

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. CHAN TIAO (ALIAS VICENTE LIM), (ALIAS TAN SIN CO), DEFENDANT AND APPELLANT.

G.R. No. 12609, October 30, 1917

Ponente: TORRES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-12609/>

TORRES, J.:

The Chinaman Chan Tiao (alias Vicente Lim), or (alias Tan Sin Co), was charged with the crime of estafa with falsification of a private document, whereby the present proceedings were instituted. On November 21, 1916, judgment was handed down in which he was sentenced to the penalty of two years eleven months and eleven days of presidio correctional, to return to the firm of Smith, Bell & Co. 150 sacks of sugar of the brand A-X, or to pay their value, P2,055, and, in case of insolvency, to suffer the corresponding subsidiary imprisonment, also to pay the costs. From this judgment he appealed.

Between the 3d and 4th of July, 1916, the defendant, under the name of Eduardo Tan Sin Co, presented himself in the office of the firm of Smith, Bell & Co., situated at No. 28, Calle. Juan Luna, of this city, and tried to buy 150 sacks of sugar, whereupon he was informed by J. H. Smith, an employee of said firm, that the lowest selling price of the sugar of the brand A-X was P13.70 per sack. The defendant then inquired whether he might buy the sugar on credit for ten days, until the return of the steamer Olongapo. The clerk Smith replied to him in the negative, telling him that all the business operations of the firm were conducted on a cash basis, or at least under the guaranty of some other firm known to Smith, Bell & Co. Upon hearing this reply, the defendant left; but on the 8th of the same month he returned to the office above mentioned and exhibited the document Exhibit A by which the firm, of Ortega Hermanos apparently offered to guarantee payment of the sum of P2,055, the value of the 150 sacks of sugar, brand A-X, sold to Eduardo Tan Sin Co conditionally on payment therefor within ten days. This document purports to have been signed by A. Ortega, as the manager and in the name of said commercial firm, Ortega Hermanos. In view of this document, and believing it to be authentic and genuine and to have been issued, as it purported to have been, by the firm of Ortega Hermanos, with whom Smith, Bell & Co. were doing business, the head of the latter firm ordered the delivery of the 150 sacks of sugar to the defendant Eduardo Tan Sin Co, who received them from Sotero Sanchez, the firm's warehouse man according to the order Exhibit B, and for this purpose signed the receipt for the sugar, Exhibit C. As the defendant did not put in an appearance to pay the vendor firm the value of the sugar, the proper investigation was begun, which disclosed that the document Exhibit A was not issued by the firm of Ortega Hermanos and did not bear the signature of the manager of this firm, and that the defendant never presented himself in Ortega Hermanos' place of business to ask for a document of guaranty. The sugar in question was sold to the Chinaman Go Biao, in whose possession the police succeeded in recovering only 127 sacks of the 150 delivered to the defendant, the remaining 23 sacks having disappeared.

The defendant testified under oath that his name was Chan Tiao; that he was known to the firm of Smith, Bell & Co.; that on July 7th of the present year (that of the trial) he became surety for the Chinaman Tan Sin Co who purchased sugar on credit from said firm, and therefore signed the document Exhibit A with his Christian name,

A. Ortiga, after stamping thereon the name of Ortigas Hermanos; that the signature of the document Exhibit C was that of Tan Sin Co, who previously lived in Cavite and departed for China; that, as surety for Tan Sin Co, no demand was made upon him for the payment of the price of the 150 sacks of sugar purchased, and that he did not afterwards pay said price, because the next day Smith, Bell & Co. seized the sugar from Go Biao, to whom he had sold it. He also stated that in another cause he had been sentenced under the name of Chan Tiao to the penalty of four months' imprisonment.

The record discloses full proof that the defendant Chan Tiao (alias Vicente Lim), (alias Eduardo Tan Sin Co), with intent of deriving unlawful gain out of the price for 150 sacks of sugar valued at P2,055, belonging to the firm of Smith, Bell & Co., fabricated and simulated the document Exhibit A, which purports to have been signed by the manager of the Chinese business firm, Ortiga Hermanos, and presented it to the vendor firm as an authentic document of guaranty. Had Smith, Bell & Co. not seen this false document, they undoubtedly would not have delivered the sugar to the defendant and would not have sold it to him on a ten day's credit, inasmuch as the document was not issued by the manager of Ortiga Hermanos and the signature it bears is not genuine and authentic. Those acts certainly constitute the crime of falsification of a private document and were committed to the prejudice of the firm of Smith, Bell & Co., the owner of the sugar, which crime is provided for and punished by article 304 of the Penal Code.

The statement made by the defendant, that he authorized the document Exhibit A as surety for Tan Sin Co, does not appear to have been proven, because such authorization is not attested in the document itself; on the contrary, the record discloses full and convincing proof that the defendant, under the pretext of a purchase on credit and in Order to get the firm of Smith, Bell & Co. to deliver the sugar to him, from the value of which he proposed to derive unlawfully gain, presented as a guaranty said document Exhibit A apparently signed by the manager of the firm of Ortiga Hermanos. As this document is absolutely apocryphal, simulated and false, the defendant was unable to prove its authenticity and legality, or to explain how and in what manner he acquired it. The presumption, therefore, is that he himself drafted it, fraudulently affixing thereto the stamp of Ortiga Hermanos and a forgery of the signature of this firm's manager, in order to obtain his purpose of unlawful gain to the prejudice of the concern which was the owner of the sugar.

The crime committed should be classified only as that of falsification of a private document, for the reason that the fraudulent gain obtained by the falsifier is involved in the harm caused—an essential and indispensable ingredient for the existence of the crime of falsification of a private document; and it cannot be classified as estafa with falsification, nor may the penalty for a more serious crime be applied, pursuant to the provision of article 89 of the Penal Code, inasmuch as the harm occasioned or intended by the perpetrator of the crime does not constitute estafa.

The supreme court of Spain, in making application of the article that is identical to the one aforecited in force in this country, and in classifying analogous acts relative to the falsification of a private document, in its decisions of February 18, 1891, November 22, 1893, and April 19, 1905, laid down the legal principle enunciated in the preceding¹ paragraph.

For the reason that it was announced in the discussion of this case that a dissenting opinion contrary to the majority opinion would be submitted, founded on the decision of the Supreme Court of the United States in the case prosecuted against Weems^[1] for the falsification of a public document by an official of the Government, it behooves us before bringing this decision to a close to set forth herebelow the opinion of the majority of the Justices of this court in respect to this particular feature of the case at bar.

By virtue of the decision of the Supreme Court of the United States rendered in the case of the United States vs.

Weems, the application and enforcement of article 300 of the Penal Code were suspended on account of the nature of the penalty therein prescribed, and this court, respecting the decision of that high tribunal has since then in the cases brought before it for hearing ceased to apply the penalty of said article 300, considering this article in suspension and without legal effect.

The finding of the Supreme Court in Washington, though construed in the sense that said article is null and void, solely refers to the penalty therein prescribed, qualified as barbarous, cruel and inhuman; but in no manner can it be understood that the Supreme Court of the United States declared that the crime of the falsification of a public document by a public official or employee is not punishable, and that such a person may with impunity perpetrate the various criminal acts defined and provided for in said article.

Furthermore, since then such acts have gone unpunished; but notwithstanding that superior decision, they have continued to be vested with a criminal character and have not ceased to constitute punishable crimes.

Article 300 of the Penal Code has not disappeared from the statute book, but has subsisted in spite of the fact that it was suspended as to its effects, because it has not been repealed, nor was it expressly amended by any other law until March 17, 1917, since which date crimes of falsification of public or official documents, committed by public officials, being crimes in themselves by their own nature, have at last been punished by the penalty prescribed by Act No. 2712, promulgated by the public authorities.

The decision of the Supreme Court in Washington in the Weems case only affects the penalty for said crime and in no respect the nature of the punishable acts; it has no bearing on the other following articles of Chapter 4, and particularly article 304, because this article only has reference to the acts of falsification enumerated in said article 300 and in no manner mentions the penalty prescribed in this latter article, but fixes another different penalty for the perpetrator of the crime to which it expressly refers.

The Supreme Court of the United States said nothing about article 304, the one under which the crime herein prosecuted is punished. Article 304 merely makes reference to the definitions-contained in article 300; it does not reproduce the penalty prescribed in the first paragraph of said article. Article 300 defines the crime of falsification by saying that it is committed; (1) By counterfeiting etc.; (2) by causing it to appear etc., etc. These definitions are the basis of the entire Chapter 4. To say that even the definitions of falsification given in article 300 should be considered repealed by reason of the censure of the Supreme Court of the United States is tantamount to saying that these definitions, as reproduced in Act No. 2712, should also be deemed to have been repealed, because they put into force article 300, said to have been repealed in its entirety. If, instead of article 304 referring to article 300, it had referred to another law that contained the same definitions as those of article 300, but not the same penalty as that therein provided, it would be said that such other law also should be considered repealed, because of the identity of its definitions to those of article 300 and because of the repeal of these latter by a judicial decision.

For the foregoing reasons—and there being no aggravating or extenuating circumstance to be considered in respect to the commission of the crime, wherefore the penalty of the law should be imposed in its medium degree— it is proper to classify the crime as one of falsification of a private document, and to sentence the defendant to the penalty of two years eleven months and ten days of presidio correctional, to the accessory penalties prescribed by article 58, to pay a fine of 2,000 pesetas, to return the 23 sacks of sugar not recovered by the aggrieved party, or, in default thereof, to pay their value, "F315, and in case of insolvency either in the amount of the fine or of the indemnity, to suffer the corresponding subsidiary imprisonment, not to exceed one-third of the principal penalty, and to pay the costs in both instances. In this sense the judgment appealed from is modified. So ordered.

Arellano, C. J., Carson, Araidlo, and Street, JJ., concur.

CONCURRING

Johnson, J.,

To charge and prove that A committed the crime of estafa by means of a falsification of a private document, in no way whatsoever involves the validity or invalidity of the provisions of articles 300 and 301 of the Penal Code. An allegation in the complaint that he committed the crime of estafa by means of a falsified private document no more involves the validity of said article of the Penal Code than does an allegation that he committed said crime by any other means of false and fraudulent representations. The fact that he cannot be tried and punished for falsifying a public document in no way affects his criminal liability for the commission of another crime committed by means of a false and fraudulent document. The falsified document is not the basis of the crime. It is simply proof of the commission of the crime. The fact that the crime of falsification of a public document did not exist at the time the present crime was committed did not relieve the defendant from criminal responsibility for any other crime which he might commit by means of such false and fraudulent representations. The false and fraudulent document is the proof of the crime and not the crime itself. The annulment of article 300 of the Penal Code does not relieve persons from criminal liability for any other crime which they may commit by using falsified public documents, any more than it prohibits the punishment for other crimes committed by false and fraudulent representations.

DISSENTING

Malcolm, J.,

I dissent. The crime charged is falsification of a private document. As all know, the Supreme Court of the United States in *Weems vs. United States* (217 U. S., 349), handed down in 1910, at least made article 300 of the Penal Code a nullity, and possibly had the same effect on other articles of the Penal Code, because of their imposing a cruel and unusual punishment. In 1916, when this prosecution was initiated, the *Weems* case still being effective and the Legislature having taken no further action, the only provision of law which could be applied was article 304 of the Penal Code. But article 304 could not exist alone without article 300. It relates back to "the acts of falsification enumerated in article three hundred"—that is, to an article previously determined by the highest tribunal to be void. In other words, article 304, in accordance with the rules of statutory construction, cannot be severed from article 300 so that it may be read and stand by itself. As said by this court:

"The language used in the invalid part of a statute can have no legal force or efficiency for any purpose whatever, and, what remains must express the legislative will independently of the void part, since the courts have no power to legislate." (*Barrameda vs. Moir* [1913], 25 Phil., 44. See also *Pollock vs. Farmers' Loan and Trust Co.*, [1895], 158 U. S., 601.)

The effect of the majority decision is to approve of a prosecution begun in 1916 under a law which did not exist. The defendant and appellant should be released from custody.

Judgment modified.

[1]217 U. S., 349.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.