

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. JOSE S. DIZON, DEFENDANT AND APPELLANT.*G.R. No. 22560. January 29, 1925*

Ponente: JOHNSON, J.

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It appears from the record that on the 25th day of April, 1923, a complaint was filed in the court of the justice of the peace of the municipality of Angeles, of the Province of Pampanga, against the above-named defendant, charging him with misappropriation of a certain sum of money and falsification. The defendant having renounced his right to a preliminary investigation, the cause was forwarded for further proceedings to the Court of First Instance of said province. On the 18th day of June, 1923, the prosecuting attorney of said province filed against the defendant the following information:

"That in or about the month of January, 1922, at Camp Stotsenburg, in the Province of Pampanga, Philippine Islands, and within the jurisdiction of this Court of First Instance, the above-named defendant Jose S. Dizon, at that time assistant bookkeeper of the Post Exchange of said Camp, voluntarily, illegally, and criminally, and with intent to defraud said Post Exchange, altered and falsified the entries on the books kept by him, and destroyed and rendered useless certain documents and papers relative to the accounts of said Post Exchange, succeeding, through such fraudulent means, to swindle away the amount of three thousand nine hundred and sixty-four pesos and ninety-one centavos (P3,964.91), equivalent to 19,824½ pesetas, belonging to the Post Exchange, said defendant having embezzled said amount to the prejudice of the said Post Exchange, and in violation of law."

Upon said information the defendant was arraigned, tried, found guilty of the crime charged in the complaint, and sentenced by the Honorable Hermogenes Reyes, judge, under the provisions of articles 301, 534 and 89 of the Penal Code, to suffer five years, four months and twenty-one days of prison correccional, with the accessory penalties of the law, to pay a fine of P50, to indemnify the offended party in the sum of P3,964.91, with subsidiary imprisonment in case of insolvency, and to pay the costs. From that sentence the defendant appealed.

The appellant now insists that the evidence adduced during the trial of the cause fails to show that he committed a crime; that he is only liable in a civil action. He presents no argument in support of that contention, however, but limits himself to a criticism of the decision of the lower court, insisting that the evidence does not support his conclusions and that said sentence is full of "fifty thousand errors," without specifying the particular errors.

A thorough study of the evidence shows that the accused, Jose S. Dizon, during the period from October, 1920, to January, 1922, was in the employ, as assistant bookkeeper at the Post Exchange of Camp Stotsenburg, an army post in the Province of Pampanga; that during the time of his employment he bought on credit various articles from the several stores of the Post Exchange, for which he signed chits (vales) showing the nature and value of the articles so bought; that said chits as well as chits signed by other customers were recorded in the books of the corresponding stores from which the articles were bought; that every morning all of the chits of the preceding day were turned over to the office of the Post Exchange, also to be recorded in the books of said office, including the

ledger (personal accounts) of the customers; that said chits were kept in the office of the Post Exchange, and were returned to the customers only upon payment of their account; that Jose S. Dizon, as such assistant bookkeeper, was the employee in charge of recording the sales of the several stores, in cash as well as on credit, in the books of the office of the Post Exchange, and also of the keeping of the said chits and the recording thereof in the personal accounts of the customers; that he voluntarily did not record in his personal account most of the chits signed by him for articles bought on credit, amounting to P3,964.91 (Exhibit J-2), except a few of them amounting only to P653.77, which latter amount he paid, leaving only a balance of P29.43 (Exhibit J-1); that all the chits for the said amount of P3,964.91 have disappeared, and that only a few chits amounting to P199.99 were found properly kept in separate envelopes (Exhibits I to I-4).

The foregoing facts clearly show that the accused voluntarily falsified the ledger (personal accounts) of the office of the Post Exchange, which was a commercial document, by not recording in his own personal account the chits for articles bought by him from the stores of the Post Exchange amounting to P3,964.91, thereby violating article 301 in relation with No. 4 of article 300 of the Penal Code, evidently for the purpose of evading the payment of said amount.

The same facts also lead us to the conviction that the accused maliciously destroyed those chits, for the same purpose, and also to obliterate, to some extent, the traces of his indebtedness, which act constitutes a violation of paragraph 9 of article 535 of the Penal Code. (U. S. vs. Tan Jenjua, 1 Phil., 38; U. S. vs. Kilayko, 31 Phil., 371.)

The evidence clearly establishes the guilt of the accused beyond a reasonable doubt, and the findings of facts of the lower court are in full harmony therewith. The fifty thousand errors attributed to the lower court by counsel for appellant could not be found in spite of our careful and painstaking study of the whole record. The only error of said court noted by us is the finding, that in the commission of the crime of estafa the accused violated article 534 instead of article 535, No. 9, of the Penal Code. This error, however, is immaterial as far as the appellant is concerned, in view of the fact that under the provisions of either article the penalty remains the same.

In view of all of the foregoing, and with the modification above indicated, the sentence appealed from is hereby affirmed, with costs. So ordered,

Malcolm, Villamor, Ostrand, Johns, and Romualdez, JJ., concur.

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