

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. JULIO V. PACANA, DEFENDANT AND APPELLANT.

G. R. No. 31745. February 12, 1930

Ponente: JOHNS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-31745/>

JOHNS, J.:

body { font-family: Verdana, Geneva, Arial, helvetica, sans-serif; font-size:80%; background-color:#FFFFFF; margin:0 2% 0 2%; text-align: justify; } h1 { font-family:times; } h2 { background-color:#cccccc; padding:10px 0 10px 0; font-weight: bold; text-align: center; } h3 { font-weight: bold; text-transform: uppercase; text-align: center; } div#footer { font-size:9px; }The history of the case is both novel and interesting. The alleged crime was committed in the year 1921, and in 1922 an information was filed in the Court of First Instance charging the defendant with the commission of the alleged crime which, upon motion of the then prosecuting attorney, Gervasio Diaz, and with the approval of the court, was dismissed on the ground that the evidence was not sufficient to sustain the conviction. In that prosecution the witnesses listed for the prosecution were the identical persons who testified against the defendant in the instant case, chief of whom was Marcelino Calinawan who was the cashier of the Misamis agency of the Philippine National Bank at the time the crime was committed:

The order of dismissal is as follows:

"The Fiscal in this case presented the following verbal motion:

"This case was instituted on the 20th day of February, 1922. From this date the case had been set for trial, but the same had not been effected for lack of certain evidence of the prosecution. The following facts appear from a careful investigation made by the Provincial Fiscal: It was found out that three checks of the depositors in the then Agency of the National Bank at Misamis had been twice charged in the daily book of the said agency wherein are found certain amendments in the numbers of said checks. Said checks were twice charged against their respective depositors, who refused to pay, because the same had already been paid. A careful investigation of the case was made, and it was found out that three persons could have been responsible for this irregularity; to wit: Julio V. Pacana, the herein accused, Marcelino Calinawan and one Feliciano Pacalioga. These three had been working in the Agency of the National Bank, to wit: Cashier, bookkeeper and filer, the three having discharged these positions in an uncertain manner, without fixing the date in which they acted in the different capacities. We have not found any data from the Provincial Treasury showing the dates when these persons acted in the different capacities. Each one of these persons acted sometimes as filer, sometimes as cashier, and at other times as bookkeeper. It is impossible to determine from the record of the Agency of the National Bank when these three acted as cashier, filer and bookkeeper. When the three were asked during an investigation I made, they all testified that they did not remember the dates when they acted in the different capacities, and when they were asked who made the alterations of the notes on the checks in the ledger, they blamed one another. We cannot find a clear fact to determine who of the three is responsible for this irregularity. Neither can we find whether the amounts represented by the checks, which were twice charged, had been withdrawn from the Agency of the National Bank. This is a case in which a careful investigation is necessary, especially the help of a handwriting expert who can be furnished by the bank, to decipher the form and handwriting of the person who made the alterations in the ledger of the Agency of the National Bank; and

in view of the fact that the case has been pending for a long time, without action, We respectfully pray for the temporary dismissal thereof, with the request that copy of this statement, together with the order which the court may enter, be endorsed again to the district auditor, in order that he may make a careful examination of this case, and inform the office of the Provincial Fiscal whatever conclusion he may have arrived at. The evidence as it is now, does not have sufficient merit to convict any of the three persons above mentioned.

"Motion of the Fiscal granted, and for the foregoing reasons, the temporary dismissal of this case is hereby ordered, with costs de oficio and the cancellation of the bond put up by the herein accused. Let a copy of this order be forwarded to the district auditor, for his information. So ordered."

It will be noted that the alleged crime was committed in 1921; that the first information was filed on the 20th day of February, 1922; and that the order of dismissal was made on January 2, 1924, and the information upon which the defendant is now prosecuted was filed on March 29, 1927.

The record is conclusive that through falsification, the branch of the Philippine National Bank at Misamis was defrauded out of P2,550, and that the fraud must have been committed by either the defendant, Marcelino Calinawan or Feliciano Pacalioga. It also appears that the only evidence introduced in the trial of the last case, which was not introduced at the former trial, is that of Calinawan, to the effect that in November, 1921, the defendant returned to him P500 for and on account of check No. 76419, and then promised to pay the amounts of the other checks. His evidence on that point is not corroborated by that of any other person or any document, but, if true, would be strong evidence against the defendant. If it be a fact, as Calinawan now testifies, that in November, 1921, the defendant paid him P500 on account of check No. 76419, that was a matter within the personal knowledge of Calinawan at the time of the former investigation, which was pending in court for about two years, and there is absolutely nothing in the record of dismissal which shows or tends to show that Calinawan then told Fiscal Diaz, or any one else, about the alleged payment of P500 by the defendant or his alleged promise to pay the other amounts. That is to say, this important evidence was concealed in the breast of Calinawan, who is the real prosecuting witness in this case, for six years before he ever said anything to any one about the alleged payment of the P500 or the alleged promise of the defendant to pay the remaining checks.

A detailed analysis of the testimony in this case would not be of any real value to this opinion. Suffice it to say that the record shows that Calinawan, as the superior officer, was in a better and safer position to commit the fraud on the bank than the defendant, and, as Fiscal Diaz said, there is at least as much evidence against one as against the other. This, coupled with the fact that in the last trial Calinawan testified that in November, 1921, the defendant paid him the alleged P500, and that he never said a word about that in the former investigation, creates a doubt and suspicion about all of his testimony, which makes it unworthy of belief.

After two years of investigation, former Fiscal Diaz, for the reasons above stated, dismissed the first prosecution against the defendant, with the suggestion that "a careful investigation is necessary, especially the help of a handwriting expert who can be furnished by the Bank, to decipher the form and handwriting of the person who made the alterations in, the ledger of the Agency of the National Bank." Nothing of that kind was ever done and, as stated, the only evidence against the defendant was that which was in the possession of Fiscal Diaz when he made his motion of January 2, 1924, except that of Calinawan who testified as to the payment of the P500 and the promise of the remaining payments by the defendant. Suffice it to say that Calinawan's testimony upon that point is not convincing, and is not worthy of belief.

All things considered, we are clearly of the opinion that the evidence against the defendant is not sufficient to prove his guilt beyond a reasonable doubt. The judgment of the lower court is reversed and the defendant acquitted, with costs de oficio. So ordered.

Johnson, Street, Malcolm, Villamor, Ostrand, Romualdez and Villa-Real, JJ., concur.

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.