

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. RICARDO BAYOT, DEFENDANT AND APPELLANT.*G.R. No. 4352. March 24, 1908*

Ponente: WILLARD, J.

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During the month of April, 1907, and for several years prior thereto, the defendant was and had been the janitor of the city hall in the city of Manila. He had under his charge 12 or 15 men whose business it was to take care of and clean the building. In the month of April, one of these men was Manuel Manalo. The work assigned to him was the cleaning of the water closets. The work done by all of these laborers had to be performed before the offices opened in the morning or after they were closed at night. The water closets were cleaned only once a day and that work was done by Manuel Manalo in the morning before 8 o'clock. During the month of April he went to the building every day about half past 6 and performed this work, which was all the work that was assigned to him, and which was all the work which he had to perform during the entire day. He was not in the building any day after 9 a. m. There was evidence, however, that it was the duty of these men to remain in the building so that if any extraordinary work should be required of them they would be there to perform it. The evidence shows that some of the men were allowed to go away, and others stayed there and that those that stayed there did nothing except to perform the regular work assigned to them.

On the 1st of May, 1907, a pay roll was made out for the month of April. It contained the names of all the workmen and a square against each name for each day in the month. All of the squares against the name of Manuel Manalo contain a vertical line. The defendant signed the following certificate upon this pay roll: "I certify that I have been in charge of the men whose names appear on the above roll during the period indicated, that the roll is correct, and that the labor has been performed as stated." Manuel Manalo received pay at the rate of 70 cents a day and for the month of April he was paid 21.

A complaint was filed against the defendant charging him, as a public official, with the falsification of a public document, to wit, this pay roll, it being alleged that the certificate which he attached thereto was false. He was convicted in the court below of the crime charged against him and has appealed.

To our minds the only question in the case is as to the meaning of the vertical lines placed in the squares opposite the names of these laborers. It is claimed by the appellant that they only mean that the persons to whom the lines referred had performed upon the days mentioned the services which had been required of each one. If this is the correct meaning of these lines, then the certificate signed by the defendant was true, because it was proven that Manuel Manalo had performed during the month of April all the work which was assigned to him. It is claimed by the Government, however, that these lines indicate, not that Manuel Manalo performed all the work that was required of him during the day, but that he was present in the building during all of the day and it relies upon the following statement made at the top of the pay roll: "Mark the time each day in ink under the proper date, using full or fractional marks for part of a day as earned." The Attorney-General insists that, inasmuch as Manuel Manalo was not present all of the day, the time during which he was present should have been indicated by a.

fractional mark. There are no fractional marks upon this time roll. Mr. Dorrington, the then superintendent of public buildings and a witness for the Government, was asked: "What mark is generally made on the labor pay rolls to indicate a man has worked one-half a day?" and he answered: "I do not know what would be put there in a case of that kind." He further testified: "Q. Have you ever seen on the pay roll a man's name for one half a day's work?—A. Not that I recall; it may be possible in some cases; I do not recall."

If that part of the certificate signed by the defendant which states that he had been in charge of the men was correct, and that part which states that the labor had been performed was correct, the only question is, Is that part of the certificate which says "that the roll is correct," false or true? After considerable hesitation we have come to the conclusion, in view of all the testimony in the case, that it can not be said that this statement was false; in other words, that the vertical lines do not necessarily mean that the person against whose name they appear was present in the building during every hour of the day. The defendant, therefore, can not be convicted of the crime of falsification of a public document by a public official.

There are some additional facts in the case not before stated, which to our mind have no bearing upon the precise question in this case, namely, whether the defendant is guilty of the crime charged against him, for the crime thus charged does not depend upon the advantage or profit which the defendant may obtain from the falsification. A defendant may be guilty of this crime without in any way profiting thereby. The additional facts referred to are the following:

It was proven by the Government and admitted by the defendant, that during the month of April, and for some time before, Manuel Manalo was and had been the defendant's cook; that after he had finished his work at the city hall in the morning the defendant gave him money and sent him to the market where he bought provisions; and that he returned to the city hall, stayed there until about 9 o'clock, and then went to the defendant's house where he worked as cook until about 2 o'clock in the afternoon and then went to his own house. For these services as a cook the defendant paid nothing, although he claims that he was educating the minor child of Manuel Manalo. That this conduct of the defendant in availing himself of the services of Manuel Manalo under the circumstances was grossly irregular and that it perhaps constitutes a crime under the provisions of the Penal Code is not to our minds decisive of the question here raised. However delinquent the defendant may have been, the question here is, Did his delinquency amount to the crime of the falsification of a public document? If it did not, he must be acquitted of the present charge and we can not inquire under this complaint as to what other offense he may have committed.

The judgment of the court below is reversed and the defendant is acquitted, with the costs of both instances de oficio.

Arellano, C. J., Torres, Mapa, and Tracey, JJ., concur.

Johnson and Carson, JJ., dissent.

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