

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. RAMON FERRER, DEFENDANT AND APPELLANT.

G.R. No. 10718. March 17, 1916

Ponente: JOHNSON, J.

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JOHNSON, J.:

On the 13th of June, 1914, the prosecuting attorney of the Province of Ilocos Norte presented a complaint in the Court of First Instance of said province, in which the defendant was charged with the crime of estafa. The complaint alleged:

"That the said Ramon Ferrer, in or about the months of February and March of 1914, was purchasing agent for Colony No. 2, in Abulog, Cagayan, Philippine Islands, and, in such capacity, was employed by the Government of the Philippine Islands.

"That the said Ramon Ferrer, in the aforesaid capacity and on the sixteenth day of the said month of March of 1914 and in the municipality of Vintar, Ilocos Norte, Philippine Islands, bought for the Government of the Philippine Islands, with the money of the said Government, two carabaos from Eugenio de la Cruz for the sum of one hundred pesos (P100).

"That the said Ramon Ferrer, at said time and place and in said capacity, willfully, illegally and criminally did defraud by means of deceit the Government of the Philippine Islands of the sum of sixty pesos (P60) inasmuch as, to the injury of said Government, he (Ramon Ferrer) did appropriate the said amount belonging to the said Government of the Philippine Islands, and to that end, did falsely sign, approve, and affirm by his official oath the two vouchers, Provincial Form No. 21 (a), signed by him, as being the value of the carabaos belonging to Eugenio de la Cruz, eighty-five pesos (P85) for one and seventy-five pesos (P75) for the other. The said accused received these said amounts from the municipal treasurer of Vintar, Ilocos Norte, P. I., as a deputy of the said provincial treasurer, of said province, delivering and paying to the vendor aforesaid only the amounts which had been agreed upon as the purchase price and specified above, appropriating the said amount of sixty pesos (P60), as has been alleged, which remained as surplus.

"An act performed in violation of the law."

Upon said complaint the defendant was duly arrested and arraigned; he pleaded not guilty, was tried, found guilty, and sentenced by the Honorable J. R. Burgett to be imprisoned for a period of four months and one day of arresto mayor; to pay the Insular Government as indemnity the sum of P60, being the amount of money which the said defendant fraudulently collected from the said Insular Government, and in case of insolvency to suffer subsidiary imprisonment in accordance with the provisions of the law, together with the subsidiary penalty provided for by article 61 of the Penal Code. From that sentence the defendant appealed to this court.

Before the plea of not guilty was presented in the lower court, the defendant interposed a demurrer in which he alleged that the complaint had not been drawn in accordance with the requirements of the law, and that it accused the defendant of more than one crime. After hearing the arguments of the respective parties the said demurrer was overruled and disallowed. The record does not show that the defendant made any exception to the ruling of the

lower court on the demurrer. Notwithstanding the fact however that no exception was taken to the ruling of the lower court, he now assigns as his first assignment of error the fact that the lower court committed an error in not sustaining said demurrer. While it is true that the complaint charges that the defendant falsified two documents, in the commission of the crime charged against him, said falsifications were the means by which he committed the crime of estafa. The falsification of the vouchers in question was the means simply by which the defendant committed the crime of estafa. When two or more acts combine in the commission of one crime, the complaint is not necessarily defective because it contains a description of two acts. If the acts are so disconnected as to constitute separate and distinct offenses or crimes, then, of course, it would not be error to charge each of said acts in different complaints, but where the acts are so related as to constitute in fact but one offense, then a complaint will not be defective if the crime is described by relating the two acts, in the description of the one offense. In the present case the two documents falsified, which resulted in the alleged crime of estafa, were executed at the same time and between the same parties. The complaint is not defective upon the ground that it charges two crimes, simply because it relates all of the facts that took place in the commission of one crime. The lower court, in our judgment, committed no error in overruling the demurrer.

The other assignments of error present questions of fact only. The lower court, after hearing the evidence, after seeing the witnesses and hearing their declarations, made the following finding of facts:

"During February and March, 1914, the defendant, Ramon Ferrer, was in the employ of the Insular Government of the Philippine Islands as purchasing agent for the Abulog Colony in Cagayan Province, of the Philippine Islands. On March 16th, 1914, the defendant, Ramon Ferrer, in Vintar, Ilocos Norte, Philippine Islands, bought for the Insular Government, as its agent, two carabaos from Eugenio de la Cruz, agreeing to pay therefor P50 each. He then made out and approved, over his own signature, the necessary vouchers for each of said carabaos (see Exhibits A and B), but inserted in each of said vouchers a different price from the true price which he actually agreed to pay Eugenio de la Cruz; inserting in one of said vouchers (Exhibit A) as the selling price of one carabao P85, and in the other voucher (Exhibit B) P75, as the selling price of the other carabao. Then, after having De la Cruz place his thumb mark to the blank receipts printed at the bottom of each voucher, he presented said vouchers to the municipal treasurer for payment, and the treasurer did actually pay him P160, in order that the same might be delivered to the said De la Cruz, that amount being the amount called for by both of said vouchers. The defendant then later, probably on the next day, did actually pay over and deliver only P100 of said P160 to Mariano C. Ibay for Eugenio de la Cruz, the said Ibay having been appointed, in the presence and within the hearing: of the defendant, by Eugenio de la Cruz, to collect from the defendant, for him, the selling price of the two carabaos in question; said P100 being the sum which the said Ferrer agreed in the first instance to pay to the said Eugenio de la Cruz for the two carabaos in question. The balance of the P160 from the municipal treasurer by the defendant (P60) was never delivered by the defendant to the said Eugenio de la Cruz, or to the said Ibay for him, but was retained by the defendant in his own possession, and has never been returned or accounted for, in any way, to the said Insular Government."

In addition to the foregoing resume of the facts, the lower court makes a further analysis of the credibility of the witnesses.

An examination of the evidence adduced during the trial of the cause, for the prosecution and for the defense, shows an irreconcilable conflict. Taking into consideration the credibility of the witnesses, as outlined by the court a quo in his decision, in relation with the fact that he saw and heard them and thereby was able to judge of their credibility, we are not inclined to accept the declaration of the witnesses whose veracity he questioned. Eugenio de la Cruz swore positively that he sold the two carabaos to the defendant for the sum of P100. Mariano C. Ibay swore positively that he had been authorized to receive the money from the defendant for the said carabaos; that the defendant paid to him, for the said Eugenio de la Cruz, the sum of P100 only. The vouchers show that the price of the two carabaos was P160. The proof shows that the defendant collected from the

municipal treasurer the sum of P160. There seems to be no reason why Eugenio de la Cruz or Mariano C. Ibay should declare falsely in relation to the matter under investigation. Neither does the record contain any reason why the defendant did not permit Eugenio de la Cruz to collect the amount due for his carabaos from the municipal treasurer himself. It certainly was quite out of the ordinary for the defendant to collect the money from the municipal treasurer and to pay it over to the vendor of the carabaos. If the defendant had desired to keep his acts above suspicion, it would have been easy, and not only that, it would have been the natural course to have pursued, to have permitted Eugenio de la Cruz to have collected the money from the municipal treasurer.

In addition to the foregoing there are many facts and circumstances in the record which point to the credibility of the witnesses for the prosecution and to the guilt of the defendant. We are satisfied that the proof adduced during the trial of the cause shows, beyond a reasonable doubt, that the defendant is guilty of the crime charged in the complaint, in the manner and form charged therein. Therefore the sentence of the lower court is hereby affirmed with costs. So ordered.

Arellano, C. J., Torres, Moreland, and Trent, JJ., concur.

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