

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. EDUARDO JARQUE, DEFENDANT AND APPELLEE.

G.R. No. L-1097. April 30, 1948

Ponente: BENGZON, J.

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BENGZON, J.:

The prosecution has appealed from an order of the judge of the court of first instance of Misamis Occidental dismissing the information for estafa it had filed against Eduardo Jarque, because the latter converted to his own use "230 pieces of 50-peso Philippine National Bank Notes" which had been entrusted to his care in May, 1943 by the offended party Luis Achondoa.

Basis of the dismissal was His Honor's opinion, delivered upon a motion to quash, that, in May, 1943, said notes had no value capable of pecuniary estimation, for the reason that Colonel Fertig, Military Commander of the Guerrillas then in control of Misamis Occidental, had ordered the confiscation of said notes and had declared them valueless by his circulars Exhibits 1 and 2.

The Solicitor-General, in his brief, disputes the legal authority of guerrilla commanders at that time to dictate orders affecting currency in a locality de facto occupied by the Japanese forces. He also argues that conceding validity of the circulars of Colonel Fertig, they are not conclusive against the People because they merely affected Philippine National Bank notes, series of 1920(emphasis on the series), and there is no allegation in the information that the bills delivered to herein defendant by Achondoa pertained to that particular series. On this second point we must sustain the appeal. The circulars of Colonel Fertig specifically mention "series of 1920"; and the information does not allude to notes of that series.

The addition of the words "commonly known as Lawton" to the description of the notes in the information does not help the defense, because that is not a description used in the circular completely identifying the prohibited medium of currency.

Wherefore, it becomes unnecessary to discuss and decide the first issue tendered by the Solicitor-General's petition for review, although there seems to be much food for thought in the considerations therein advanced.

The appealed order is reversed, and the case will be remanded to the court below for further proceedings, So ordered.

Feria, Pablo, and Tuason, JJ., concur.

Perfecto, J., no part.

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