

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. FELIX MELLIZA (ALIAS PINGA) ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 2080. January 07, 1908

Ponente: TORRES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-2080/>

TORRES, J.:

Between the 13th of November and the 27th of December, 1902, Miguel Angel Soler was a clerk in charge of the warehouse of the firm of Viuda e Hijos de F. Suarez, established in the town of Sorsogon, Sorsogon, and as such employee it was his duty, among other things, to weigh the hemp which came from the branch houses and that which was brought in by the personeros or purchasing agents for said firm; the hemp was weighed by the said Soler, and the quantity and weight of each lot, by arrobas and pounds, was entered in the corresponding book, which is the one marked as "Exhibit A," a receipt being issued and copied on the stub; it was also his duty to enter the quantity pressed into bales, and the number of the latter shipped to Manila.

At that time, and even before, a Chinaman named Felix Melliza (alias Pinga) was engaged in the purchase of hemp in said province for account of the said firm, from which he received advances or loans, engaging to sell to said firm the hemp thus purchased by him, charging a commission at the rate of 50 centavos per picul, which the house paid him, and every time he delivered hemp to the storekeeper the latter issued a receipt which was presented to the firm and the latter paid the Chinaman the value of the fiber so delivered.

As it was, according to the prosecution, Soler and Melliza came to an understanding for the purpose of defrauding the firm of Suarez by obtaining the value of hemp which had not been delivered. To accomplish this, false receipts were issued by Soler to Melliza, who, taking them to the firm, collected the amounts they represented. Sometimes the receipts were issued for a larger quantity than actually received; at other times the receipts called for a higher grade of hemp than that delivered at the warehouse; all to the detriment of the said firm.

On the 27th of December, at noon, the aforesaid Angel Soler informed the head of the firm, Marcial Suarez, whom he met on the staircase of the office, that he desired to leave their service; Suarez replied that he was right in doing so because, owing to unfavorable information he had regarding him (Soler), it was his intention to dismiss him soon. Suarez then told Soler to turn the warehouse over to Vicente Ferrer, whom he sent for on Sunday, the 28th, and instructed to take charge of the warehouse on the following Monday. Ferrer then informed Suarez that it was no longer possible to take the warehouse over from Soler, because the latter had taken passage on board the steamer Lourdes, which sailed for Manila during the night of Saturday, the 27th. In view of this, the head of the firm directed Ferrer to take stock of the hemp stored in the warehouse in the presence of other clerks, and this he did on the said Monday. The result of the investigation, according to Ferrer, was that irregularities were discovered in the book of weights and in the stub book, the entries of which did not agree; that from the stock of hemp about 7,000 arrobas were missing; that between the 13th of November and the 27th of December, 1902, Soler issued to the Chinaman Pinga receipts for hemp said to have been received at the warehouse, but which did not appear in the book of weights; receipts were also issued for hemp of a higher grade and price than actually delivered, and 4,151.20 pesos were collected for hemp which had never been delivered at all.

On the 3d of June, 1903, a complaint was filed by the provincial fiscal with the Court of First Instance of said province, charging the above-named Miguel Angel Soler and the¹ said Felix Melliza (alias Pinga) with the crime of estafa, for defrauding the said firm of Viuda e Hijos de F. Suarez in the sum of 27,243.93 pesos, value of 6,568 arrobas and 6 pounds of hemp, to the prejudice of the said firm; that between the 13th of November and the 27th of December, 1902, the first named issued to the latter false receipts for certain lots of hemp which had not been delivered by him; that receipts were issued for a larger quantity than actually received, and in other cases it was stated that Melliza had delivered hemp of a higher grade than he had in fact delivered, and that the said Melliza had collected the value thereof from the said firm.

Proceedings having been instituted by virtue of the aforesaid complaint, and the former judgment rendered therein having been set aside for the reasons stated in the decision of this court[1] (f. 234), the court below, to whom the case was remanded for a new trial, in view of the result of the proceedings, entered two judgments on the 29th of October, 1906, one against Miguel Angel Soler and the other against Felix Melliza (alias Pinga) ; the former was sentenced to two years eleven months and ten days of presidio correccional, to suffer the accessory penalties, to indemnify the firm of Viuda e Hijos de F. Suarez in the sum of P10,981.02, and to pay one-half of the costs; Felix Melliza was sentenced to the same personal penalty, with the accessories thereof, to indemnify the firm in same amount, and to pay the other half of the costs. From these judgments the accused appealed, although later on Miguel Angel Soler withdrew his appeal, and the court when granting his petition ordered its resolution to be communicated to the judge of First Instance of Sorsogon for proper action, without prejudice to continuing the proceedings as to Felix Melliza (alias Pinga).

Notwithstanding the documents presented by the prosecution and the statement of several witnesses produced, the record of the case does not contain any conclusive or satisfactory evidence that the accused Chinaman, Felix Melliza (alias Pinga), had committed estafa against the firm of Viuda e Hijos de F. Suarez, of Sorsogon, for any specified sum.

The fraud is said to consist in that, by means of documents issued by Soler, who was in charge of the warehouse of the said firm, representing hemp which had not been delivered, or greater quantities or higher grade than actually delivered, the said Melliza managed to secure payment for the supposed hemp stated in the receipts and the difference in values, and that he thereby obtained gain to the prejudice of the firm.

In order to prove the truth of the imputation it was alleged that the accused had presented for payment at the office of the firm several stub receipts representing quantities of hemp which did not appear in the book of weights, when, according to the theory of the prosecution, any quantity of hemp not entered in said book could not be considered as having been delivered at the warehouse; and, therefore, that upon collecting the value of hemp which had not been delivered at the warehouse, although appearing in some of the receipts issued for the same, the crime charged was committed by the person who secured the payment.

The stub receipts were issued in proper form by the clerk who was in charge of the firm's warehouse, since otherwise they would not have been paid; and yet, because some of them do not agree with the book of weights, and because some of the lots of hemp stated in the same have not been entered in said book, the seller of the fiber is charged with the commission of the crime of estafa.

Considering the book of weights and other documents produced in evidence, together with the testimony of several witnesses of the prosecution, no convincing proof has been produced that the said Melliza (alias Pinga) managed to secure payment from Suarez, by means of fraudulent transactions, of the value of the hemp which had not been delivered at the warehouse, or of hemp made to appear as of higher grade, because the informality and irregularity with which the said book was kept, its defects and omissions, prevent its being considered as

substantiating the fraud in question, inasmuch as the context of the aforesaid book, the fundamental ground, if not the only one on which the accusation is based, can not destroy the stub documents representing hemp received, and signed by the authorized clerk of the purchasing house.

Even though the issuing of stub receipts appears to have been regularly observed, this certainly can not be said with respect to the book of weights, for it has been shown that, with the knowledge of the head of the firm, Marcial Suarez, all the quantities of hemp delivered at the warehouse were; not always entered in the said book of weights, and sometimes the weight was simply noted on loose slips of paper; this seemed to be the practice followed not only by Angel Holer, then in charge of the warehouse, but also by his predecessor in office, although this was done when large quantities of hemp were brought in, and then subsequently entered in the book. In view of the irregular manner in which this book was kept, it is not an impossibility that the loose slips may have miscarried or been lost, and that they were never transferred to the book; the entries therein could not, therefore, be considered as authentic evidence as to the quantities of hemp delivered by the accused and received by the clerk in charge of the warehouse.

While no conclusive proof is offered that the quantities of hemp stated in the receipts issued by the clerk in charge, and entered in his stubs, were not actually delivered or received at the warehouse, or that the hemp was of a different class from that therein stated, the validity of the stub receipts must necessarily be acknowledged, and the book of weights can in no way prevail against the value and importance thereof; even the witnesses of the prosecution have always considered the book of weights as containing errors and discrepancies, and that the data transferred to the book of receipts and deliveries of hemp were taken from the stubs of the receipts issued to the persons who made deliveries of the fiber.

It is proven that during the short period of two months the accused Melliza purchased more than 8,000 arrobas of hemp for the said firm, and delivered it at their warehouse, as shown by the stub receipts issued to him by the clerk in charge of receiving the same, and affirmed by the testimony of the sellers of the fiber, notwithstanding the fact that some of them were unable to determine exactly the quantities of hemp they had sold to the accused.

As to the money invested by the accused in acquiring the above eight thousand odd arrobas of hemp, and which amounted to more than 12,000 pesos, it should be borne in mind that, besides the cash advanced to him by the house of Suarez to the extent of more than 12,000 pesos, the Chinaman Pinga, with authority from the head of the firm, negotiated drafts drawn on Manila in favor of several Chinamen to the extent of more than 15,000 pesos, as shown by entries in a book furnished by the firm in order to procure more funds; such facts were not impugned by the prosecution at the trial by valid proof to the contrary. Neither do the other charges set forth by the prosecution, and as the result of the proceedings, show in a complete and conclusive manner the existence of the crime and the culpability of Chinaman Pinga, and to justify the conviction of an accused person section 59 of the Law of Criminal Procedure[1] provides that—

"In all criminal prosecutions the evidence admitted must be relevant to the fact at issue, the burden of proof of guilt shall be upon the prosecution, and the best evidence must be produced of which the case is susceptible. *

* *"

Considering that, in the present case, the aforementioned indispensable conditions prescribed by law to justify a conviction do not appear, it becomes necessary to apply the provisions of section 57 of the said Law of Criminal Procedure, which reads:

"A defendant in a criminal action shall be presumed to be innocent until the contrary is proved, and in case of a reasonable doubt that his guilt is satisfactorily shown, he shall be entitled to an acquittal." (See also rule 51, Provisional Law for the Application of the Penal Code.)

For the reasons above set forth, and basing this decision on the absence of proof of the acts imputed to the accused appellant, it is our opinion that the judgment appealed from should be reversed and the Chinaman Felix Melliza (alias Pinga) is hereby acquitted with the costs of both instances declared de oficio, and it is so ordered:

Arellano, C. J., Mapa and Tracey, JJ., concur.

Willard, J., concurs in the result.

[1] U.S. vs. Soler et al., 6 Phil. Rep., 321.

[1] General Order, No. 58.

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.