

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. MARCELO F.CONCEPCION, DEFENDANT AND APPELLANT*G.R. No. 4032. August 15, 1908*

Ponente: MAPA, J.

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It has been fully proven in this case that, on the 9th of August, 1906, the accused, being then the municipal treasurer of Guindulman, Province of Bohol, made out the pay roll of the officers and employees of said municipality, which he later submitted to the district auditor as a voucher to his accounts; that he certified therein under oath that the amounts which appeared in the said pay roll opposite the respective names, had been duly paid as salaries to each and all of the said officers and employees, when as a matter of fact this was not true, inasmuch as several of them had not received the sums stated as having been paid. Such an act constitutes the crime of falsification of a public document, by perverting the truth in the statement of facts, as defined in No. 4 of article 300 of the Penal Code. Therefore, the judgment appealed from, and which thus qualifies it and considers that the guilt of the accused as the author of said crime has been proven, is in accordance with the law and the merits of the case.

The penalty of fourteen years eight months and one day of cadena temporal and a fine of 1,250 pesetas, imposed on the accused by the said judgment, is likewise in accordance with the law.

The court below also sentenced the accused to indemnify the employees in the sums which appear on the pay roll as paid to them, they not having been so paid. It does not appear to us that this part of the judgment is correct. The said employees are not the parties that were injured by the falsification that gave rise to these proceedings; they have not been deprived of the right which they retain, to recover from the municipality the full amount of the salary which it owes them by reason of the said falsification. The act of the accused in misappropriating municipal funds, under the pretext of making payments, by falsifying a pay roll, affects only the municipality owning such funds and not its employees. They have nothing to do with the custody, management, and responsibility of the treasury of said municipality, nor should they suffer the consequences of any shortage that might result therein. The municipality, being the only party aggrieved, is entitled to the indemnity which the accused is sentenced to pay.

The deficit found in the municipal treasury as the result of the final examination made by the district auditor of the accounts of the accused, taking into account the sums actually paid and those that were not from the pay roll in question, amounts to the total sum of P275.74, according to the declaration of said auditor and the statements of account under Exhibits B and C of the prosecution. That is the sum in which the accused should indemnify the municipality.

The judgment appealed from is hereby affirmed with the sole modification that the payment of the indemnity to which the accused has been sentenced, amounting to the sum of P275.74, shall be made in favor of the municipality of Guindulman, with the costs of this instance against the accused. So ordered.

Arellano, C. J., Torres, Carson, Willard, and Tracey, JJ.,concur.

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