

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. EUGENIO V. ISLA, DEFENDANT AND APPELLANT.

G. R. No. 17692. December 08, 1921

Ponente: JOHNSON, J.

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JOHNSON, J.:

The only question presented by this appeal is whether the appellant is guilty of the crime of "estafa by means of falsification of a mercantile document," punishable under article 301 in relation with article 300 of the Penal Code, as amended by Act No. 2712, or of the crime of estafa, punishable under paragraph 2 of article 534 in relation with paragraph 1 of article 535 of the Penal Code.

The lower court, upon the evidence presented during the trial of the cause, reached the conclusion that the defendant was guilty of the crime of estafa by means of falsification of a mercantile document, punishable under article 301 in relation with article 300 of the Penal Code as amended by Act No. 2712, in relation with paragraph 1 of article 535 of same Code, and sentenced him to be imprisoned for a period of four years, two months and one day of prision correccional with the accessory penalties prescribed by law, to indemnify the offended party in the sum of P84, to pay a fine of P50, and, in case of insolvency, to suffer subsidiary imprisonment in accordance with the provisions of the law. From that sentence the defendant appealed to this court.

The facts are not disputed. The defendant presented no proof to refute the facts charged in the complaint and proved during the trial. The complaint alleged: "That between the 17th and 19th of February, 1921, or about said period, in the city of Manila, Philippine Islands, the said accused, with intent to prejudice and defraud the firm of Go Leco & Co., of the said city of Manila, did then and there wilfully, illegally and feloniously falsify a mercantile document, to wit: a check No. 141992-B drawn on the Philippine National Bank for the sum of P84, Philippine currency, making it to appear that one Abdon Yacon Paradero was a party to said check while in fact he was not, by forging, simulating and imitating the signature of said Abdon Yacon Paradero, so that the document, falsified as aforesaid, appears drawn and prepared as follows:

"No. 141992-B

" 'PHILIPPINE NATIONAL BANK

" 'MANILA, P. I.

" 'Official depository of the Philippine Government

" 'Feb. 17, 1921.

" 'PAY TO Portador or bearer

.....Ochenta y cuatro solamente.....pesos

P84.00, Philippine currency.

(Fdo.) " 'ABDON YACON PARADERO.'

and the said accused, on the dates above-mentioned, knowing said check to be false, did wilfully, illegally and feloniously make use of it by inducing the firm of Go Leco & Co. to accept, as said firm did accept it, in payment of the sum of P18, Philippine currency, the price of two sacks of rice bought from said firm, the said accused having received from the said firm of Go Leco & Co., as change of the check, the sum of P66, Philippine currency, which was converted by the accused to his own use and benefit, to the prejudice of the aforesaid firm in the sum of P84, Philippine currency.

"All contrary to law."

The basis of the contention of the appellant is that, inasmuch as he did not attempt to imitate the signature of Abdon Yacon Paradero, when he signed said name to said check, he was not guilty of estafa by means of the falsification of a commercial document, but only of the simple crime of estafa.

While there is no proof that the appellant, in signing the name of Abdon Yacon Paradero to said check, attempted to imitate the signature of said alleged maker of the check, there is undisputed proof that he did sign, without permission or authority, the name of Abdon Yacon Paradero and did, by means of said forged signature, obtain the money in the manner described in the complaint above quoted. The proof shows that the defendant represented to the offended person that the check quoted in the complaint above was in fact a check executed and delivered by Abdon Yacon Paradero, and that by reason of that representation he induced the offended person to accept the check and to deliver to him the difference between the value of the merchandise which he purchased (P19) and the amount of the check (P34), or the sum of P65. The proof shows that the representation made by the defendant to the offended person, that Abdon Yacon Paradero had participated in the execution and delivery of said check, was a false representation ; that Abdon Yacon Paradero did not in fact participate in the execution of said check, nor did he authorize the appellant to use his name in the execution thereof.

Under the above facts the question is squarely presented whether the appellant is guilty of a violation of paragraph 2 of article 300 of the Penal Code, as amended by Act No. 2712, or of a violation of paragraph 2 of article 534, in relation with paragraph 1 of article 535, of the Penal Code. We have held in several cases that a person cannot be found guilty of the crime of estafa by means of the falsification of a document by using the signature of another, unless in the execution of that document he attempted to imitate or simulate the signature of the latter. (U. S. vs. Paraiso, 1 Phil., 66; U. S. vs. Roque, 1 Phil., 372; U. S. vs. Buenaventura, 1 Phil., 428.)

The doctrine announced in those decisions, however, has been somewhat modified, if not revoked, by later decisions in the cases of United States vs. Braga (12 Phil., 202); and United States vs. Cinco and Redona, p. 839, post, especially in a case where the alleged forgery or falsification was made with reference to a mercantile document. In the case of United States vs. Braga, as well as in that of United States vs. Cinco and Redoña, supra, the defendant was held guilty of the falsification of a mercantile document, even though there was no attempt to imitate or simulate the signature of the person whose name was illegally used, for the reason that in effecting the transaction in those cases the defendant made it to appear falsely that the alleged party to the document was a real party thereto when, as a matter of fact, he did not participate in any manner whatever in the transaction. The doctrine announced by those two decisions is in harmony with the decisions of the supreme court of Spain. (See decisions of the supreme court of Spain of November 24, 1882; January 24, 1883; January 31, 1884; April 21, 1897; January 18, 1890; and February 18, 1891.)

Following the doctrine announced in the two cases mentioned (U. S. vs. Braga, and U. S. vs. Cinco and Redona, supra), we are of the opinion and so decide that the appellant is guilty of the crime of estafa committed by means of the falsification of a private commercial document, and he is hereby sentenced to be punished, in accordance

with the provisions of article 301 of the Penal Code, as amended by Act No. 2712, with penalty of prision correccional in its maximum degree, the minimum of the medium grade of which is four years, nine months and eleven days, and a fine of P50, and sentence of the lower court is thus modified, with costs. So ordered.

Araullo, C. J., Street, Malcolm, Avancena, Villamor, Johns, and Romualdez, JJ., concur.

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