

4 Phil. 440

[ G.R. No. 2000. April 19, 1905 ]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. VICENTE LIM TICO ET AL., DEFENDANTS AND APPELLANTS.**

**D E C I S I O N**

**WILLARD, J.:**

There were three defendants in the court below. Of these Dy Too was acquitted; Tan Chui was convicted, but did not appeal; Vicente Lim Tico was convicted, and has appealed.

The appellant made no confession to the police officers or the detectives. The testimony of the witnesses Marshall, Hard, Compton, and Farland as to extrajudicial confessions made by the defendant Tan Chui and others can not prejudice the appellant Lim Tico. As to him the testimony of these witnesses is hearsay, and inadmissible.

With this testimony eliminated, the only evidence against the appellant that remains is the testimony of his codefendant, Tan Chui, given at the trial. None of the property stolen was found in the possession of the appellant. There was testimony that he and Tan Chui were not friends, that they had quarreled, and that Tan Chui had made threats against him.

Tan Chui, in his testimony, inculpated himself as well as the appellant, but it is to be observed that the Government, while it had no evidence against the appellant, did have other evidence against Tan Chui—evidence to the effect that he was in possession of some of the property stolen.

We have no intention of laying down the proposition that the testimony of an accomplice can not be used for the purposes of a conviction, but under the circumstances of this case we agree with the Solicitor-General that this appellant ought not to be convicted upon the sole and unsupported evidence of Tan Chui.

The judgment so far as it relates to Vicente Lim Tico is reversed, and he is acquitted, with

the costs as to him *de officio*.

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

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