

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. JOAQUIN CELIS, DEFENDANT AND APPELLANT.

G. R. No. 3627. August 17, 1907

Ponente: TORRES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-3627/>

TORRES, J.:

On the 19th of June, 1906, the following complaint was filed by the prosecuting attorney:

"The undersigned accuses Joaquin Celis of the crime of estafa committed as follows:

"That on or about the 9th day of September, 1905, in the city of Manila, P. I., the said Joaquin Celis did then and there willfully, unlawfully, and feloniously, with intent of gain, and without the consent of the owner thereof, appropriate, misapply, and convert to his own use check No. 17193 on the International Banking Corporation[1] for two hundred and one pesos (P201), Philippine currency, payable to bearer, signed pp. Baer Senior & Co. Successors, J. Meller, of the value of two hundred and one pesos, (P201), Philippine currency, then and there received by and in the hands of the said Joaquin Cells under the duty and obligation to deliver the same to Findlay & Co., a co-partnership duly registered under the laws of the Philippine Islands, who were the owners thereof; and to the damage and prejudice of the said Findlay & Co. in the sum of two hundred and one pesos (P201), Philippine currency, equivalent to one thousand and five (1,005) pesetas. All contrary to law."

The case having been tried upon the said complaint, judgment was rendered on the 28th of July of the same year, the accused being sentenced to four months and one day's imprisonment, to refund to Findlay & Co, the sum of P201, Philippine currency, and to pay the costs, and in case of insolvency to suffer subsidiary imprisonment in accordance with the law, from which judgment the accused has appealed.

The facts which in this case appear as .having been fully proven are: That on a certain day in the month of September, 1905, the accused, being then employed as clerk and bookkeeper in the insurance department of the firm of Findlay & Co., received check No. 17193, "Exhibit A," issued on the 9th of the said month and year by J. Meller on behalf of he successors to Bear Senior & Co. against the Chartered Bank for the sum of P201, in favor of the said Findlay & Co. or bearer, in payment of the premium on two policies of insurance, and although he entered in his own handwriting, in the book kept by him, the P120 and P80 corresponding to the two aforesaid policies, he failed to comply with his duty to deliver the check to the cashier of the firm; the result was that he collected the amount in the Chartered Bank but did not pay in the said amount of P201 by delivering it to the cashier. As the accused was the only one in charge of the collection of premiums on the policies of insurance, and the check was received by the firm according to the books, it may well be presumed that he collected the amount of it and disposed of the same, as he did in the case of other similar documents, to the prejudice of Findlay & Co., who placed confidence in him and authorized him to collect the premiums on policies already due.

These facts, duly proven in this case, constitute the crime of estafa, defined in case 5 of article 535 and punished under case 2 of article 534 of the Penal Code, because it can not be denied that check No. 17193, issued by J. Meller on behalf of the successors to Baer Senior & Co. against the Chartered Bank, in favor of Findlay & Co.,

was delivered at the office of Findlay & Co. in payment for the premiums upon two policies, and, outside of the accused, no other clerk of the firm could have received it, since he was the only one charged with the receiving of payments on said account. He did not afterwards deliver the check to the cashier because he had converted it to his own use, and for this reason his culpability, as the author of the crime for which he is prosecuted, is unquestionable, so much so that, although he did not plead guilty, nothing was alleged in exculpation of the charge.

In this second instance, counsel for the defense alleged the nullity of the judgment appealed from on the ground of lack of jurisdiction on the part of the judge who had rendered it, because the place of commission of the crime had not been pointed out in the proceedings; but this objection was not raised in the court below and is entirely without foundation since, both in the complaint and in the evidence introduced at the trial, the crime appears as having been committed within the territory of the city of Manila, for which reason the jurisdiction of the judge who took cognizance and rendered the decision is unquestionable.

On the other hand such an allegation can not be considered by this court upon review, because it was not presented to the court below, according to the rule laid down in *Mortiga vs. Serra and Obleno* (5 Phil, Rep., 34), which judgment has been confirmed by the Supreme Court of the United States.

In view of the foregoing considerations, and as the judgment appealed from is in accordance with the law, in our opinion the same should be affirmed, provided, however, that Joaquin Celis shall be sentenced to the penalty of four months and one day of *arresto mayor* to the accessories of article 61 of the Penal Code, to make restitution of the sum of P201, Philippine currency, to Findlay & Co., and, in case of insolvency, to suffer subsidiary imprisonment not exceeding one-third of the principal penalty, and to pay the costs of the proceedings. So ordered.

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

[1] The Chartered Bank.

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.