

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. AMADOR BARRIOS, DEFENDANT AND APPELLANT.*G.R. No. 4087. March 12, 1908*

Ponente: TORRES, J.

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In the year 1906, and particularly during the months of September to December of said year, the accused, Amador Barrios, was municipal treasurer of New Washington, Province of Capiz, and acted also as deputy provincial treasurer. By reason thereof, he had charge of public funds, and it was his duty to keep his accounts in the official books that were at his disposal, both as municipal treasurer and as deputy provincial treasurer. One of the books under his charge was designated the "Municipal treasurer's account book," in which he was required to enter the receipts and expenditures for account of the municipality, in accordance with the rules and instructions of the Insular Auditor; this book was printed and supplied to municipal treasurers by direction of the Government, and it formed part of the official archives of the municipality.

The accused, in the performance of his duties, made on folio 4 of the said municipal cashbook, on the credit side thereof and under date of the 29th of October, 1906, the following entries:

Juan Oquendo, for fees due the justice of the peace for 8 criminal actions

P40.00

Amador Barrios, for salary of the municipal employees during the month of October.....

247.82

Amador Barrios, for salaries of the police force for the month of October

162.91

The above amounts were entered in the book as paid when as a matter of fact they had not been paid to the respective parties concerned, because upon inspection by the provincial treasurer, George P. Banner, he discovered that although such entries had been made, the truth was that none of them had been paid, and when the defendant was required to produce the corresponding vouchers for the said month of October, he was unable to do so; the accused then confessed that he had not paid the amounts entered in the book, and this confession was admitted by him at the trial. Upon further investigation it was ascertained that the accused appropriated to himself and disposed of the said amounts which formed part of a larger sum embezzled by him, according to the balance sheet of accounts made up in December, 1906.

A complaint was filed by the provincial fiscal with the Court of First Instance of Capiz, charging Amador Barrios with the crime of falsification of a public document, and the corresponding proceedings were instituted. The court rendered judgment on the 1st of February, 1907, and sentenced the accused as principal in said crime, to the penalty of fourteen years eight months and one day of cadena temporal, to suffer the accessory penalties of article 56 of the Penal Code, to pay a fine of 250 pesetas and costs. From this judgment the accused has appealed.

The above facts, which have been fully proven in this case, constitute the serious crime of falsification of a public document, defined and penalized by article 300, No. 4, of the Penal Code, inasmuch as the accused, taking advantage of his public office of municipal treasurer of the pueblo of New Washington, and of deputy provincial treasurer of Capiz, entered in the municipal cashbook certain sums of money as paid to the justice of the peace and to the employees and members of the police force of the town. The fact is, however, that the accused withdrew the said amounts from the municipal safe but never paid them to the persons who were entitled to receive the same; he kept the money and thus perverted the truth when recording the facts in the cashbook, which was of an official or public character.

Notwithstanding the fact that the accused pleaded not guilty, his declaration that he failed to pay the said amounts to the justice of the peace and to the employees and policemen of the municipality for their respective salaries for the month of October, 1906, for lack of cash on hand appears of record, and his culpability as the convicted, if not confessed, author of the crime of falsification of a public document has been fully established, for upon an examination of the books under his charge, and a balance of the receipts and expenditures of funds up to the 2d of December of the said year having been made by the provincial treasurer on the above date, it was found that there should have existed the sum of P1,094.90 in favor of the municipality; therefore, if, as confessed by the accused himself, he did not pay the aforesaid amounts to the interested parties, although he entered them as paid in the book, it was not for lack of cash on hand as alleged, but because he had converted the money to his own use and to the prejudice of the municipality and of the officials who were entitled to receive it. The record shows that if there had been no misappropriation there would have been funds more than sufficient for the payment of the above mentioned amounts. An additional entry of P66.66 appears in the cashbook as paid to the municipal president, when in reality he only paid the sum of P34 to Plorencio Melocoton, the said president, who has thus been deprived of P32, about which he said nothing, upon the request of the accused who asked him to wait for a few days, which he did.

In the commission of the crime no aggravating or mitigating circumstance is present; therefore the penalty should be imposed, as has been done by the court below, in the medium degree.

For the reasons above set forth, and considering that the judgment appealed from is in accordance with the law, it is our opinion that the same should be affirmed with the costs of this instance against the accused, provided, however, that the fine to be paid shall be 1,250 pesetas, without subsidiary imprisonment in case of insolvency, in view of the nature of the main penalty imposed. So ordered.

Arellano, C. J., Mapa, Johnson, Carson, Willard, and Tracey, JJ.

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