

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ESTANISLAO FLOIRENDO, DEFENDANT AND APPELLANT.

G. R. No. 3608. August 07, 1907

Ponente: TORRES, J.

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TORRES, J.:

On June 13, 1906, the provincial fiscal of Ilocos Sur filed a complaint in the court, reading as follows:

"The undersigned accuses Estanislao Floirendo of the crime of falsification of marks, defined and punished in article 275 of the Penal Code, which crime was committed as follows:

"That the said Estanislao Floirendo, in or about the months of April and May of this year, in the barrio of Rugsuanan in the municipality of Vigan, Ilocos Sur, intentionally, criminally, and maliciously stamped a mark of this form on a calf under two years, simulating the mark used by the municipality of Vigan to identify large cattle, the said mark being forged all contrary to law."

In the suit brought upon the above complaint, it appears that the accused sold a calf to Pantaleon Andallo in Vigan, Ilocos Sur, which calf bore on its body the mark of the municipality of Vigan as well as the owner's mark. Accordingly the former delivered to the latter the document exhibited (folio 18 of the record), which appears as issued on February 15, 1905, in favor of the accused, Floirendo, by Alfredo Eizmendi, municipal treasurer, and Mariano Arce, secretary of the same municipality. The document refers to a cow (calf), dark chestnut colored, with two locks of hair on its cervix and one on its back, showing the mark of the municipality of Vigan and that of the owner. In view of the fact that the mark stamped on the left side of the said animal is larger than the official mark of the municipality (the latter is 2 inches long, while the one printed on the cow is 6 or 7 inches, unequal and thick, whereas the mark of the municipality is uniform in its whole extent), it was inferred by the clerk, by the actual treasurer of the municipality, Pedro Alagar, and by Rafael Aurellado, an employee of the municipality, that it is impossible that the mark on the animal could be that of the municipality, the former being too large, and therefore that the said mark had been falsified and had not been impressed with the stamp of the municipality. Moreover the document exhibited shows some particulars which do not agree with those appearing on the animal, although, as stated by the said treasurer, the above document may be a legitimate one because it bears the mark of the alleged owner, Estanislao Floirendo, and it was therefore stated, upon the petition of the attorney for the defendant in agreement with the fiscal, that the accused is the true owner of the cow bought by Pantaleon Andallo.

We conclude from the foregoing statement that the crime is alleged to be constituted by the fact that the accused, as owner of the calf sold to Pantaleon Andallo, placed and stamped on the same a mark different from the official mark of the municipality, although with some resemblance to the latter, not having complied with the regulations which provide that each head of cattle should bear the official mark of the municipality besides the owner's mark.

Article 275 of the Penal Code says:

"The falsification of the seals, marks, and countersigns which are employed in the offices of the state in order to identify some object or to insure the payment of taxes shall be punished with the penalties of presidio correccional in its minimum and medium degrees and a fine of from 375 to 3,750 pesetas."

The legitimate mark of the municipality was presented at the trial, and from the confrontation made between the same and that which appears stamped on the animal, which was also shown, it was concluded that the mark is not that of the municipality but another falsified or simulated; but the truth is that this forged stamp has not been exhibited, nor could it be ascertained how and in what manner the branding or marking was simulated, or whether the apparatus used for the purpose by the accused is really different from the legitimate one.

Taking into account the fact that the said calf might have been marked while it was young in such a way that its growing up may have caused some enlargement or extensions of the mark legitimately stamped, and the fact that it has not been proved that the document delivered by the seller (reputed to have been the legitimate owner of the calf) was false not that the signatures of the secretary and treasurer authorizing such document were false or counterfeited (inasmuch as the provincial fiscal was satisfied with the exhibition of the said document by the attorney for the defendant in the trial, accepting the same as a genuine and legitimate document, which for the rest is reputed as the property of the accused, nobody having impugned its legitimate origin) all these facts and the other merits of the cause produce in the mind at least a reasonable doubt as to the guilt of the accused, against which the presumption of his innocence prevails. And this is true notwithstanding the fact that in the other suit for theft he was sentenced to the penalty of six months of *arresto mayor* and the accessory penalties.

Basing our decision upon the foregoing reasons, we are therefore of opinion that with the reversal of the judgment appealed from the defendant must be acquitted with the costs of both instances *de oficio*, and the calf must be returned to its present owner, who acquired the same from the accused, and the latter to be set at liberty. So ordered.

Arellano, C. J., Johnson Willard, and Tracey, JJ., concur.

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