

**RUFINO REYES, PETITIONER, VS. THE PEOPLE OF THE PHILIPPINES, RESPONDENT.***G.R. No. 47583. April 22, 1941*

Ponente: MORAN, J.

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On November 18, 1935, on the occasion of the purchase by the offended party, Pio Rontal, of a money order at the Manila Post Office, the accused Rufino Reyes approached him and requested a change of a twenty-peso bill with twenty one-peso bills. The change having been made, the accused requested again for a change of another twenty- peso bill with ten two-peso bills; and, for the third time, another twenty-peso bill with two ten-peso bills. Shortly thereafter, the accused disappeared and when the offended party paid his money order, the Post Office teller immediately noticed that the three twenty-peso bills were fake Philippine National Bank notes. After a call to the Luneta Police Station, two detectives arrived and placed the offend- ed party and his companion, Alejandro Gorrea, in custody. At the investigation, Pio Rontal explained how the three fake bills came into his possession and gave a description of the person who passed the fake bills to him. The following night, twenty persons were arrested and brought to the police station and one of them was the accused Reyes held on a charge of passing counterfeit money. Believing that Reyes might be the one who swindled Pio Rontal, detective Manrique lined up the twenty persons held in custody and Rontal and Gorrea were asked to identify the person who passed the fake bills at the Post Office. Rontal and Gorrea readily identified Reyes.

Upon these facts, the trial court rendered judgment finding the accused Rufino Reyes guilty of a violation of article 168 of the Revised Penal Code and sentenced him to an indeterminate penalty of from eight (8) years, eight (8) months and one (1) day to nine (9) years and four (4) months of prision mayor, to pay a fine of P60 and to indemnify the offended party in the. same amount, without subsidiary imprisonment in case of insolvency. This judgment was affirmed by the Court of Appeals.

Petitioner here contends that it was error for the Court of Appeals not to have made any specific finding of facts with respect to the evidence for the defense. There is no law that so requires. Section 133 of the former Code of Civil Procedure, relied upon by petitioner, does not require a finding upon all the evidence adduced by both parties. (*Aringo vs. Arena*, 14 Phil., 263.) The requirement is that, in criminal cases, decisions of the trial courts should contain statements of the facts upon which such decisions are based. (*U. S. vs. Mariano*, 27 Phil., 132; *U. S. vs. Decaimat*, 33 Phil., 44.) And this is made clear in Rule 116, section 2, of the new Rules of Court, which only requires the decision in a criminal case to "contain clearly and distinctively a statement of the facts proved or admitted by the defendant and upon which the judgment is based."

It is also contended that the Court of Appeals abused its discretion in denying petitioner's first and second motions for reconsideration and new trial. The first motion for reconsideration appears to have been based upon alleged newly discovered evidence consisting of sworn statements of various persons; and, the second, on the alleged retraction of the offended party himself. Settled is the rule that before a new trial may be granted on the ground of newly discovered evidence, it must be shown (a) that the evidence was discovered after the trial; (6) that such

evidence could not have been discovered and produced at the trial even with the exercise of reasonable diligence (U. S. vs. Tan Jenjua, 1 Phil., 51; U. S. vs. Palanca, 5 Phil., 269; XL S. vs. De Leon, 1 Phil, 188; U. S. vs. Zamora, 2 Phil., 582; U. S. vs. Torrente, 2 Phil, 1); and (c) that it is material, not merely cumulative, corroborative, or impeaching (U. S. vs. Luzon, 4 Phil., 343) and of such a weight that it would probably change the judgment if admitted (U. S. vs. Zamora, supra; U. S. vs. Alvarez, 3 Phil., 24; U. S. vs. Luzon, supra; V. S. vs. Hernandez, 5 Phil., 429; U. S. vs. Magtibay, 17 Phil., 417; U. S. vs. Tengco, 2 Phil., 189; People vs. Cu Unjieng, 61 Phil., 906). Evidence which merely seeks to impeach the evidence upon which the conviction was based (U. S. vs. Smith, 8 Phil., 674; U. S. vs. Valdez, 30 Phil., 290; U. S. vs. Dee Chong Poe, 39 Phil., 466; U. S. vs. Singuimoto, 3 Phil., 176), or retractions of witnesses (People vs. Olfindo, 47 Phil., 1; U. S. vs. Dacir, 26 Phil, 503), will not constitute grounds for new trial, unless it is shown that there is no evidence sustaining the judgment of conviction except the testimony of the retracting witness (U. S. vs. Dacir, supra; see also People vs. Gallemos, 61 Phil., 884). The reason for this rule is that, if new trial will be granted at every instance where any interested party succeeds in inducing some of the witnesses to vary their testimony outside of court after trial, there will be no end to litigation. Petitioner's two motions for reconsideration and new trial do not meet the requirements stated.

The remaining error assigned by petitioner refers to questions of facts upon which the findings of the Court of Appeals are conclusive, upon this Court.

The crime committed by petitioner is one of illegal possession of false Philippine National Bank notes defined in article 168 of the Revised Penal Code for which the penalty prescribed is prision mayor in its maximum period and a fine of P7,500. (Article 168 in connection with article 166, No. 1, Revised Penal Code and article 75, Idem). Under the Indeterminate Sentence Law as amended, appellant should be sentenced to a minimum which shall be within prision mayor in its medium period, such being the penalty next lower to that prescribed by the Code for the offense.

Judgment is accordingly modified and petitioner is hereby sentenced to a minimum of eight (8) years and one (1) day and to a maximum of ten (10) years, eight (8) months and one (1) day of prision mayor, to pay a fine of P7,500, and to indemnify the offended party in the sum of P60, without subsidiary imprisonment in case of insolvency, with costs against petitioner.

Imperial, Diaz, and Horrilleno, JJ., concur.

Laurel, J., concurs in the conviction but not in the penalty imposed in the dispositive part.

Avanceña, C. J., did not take part.

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