

44 Phil. 539

[G.R. No. 19192. February 28, 1923]

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. TEODORICO ANGELES ET AL., DEFENDANTS. RICARDO PAREDES AND ABELARDO CRISOLOGO, APPELLANTS.

D E C I S I O N

STREET, J.:

This appeal has been brought to reverse a judgment of the Court of First Instance of the Province of Cagayan, finding the appellants, Ricardo Paredes and Abelardo Crisologo, guilty of the offense of falsification of a commercial document, and sentencing each of them to undergo imprisonment for six years and one day, *presidio mayor*, with the accessories provided by law, to pay a fine of P250, and jointly and severally to indemnify the Aparri branch of the Philippine National Bank in the amount of P55,000, and each to pay one-fourth part of the costs.

In the information two other persons, to wit, Teodorico Angeles and Miguel G. Concepcion, were named as codefendants with these two appellants; but a severance was had and the trial of the present appellants occurred at a different time than the trial of their coaccused, and before a different judge. The present opinion will therefore be confined to the appeal interposed by these two appellants. Ricardo Paredes and Abelardo Crisologo, from the decision of his Honor, Francisco Dominguez, published on December 31, 1921.

The case is closely related with that of Miguel G. Concepcion, who was charged jointly with these appellants;^[1] and in fact all these appeals have been heard together in this court, and to some extent upon the same record. It should be stated, however, that the present appellants were tried first; and the principal witness against them was Teodorico Angeles, as to whom a dismissal had been entered in order that he

might be used as a witness for the prosecution. In said trial Miguel G. Concepcion was not introduced as a witness for either party. When the time for the trial of Concepcion arrived Teodorico Angeles had died, and the prosecution was unable to use against him the testimony given by Teodorico Angeles in the earlier trial against Paredes and Crisologo. Accordingly the prosecution introduced the present appellants as witnesses against Concepcion, and they then gave an account of the transactions which led to the prosecution substantially identical with the story that had been told by them when testifying as witnesses in their own behalf in the earlier trial.

In considering the appeal of the two present appellants, therefore, upon the record presented at the trial of their own cause, we take account only of the proof submitted to that trial and ignore the proof adduced by both parties in the later trial against Concepcion.

The facts, however, as revealed at the two trials, are not materially different; and we refer to our opinion upon the appeal of Miguel G. Concepcion for a general statement of the facts relevant to the present prosecution. In the present opinion we shall content ourselves with the statement of such additional facts as are necessary to dispose of the appeal of the two appellants whose case is now before us.

As intimated in our opinion upon the other appeal, the persons principally to blame in the acts leading to this prosecution were undoubtedly Miguel G. Concepcion and Teodorico Angeles, while Ricardo Paredes and Abelardo Crisologo were rather victims of the artifices of the two than designing participants in crime; and we shall now take up the case of each of these appellants in turn.

The items of proof against Ricardo Paredes in relation with the offense in question are in brief these: (1) That he was present at the interview in the house of his son-in-law, Abelardo Crisologo, on the day, in October, 1919, when the subject was discussed between Angeles, Concepcion, and Crisologo as to whether the latter would allow his name to be used in the documents relative to the loan which was contemplated to be made for the convenience of Concepcion; although, as the witness Angeles states, Paredes took no active part in that conversation and the three interlocutors appear to have spoken on that matter

somewhat apart from Paredes; (2) that Paredes on that or the next day went with Angeles to look at some tobacco then deposited in Tuguegarao and which Angeles pretended to have believed was part of the tobacco that was to be covered by a quedan signed by Crisologo; (3) that, on October 24, 1919, Paredes received P18,500, constituting the net proceeds of the two notes on that day discounted by the bank, as already stated in our opinion upon the appeal of Concepcion; (4) that after the first notes executed by Crisologo had been in the bank for some time, Paredes, acting for Crisologo and others concerned, made a payment of interest due or to become due upon said notes, using upon this occasion about P1,600, believed to have been derived from the resources of Concepcion; (5) that, upon another occasion, acting as attorney in fact of his son-in-law, Abelardo Crisologo, he went through the form of executing in favor of the bank a pledge of the same non-existing tobacco that had been included in original quedans signed by Crisologo; (6) that upon still another occasion, after all the notes had long been overdue, and the bank desired to get its credits consolidated, Paredes, also acting under a power of attorney from Crisologo, went through the form of consolidating the original notes and quedans into one note and one quedan.

The mere recital of these circumstances suffices to show that they are far from proving criminal complicity on the part of Ricardo Paredes in the original *estafa* and falsification which is the sole subject of this prosecution. His intervention on behalf of Crisologo, in doing certain acts as attorney in fact of the latter, is explainable by the fact that Crisologo was his son-in-law and lived in Tuguegarao, while the acts which Paredes did in behalf of Crisologo were done at the bank in Aparri upon occasions when Crisologo was at home in Tuguegarao and was not or could not conveniently be present.

It is of course to be assumed that at the time when Ricardo Paredes went through the form of executing a pledge and later through the form of renewing the notes and quedans—all of which was done at the instance of the bank—he knew that the tobacco referred to in the pledge and quedans was non-existent, but no *estafa* was then committed and the only offense charged in the present information has reference to the original *estafa* and falsification committed when the money was obtained. We therefore see no just basis for attributing to Ricardo Paredes any criminal complicity in the acts for which Concepcion has been convicted.

With respect to Abelardo Crisologo, it is evident that his formal connection with the offense is much closer than that of Ricardo Paredes, inasmuch as he signed the promissory notes and the quedans for the tobacco which supposedly justified the loan. In signing these notes Crisologo was, civilly speaking, substantially in the position of an accommodation maker; and he of course made himself personally liable to the bank upon those notes for the benefit of Concepcion. The act of affixing his signature to the quedans was done in a spirit of blind complaisance explainable only in the light of his friendly personal relations with Concepcion and his deference to the joint wishes of Concepcion and the bank's manager. It must be remembered also that this act was done in response to the representation of Teodorico Angeles that Concepcion had the tobacco and that the signing of the quedans by Crisologo was all a matter of mere formality. Crisologo therefore misrepresented nothing to anyone; and we are of the opinion that criminal responsibility cannot be predicated of his acts, for want of the essential element of criminal intent. He was a mere tool in the hands of others and is sufficiently punished by the ruin that must follow from making himself civilly liable for so large a sum of money.

From what has been said it is evident that the judgment convicting these two accused of the offense charged in the complaint must be reversed, and they will be freely absolved from the complaint, with costs of both instances *de officio*. So ordered.

Araullo, C.J., Malcolm, Avanceña, Villamor, Ostrand, Johns, and Romualdez, JJ., concur.

^[1] See p. 544, *post*.
