

1 Phil. 451

[ G.R. No. 879. November 03, 1902 ]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. CIRIACO BALUYUT ET AL, DEFENDANTS AND APPELLANTS.**

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

**SMITH, J.:**

Ciriaco Baluyut, Felipe Duban, Camilo Angeles, and Cenon Patdu were charged in the Court of First Instance of the Province of Pampanga with having gradually and furtively made away with three gold buttons, two silver ones, a few razors, a watch, an umbrella, a ring, and a general assortment of more or less useful wearing apparel. The complaint neglects to state who owned the property abstracted, but for the purposes of this case it will be assumed that it did not belong to the accused.

To enable the fiscal to utilize them as witnesses for the State the charge was dismissed on the trial as to all the defendants except Ciriaco Baluyut, who was found guilty of having stolen from the house in which he was employed as cook one razor of the value of \$2.70. In the opinion of the trial court this disregard of the property rights of his master constituted the crime of domestic theft, and Baluyut was therefore sentenced to one year and a day of *presidio correccional*; and the usual accessories.

From the judgment Baluyut appealed to this court, and the only question raised by the record is the sufficiency and competency of the evidence on which his conviction was secured. The Attorney-General recommends that the judgment of conviction be reversed, and we are of the opinion that his recommendation is well founded. The only evidence against the defendant is his own confession and the uncorroborated testimony of his codefendant, Camilo Angeles. Unfortunately the confession seems to have been made under such circumstances as to raise the presumption that it was induced by fear of physical violence, and that it was not of such a free and voluntary character as to give it weight and value as competent evidence. Baluyut and Angeles having been arrested on the charge, they

were confined together and examined touching the misappropriation of the property in question. Both at first denied having any guilty knowledge of the matter, and persisted in their denials until Camilo Angeles, having been beaten and buffeted by Epifanio Carreon, finally admitted that he had received the razor from Baluyut in satisfaction of a debt. Baluyut then admitted that he had given the razor to Angeles. That Angeles was beaten is not denied by the prosecution, although he himself testifies that his incriminating statement was "spontaneous." Inasmuch as the prosecution carefully refrained, however, from asking him if he had been struck before making it, and declined to examine Goodale, Carreon, or Reyes on the subject at all, although they were witnesses for the prosecution and present at the time of the alleged beating, it is reasonably safe to assume that any spontaneity on the part of Angeles was accomplished by the strenuous measures described by defendant and his witness, Gutchillan.

No physical violence appears to have been visited upon Baluyut himself, yet, for all that, his confession made under the circumstances set out in the record must be excluded from consideration by the court for the lack of that free and voluntary character which would otherwise give it value as evidence. The physical violence to his co-defendant, inflicted within his hearing, and almost in his immediate presence, to force a damaging admission, was as much an intimidation of the appellant, as much a warning to him of what he might expect under like circumstances, as if he had been openly threatened with similar ill treatment should he further persist in his denials of guilt. That confession may have any weight whatever with courts of justice, as legal proof, it is absolutely necessary that they should be freely and voluntarily made. If they are brought about by menace, threat, or intimidation or by a promise of reward or even of leniency they are stripped of the only element which makes them valuable to courts in determining the truth. With this confession out of the way the only evidence remaining against the defendant is the testimony of Angeles to the effect that Baluyut sold him the razor. The testimony of this witness standing alone and uncorroborated by other competent evidence does not convince the court of the guilt of the accused to a moral certainty and beyond a reasonable doubt.

The testimony of this witness is a substantial repetition of the statement obtained from him as the result of physical violence and force. It is impeached by the witness Batac, who testifies that Angeles informed him before the arrest that an American had given him (Angeles) the razor to sell. It is weakened by the fact that the prosecution failed to call Eulalio Razon or Pedro to corroborate Angeles's statement that the razor had been given to him by Baluyut in their presence. It is unreliable because of the character of the witness, who is shown by the evidence to have stolen the cochero's watch, which he only returned

after being threatened with prosecution for the theft by Mr. Goodale.

For these reasons the unsupported evidence of his codefendant is not sufficient to warrant a conviction of the appellant. The judgment of the lower court must therefore be reversed, and the defendant acquitted of the charge, with costs *de officio*. So ordered.

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

*Torres, J., withdrew from this case.*

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