

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. PEDRO PACHECO, DEFENDANT AND APPELLANT.

G.R. No. 5977. February 11, 1911

Ponente: CARSON, J.

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CARSON, J.:

Defendant-appellant in this case was charged with the crime of falsification of a public document by a public official; convicted of the crime of reckless negligence (*imprudencia temeraria*) in the falsification of a public document by a public official; and sentenced to four months and one day of *arresto mayor*, with the accessory penalties prescribed by the code.

Under the doctrine laid down in the case of *Weems vs. U. S.* (217 U. S., 349), and in the opinion of this court deciding the motion of appellant in the case of *U. S. vs. Pico*,^[1] register No. 5487, dated the 11th day of February, 1911, the court below was without jurisdiction to impose the penalty prescribed by the code for the offense with which defendant-appellant was charged, that penalty being in repugnance to the provision of the Philippine Bill of Rights which prohibits the infliction of cruel and unusual punishments.

As a necessary corollary of the doctrine laid down in that case, the court below was also without jurisdiction to impose any penalty whatever upon the defendant-appellant for the crime of reckless negligence (*imprudencia temeraria*) in the falsification of a public document, since the only penalties prescribed by law for reckless negligence (*imprudencia temeraria*) are to be found in article 568 of the Penal Code, and the penalties therein prescribed are made to depend upon the penalty prescribed for the commission of the acts with malice which are penalized in this article of the code when committed without malice but with reckless negligence. No lawful penalty being prescribed by the code for the falsification of a public document by a public official, there is nothing in article 568 defining and penalizing reckless negligence (*imprudencia temeraria*) which authorizes the imposition of a penalty for reckless negligence in the falsification of a public document by a public official.

The sentence of the trial court should, therefore, be reversed, and the information filed in this case together with all the proceedings based thereon should be dismissed with the costs of both instances *de oficio*. The defendant-appellant, if in detention, should be set at liberty forthwith, or if at large on bail, should have his bond exonerated. So ordered.

Arellano, C. J., Mapa, Moreland, and Trent, JJ., concur.

[1] 1 Case No. 6474, Lino Simungal (alias Simungil), and case No. 6648, Jose Batallones, each convicted and imprisoned for the crime of falsification of a public document, were considered and decided at the same time with the same result, and the prisoners were ordered to be set at liberty, unless held upon some other charge.

[1] Page 386, *supra*.

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