

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
VICTORIANO FRANCISCO Y MAETIN, DEFENDANT AND APPELLANT.***G.R. No. L-7562. January 30, 1956*

Ponente: LABRADOR, J.

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Victoriano Francisco y Martin appeals from a judgment of the Court of First Instance of Manila finding him guilty, of estafa and sentencing him to an indeterminate term of from 4 months and 1 day of arresto mayor to 1 year and 8 months of prision correccional and to pay an indemnity of P2,525 to Naric, with subsidiary imprisonment in case of insolvency. As only questions of law are raised in the appeal, the case has been certified to us by the Court of Appeals.

It appears that on September 17, 1947 one Tomas Catitis appeared at a barbershop on Pureza Street, Sta. Mesa, where appellant was working as a barber and asked the latter to help him bring out 100 sacks of rice from the Naric compound. Catitis told appellant that the latter was to sign the name of "M. de Guzman" on a sales invoice or receipt (Exhibit B) before an employee of the Naric and thereby help bring out the rice therefrom. Catitis was to accompany appellant and give him instructions on what to do. He promised to pay appellant compensation for thus securing the rice. Appellant agreed, so he and Catitis went to the Naric compound. There appellant presented the sales invoice, Exhibit B, before a clerk and in the latter's presence signed the name "M. de Guzman" thereon on the blank for the signature of the purchaser or his agent. The invoice was then brought by them to another employee who prepared a trucking receipt, Exhibit C. Appellant again signed M. de Guzman on the blank for the driver. A gate pass, Exhibit D, was also prepared on which appellant again signed the name of M. de Guzman. With these accomplished, the 100 sacks of rice were delivered to appellant who took the same in a truck.

Appellant's contention is that the invoice Exhibit B, in the name of M. de Guzman, was already paid for and only lacked the signature of M. de Guzman, when he signed the latter's name; and that there is no sufficient proof of the existence of deceit or of intent to cause damage, both essential elements of the crime of estafa as appellant merely complied with the instructions of Catitis. It is also claimed that appellant merely followed the instructions of Catitis as agreed upon in all good faith, not to defraud the Naric for his benefit (evidently because the rice was already fully paid for).

Exhibit B, besides being an invoice of the sale of 100 sacks of rice, is also a receipt therefor. The buyer's name is Mario de Guzman. It contains above the signed name of M. de Guzman, a statement that the signer has "received the above articles in good condition." When, therefore, appellant signed M. de Guzman's name in the receipt, the import or meaning of his act of signing was that he himself was M. de Guzman, the buyer of the rice mentioned in the receipt. Appellant may not have told the Naric warehouseman that he was M. de Guzman himself, but his act of signing De Guzman's name on the receipt carried an implied representation on his part that he was M. de Guzman, the buyer of the rice. This fact, together with his failure to disclose his real name and person, constitutes the deceit through which the rice was obtained.

Appellant's contention that there was no proof of criminal intent, because he testified without contradiction that he only followed Catitis instructions and no proof of said intent was adduced by the prosecution, is without merit. Appellant's act in signing somebody else's name, without permission or authority from the person concerned, to secure rice that belonged to the latter is a criminal act, even if done upon instruction's of another, because he thereby deceitfully represented himself as the person whose name he signed. As the act is criminal, criminal intent is presumed. (Rule 123, section 69[b].)

The claim that there was no proof of damage to the Naric because the rice was fully paid for is also without merit. As the real buyer, M. de Guzman, was not the one who received the 100 sacks of rice paid for, the Naric was still liable to deliver the said 100 sacks of rice to M. de Guzman. The rice given to appellant and his confederate was thus lost to Naric and constitutes the element of damage in the offense of estafa committed.

The judgment of conviction is hereby affirmed, although the penalty imposed therein is modified in the sense that the minimum of the penalty imposed should be four months of arresto mayor instead of four months and one day. With costs against appellant.

Parás, C. J., Padilla, Montemayor, Reyes, A., Bautista Angelo, Concepcion, Reyes, J. B. L, and Endencia, JJ., concur.

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