

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. PIO VY GUICO, DEFENDANT AND APPELLANT.*G.R. No. 4696. December 09, 1908*

Ponente: TORRES, J.

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Toward the middle of September, 1907, the accused was about to travel by sea on the Government coast-guard cutter Malecon from the town of Siaton to Dumaguete, Island of Negros. Sun Gong, a Chinaman residing in the last named town, commissioned the accused, Pio Vy Guico, to take with him on board the said cutter 18 empty demijohns that he had in the first-named town, and told him to pay the freight thereon; the accused accordingly paid the sum of one peso, which was the official charge for the carriage of the said demijohns; the captain of the cutter, Frank L. Ligcnca, gave him a receipt, made out in triplicate, the original copy of which was forwarded to the Insular Auditor, and the second copy is attached to the record of the case and appears at folio 16 thereof.

The accused, for the purpose of gain and defrauding Sun Gong of P1 more than he had actually paid, altered the figure "1" and converted it into a "2" in two places in the document, and in addition wrote the words "two pesos" in the middle of the falsified document at folio 3; this amount he collected from Sun Gong who at once paid it, but who, later on, thinking that the said freight was excessive, complained of it to the captain of the cutter, and the crime prosecuted herein was then discovered.

For the above reason the provincial fiscal filed a complaint against Pio Vy Guico on the 27th of January, 1908, charging him with the crime of falsification of an official document, and the corresponding proceedings were instituted ; the trial court sentenced the accused to the penalty of eight years and one day of prision mayor, to pay a fine of 1,250 pesetas, without subsidiary imprisonment, and costs. From said judgment the accused has appealed.

The above facts, which have been fully proven in this case, constitute the crime of falsification of an official document similar in character to a public document, committed by a private individual, a crime defined and punished by article 301 in connection with paragraph 6 of article 300 of the Penal Code, inasmuch as the accused only paid the sum of P1 as freight on 18 demijohns, and in order to obtain gain to the prejudice of the owner thereof, Sun Gong, he altered or changed the amount of P1 entered by the captain of the cutter on the receipt which he issued to the accused in acknowledgment of the freight charge collected, and placed the figure "2" over the "1" written in pencil by the captain; in addition he wrote in the middle of the falsified receipt at folio 3 the words "two pesos," in English, and upon presentation of the document was thereby able to collect from Sun Gong the 2 that were made to appear thereon; all these operations constitute the complex crime of estafa and falsification of a public document to which article 89 of the Penal Code refers.

The receipt issued by the captain of the Coast Guard cutter Malecon, owned by and in the service of the Government of these Islands, is invested with the character of an official document for the reason that it is printed in accordance with the standard form of series A of the administration; it carries the coat of arms of the

Philippines with a notice to the effect that it is an official receipt issued by the Government of these Islands through its employees and officers, among whom is the said captain of a government vessel; therefore, it is undeniable that the said receipt has an official character, and as such is a public document so classified by law for the purpose of defining the crime and punishing the guilty.

Article 301 of the Penal Code says that an individual who shall commit any of the falsifications specified in article 300 in any public, official, or commercial documents, shall be punished with the penalties of presidio mayor and a fine.

Notwithstanding the accused pleaded not guilty, yet he confessed to having made the alterations by order of Sun Gong for the purpose of showing the latter's partner, and entering in the books the expenditure of P2, one for freight and another as compensation for his work; but the said Sun Gong contradicted him and alleged that when the accused presented to him the receipt at folio 3, the figure 2 was already written thereon in two places, and in the middle the words "two pesos," which allegation was confirmed by the fact of Sun Gong having complained to Captain Ligenca of the excessive freight charged. In view of all of which and of the fact that the allegations of the accused have not been proven, his guilt as being the only author of the crime herein prosecuted remains beyond all doubt.

In the commission of the crime no mitigating nor aggravating circumstance is present; therefore the penalty imposed by the law must be applied in its medium degree; the fact that the amount of the damage caused or of the gain obtained was small, can not be considered as a mitigating circumstance, since on account of the nature of the crime, and of the public and social interests affected by it, the falsification of a public document is always considered to be of importance and of far-reaching effects.

In view of the foregoing, and as the judgment appealed from is in accordance with the law and the merits of the case, it is our opinion that the same should be affirmed with the costs of this instance against the accused, provided, however, that the penalty imposed shall be presidio mayor. So ordered.

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

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