

EL PUEBLO DE FILIPINAS, DEMANDANTE Y APELANTE, OCNTRA MA SU (CHINO), DEMANDADO Y APELADO.

G.R. No. L-3872. January 24, 1952

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PABLO, M.:

DERECHO PENAL; ESTAFA o UNA ACCION CIVIL.—Una querella en la que se acusa al gerente de una compañía del delito de estafa por haberse apropiado de P1,600 como pago parcial por un molino de arroz utilizando el dinero para su beneficio personal cuano los habia recibido del ofenidido en su concepto de gerente, y que en virtud del contrato habido entere al acusado y el ofendido aquel recibio los P1,600 en fideicomiso, debe ser sobreseida. Lo que procede es una accion civil y no una accion criminal. Si la compañía fuese la denunciante y alegase que el acusado habia hecho uso indebido de la cantidad de P1,600 en vez de guardarlo, como gerente, el hecho constituiria estafa; seria un delito cometido contra la compañía de la cual el era gerente. Como la companñia no reclama, la presuncion es que no ha sido perjudicada, y que el acusado no ha malversado el dinero o que no tiene nada que ver con dicha cantidad.

Paras, Pres., Bengzon, Padilla, Montemayor, Reyes, y Jugo, MM., estan conformes.
Feria, y Tuason, MM., conformes en el resultado.

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