

SERGIO DEL ROSARIO, PETITIONER, VS. THE PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. L-16806. December 22, 1961

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Accused of counterfeiting Philippine treasury notes, Sergio del Rosario, Alfonso Araneta and Benedicto del Pilar were convicted by the Court of First Instance of Davao of illegal possession of said forged treasury notes and sentenced to an indeterminate penalty ranging from 8 years and 1 day to 10 years and 1 day of prision mayor, and to pay a fine of P5,000, without subsidiary imprisonment in case of insolvency, as well as a proportionate part of the costs. On appeal, the judgment was affirmed by the Court of Appeals, except insofar as the maximum of said indeterminate penalty which was increased to 10 years, 8 months and 1 day of prision mayor. The case is before us on appeal by certiorari taken by Sergio del Rosario.

It appears that, after showing to complainant Apolinario del Rosario the Philippine one-peso bills Exhibits C, E and G and the Philippine two-peso bill. Exhibit H, and inducing him to believe that the same were counterfeit paper money manufactured by them, although in fact they were genuine treasury notes of the Philippine Government one of the digits of each of which had been altered and changed, the aforementioned defendants had succeeded in obtaining P1,700.00 from said complainant, in the City of Davao, on June 23, 1955, for the avowed purpose of financing the manufacture of more counterfeit treasury notes of the Philippines, The only question raised in this appeal is whether the possession of said Exhibits C, E, G and H constitutes a violation of Article 168 of the Revised Penal Code. Appellant maintains that, being genuine treasury notes of our government, the possession thereof cannot be illegal. We find no merit in this pretense.

It is not disputed that a portion of the last digit 9 of Serial No. F-79692619 of Exhibit C, had been erased and changed so as to read 0 and that similar erasures and changes had been made in the penultimate digit 9 in Serial No. F-79692691 of Exhibit E, in the last digit 6 in Serial No. D-716326 of Exhibit G, and in the last digit 9 of Serial No. D-716329 of Exhibit H.

Articles 168 and 169 of the Revised Penal Code read:

"ART. 168. Illegal possession and use of false treasury or bank notes and other instruments of credit.—Unless the act be one of those coming under the provisions of any of the preceding articles, any person who shall knowingly use or have in his possession, with intent to use any of the false or falsified instruments referred to in this section, shall suffer the penalty next lower in degree than that prescribed in said articles.

"ART. 169. How forgery is committed.—The forgery referred to in this section may be committed by any of the following means:

- By giving to a treasury or bank note or any instrument payable to bearer or to order mentioned therein, the appearance of a true and genuine document.

- By erasing, substituting, counterfeiting or altering by any means the figures, letters, words or signs contained therein."

It is clear from these provisions that the possession of genuine treasury notes of the Philippines any of the figures, letters, words or signs contained" in which had been erased and/or altered, with knowledge of such erasure and alteration, and with the intent to use such notes, as they were used by petitioner herein and his co-defendants in the manner adverted to above, is punishable under said Article 168, in relation to Article 166, subdivision (1), of the Revised Penal Code (U.S. vs. Gardner, 3 Phil., 398; U.S. vs. Solito, 36 Phil., 785).

Being in accordance with the facts and the law, the decision appealed from is, accordingly, affirmed, with costs against petitioner Sergio del Rosario.

It is so ordered.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Reyes, J.B.L., Barrera, Dizon, and De Leon, JJ., concur.

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