orders, No. 58, the judgment of the court below must be reversed and the defendants acquitted with the costs of both instances *de officio*.

The order declaratory of insolvency is approved, and the judge is directed to act in accordance with law with respect to the property of Copenit, which was attached. So ordered.

Arellano, C. J., Cooper, Willard, and Ladd, JJ., concur.

Mapa, J., did not sit in this case.