

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. FERNANDO NIETO, DEFENDANT AND APPELLANT.

G.R. No. 2607. February 02, 1906

Ponente: CARSON, J.

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CARSON, J.:

Fernando Nieto, the appellant in this case, was charged with the falsification of a public document, with abuse of his office as municipal president.

It appears that the accused, who at that time was president of the municipality of Meycauayan, bought a typewriter for the use of the said municipality for which he paid \$90, gold, and at the same time caused the vendors to sign a receipt and a reimbursement voucher setting out the facts connected with the sale of the machine and the amount paid therefor. It appears further that the accused changed the amount as set out in the receipt and voucher from \$90, gold, to \$95, gold, and on the presentation of these falsified documents, recovered from the treasurer of the municipality the sum of 190 pesos, Philippine currency, in reimbursement of his expenditure in the purchase of the machine.

The trial court found the accused guilty of the crime of falsification of a private document, without aggravating or extenuating circumstances, and sentenced him to one year eight months and twenty-one days imprisonment (presidio correccional), and to the payment of a fine of 625 pesetas, and to the restitution to the municipality of Meycauayan of the sum of \$5, gold, with the accessory penalties prescribed by law and the payment of the costs of the trial.

We think the evidence of record fully sustains the findings of the trial court, and we are agreed that the documents in question at the time when they were falsified were private and not public documents, and that the offense was not committed with abuse of a public office. In the purchase of the machine the accused was acting as a private person and not in his official capacity as municipal president, and the receipt and voucher at the time when they were altered were merely evidences of a private transaction between the accused and the vendors of the machine. They did not emanate from any public office; they were not a part of any public or official record, nor were they certified by any person authorized to certify public documents. The mere fact that they were intended for use in support of a claim against the public funds could not of itself raise them to the dignity of public documents before they had become a part of some official record, and prior to their certification by some public official clothed with authority for that purpose.

The accused admitted that he had made the alterations in the documents as alleged, but attempted to justify or rather to explain his action by stating that at the time when he bought the machine he also bought \$5 worth of typewriter supplies; that at the time when he recovered the amount paid for the machine he had mislaid his receipt for these supplies, and believed that without that receipt he could not recover the price paid therefor; and that he altered the receipt and voucher so as to include this \$5, not with any intention of defrauding the municipality, but merely for the purpose of recovering from the municipality the full amount he had expended on its behalf.

Taking this view of the case counsel for the appellant insists that as there was really no loss (*perjuicio*) to the municipality resulting from the alteration of the document, there can be no conviction for that alteration, as loss or damage to a third person is an essential requisite to the crime of falsification of a private document, as defined in article 304 of the Penal Code.

We, however, are satisfied beyond a reasonable doubt that as a matter of fact the accused did not pay ₱5 for the typewriter supplies as he pretends, and that these supplies were included in the purchase price of the machine, for which he took the original receipt and disbursement voucher, and therefore it is not necessary to consider what would have been the legal effect upon the transaction as a criminal offense had his explanation contained a true relation of the facts.

The judgment of the trial court is affirmed, with the costs of this instance against the appellant. So ordered.

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

Johnson, J., reserves his vote.

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