

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. VICENTE ARCEO, DEFENDANT AND APPELLANT.***G.R. No. 5642. March 18, 1910*

Ponente: MORELAND, J.

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It appears that prior to the commencement of this prosecution the city of Manila, by its Municipal Board, had ordered to be torn down a number of houses whose location the health authorities of the city had declared to be unsanitary for the occupants, and the removal of said houses to the lands of the San Lazaro Estate, there to be reconstructed. In consideration of its act of enforced removal of said houses the city agreed with the owners thereof that it would furnish and pay the workmen required for the tearing down, removal, and reconstruction of said houses and would furnish and pay for all new materials used in such reconstruction. To carry out this order and agreement the city issued to each owner of a house so to be torn down and removed a certificate or permit containing the name of the owner, a description of the house, and the agreement to remove and reconstruct gratis. Among the certificates, or permits, or agreements, was one issued to Severino Pelagio, dated January 18, 1909. About the time that the house was to be torn down and removed to San Lazaro, Severino sold and transferred said house, together with all of his rights under said certificate or agreement, to the wife of the accused in this case, including the right to have the house rebuilt at the expense of the city. The instrument of transfer bears date the 12th of March, 1909. In rebuilding the said houses, the city hired the carpenters and the time they worked was kept daily by the accused, who was their foreman. Among the carpenters so hired by the city was one, Segundo Castro, who was engaged in rebuilding the house formerly owned by said Severino Pelagio and transferred to the accused. Castro worked in the reconstruction of this house from the 15th of April to the 23d of April, inclusive. The charge against the accused is that he reported Castro upon his time book as working for the city when in reality he was working for the accused, and that he thereby sought to defraud the city of the sum which it would have paid for such labor.

The accused was charged in the Court of First Instance of Manila with the crime of falsification of a public document by a public official, was duly tried thereon, convicted and sentenced to twelve years and one day of cadena temporal. He appealed.

It appears from "the facts as detailed above that there was an entire absence of criminal intent on the part of the accused. If the right of Severino Pelagio to have his house rebuilt at the expense of the city, both as to workmen and materials, was a transferable right, a question we do not here decide, then that right passed to the accused. Whether or not that right passed by the transfer, the accused evidently believed it did and acted upon that belief without attempt at concealment or evasion. Accordingly, believing that the city was in duty bound to rebuild the house which his wife had purchased of Severino, he saw no more harm or wrong in charging against the city the time spent by the carpenter Castro in rebuilding it than in charging against the city the time spent by other carpenters who were rebuilding the other houses that had been removed under exactly the same circumstances.

While the methods pursued by the defendant are subject to criticism and were very properly objected to by the

city, we are of the opinion that he should be dealt with civilly or administratively rather than criminally.

The judgment of the court below is hereby reversed, the defendant acquitted and his discharge from custody ordered; costs de oficio.

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

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