

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ESTEBAN T. BALAIS, DEFENDANT AND APPELLANT.

G.R. No. 5965. December 16, 1910

Ponente: ARELLANO, C.J.

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ARELLANO, C.J.:

The defendant, who was the municipal treasurer of Barugo, Province of Leyte, was convicted by the Court of First Instance of the said province of the crime of the falsification of a public document.

This falsification was alleged to consist in his having signed, at the foot of a municipal pay roll, Exhibit B, the printed part thereof which reads thus: "I certify under official oath that the preceding pay roll is correct, that the services have been rendered and the payments made as stated," while in fact V. A. Penaranda, as municipal secretary at a salary of P33, and Bibiano Avestruz, as clerk to the president at a salary of P20, did not render the services as stated in the said pay roll.

The Attorney-General, who prays for the acquittal of the defendant, the appellant, firmly bases his petition on the following argument:

"It is an undisputed fact that Venturito Penaranda and Bibiano Avestruz were duly appointed and qualified as municipal secretary and clerk to the municipal president of Barugo, respectively, when the pay roll, Exhibit B, was made out, and were, really or apparently, discharging the duties of their offices on that date; that the services of municipal secretary and clerk to the municipal president were rendered at the time referred to in the pay roll, and that Venturito Penaranda and Bibiano Avestruz received their respective salaries from the appellant. The latter's certification was an embodiment of these facts, and consequently, it may not be said that he was untruthful in the narration of the facts. The defendant certified that the services of municipal secretary were rendered, and this was the truth."

Since what the defendant certified to was the truth, as proved at the trial, with respect to Venturito Penaranda, by documents signed by the latter as such municipal secretary of Barugo, he did not pervert the truth, and the charge falls to the ground.

It is not the mission of the municipal treasurer to take upon himself to investigate whether the persons who are accredited to him as secretary and clerk by the municipal council and whom he, in turn, acknowledges and pays their monthly salaries, really or apparently discharge the duties of these positions.

The judgment appealed from is reversed and Esteban T. Balais is acquitted, with the costs of both instances de oficio. So ordered.

Torres, Mapa, Johnson, Carson, Moreland, and Trent, JJ., concur.

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