

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. JOSE P. DE CASTRO AND VICTOR V. ARAGON, DEFENDANTS. – JOSE P. DE CASTRO, APPELLANT.*G.R. No. 6042. February 21, 1911*

Ponente: MORELAND, J.

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This is an appeal by the accused Jose P. de Castro from a judgment of the Court of First Instance of the city of Manila, Hon. James C. Jenkins presiding, convicting the appellant and Victor V. Aragon of the crime of estafa, and sentencing each of them to 3 years and 6 months of presidio correccional, with the accessory penalties provided in article 58 of the Penal Code, and to pay a fine of 3,000 pesetas and one-half the costs, together with subsidiary imprisonment in case of failure to pay said fine. The judgment also required the accused to refund to W. F. Stevenson & Co. P2,700 as indemnification, with subsidiary imprisonment in case of failure to pay the same.

At the opening of the trial the accused Victor V. Aragon pleaded guilty.

On or about the 8th day of July, 1909, V. C. Rissich, a clerk of the firm of W. F. Stevenson & Co., during business hours, was approached by the accused Jose P. de Castro, who, by his representations, induced Rissich to believe that a cargo of 527 sacks of copra was on board the steamer Lucena in Manila Bay, having been sent by one H. Narciso from the Province of Tayabas to one Pedro Narciso in Manila, and that he, Castro, was the said Pedro Narciso. Believing that these representations were true, and that the accused Castro was the owner of said cargo of copra, Rissich, at the request of the said Castro, advanced as a payment upon said cargo the sum of P4,000. During the course of these representations the accused Castro presented to said Rissich a bill of lading of said cargo, completely made out and properly signed, This bill of lading entirely corroborated the verbal statements of the accused to Rissich, showing upon its face the facts as the accused had related them. This bill of lading was wholly false and fictitious. The verbal representations made by Castro were wholly false and without any basis of fact whatever. The bill of lading was manufactured and falsified by the accused. As a witness on his own behalf he admitted having made the representations above mentioned and having manufactured or assisted in manufacturing: said bill of lading. He asserted, however, by way of defence, that he was acting entirely in good faith, alleging¹ that his coaccused, Aragon, who was a good friend of his, had told him that he, Aragon, had two uncles, H. Narciso and Pedro Narciso, and the one had sent to the other the said cargo of copra and that the same was on board the steamer Lucena then lying in Manila Bay, and that the consignee, Pedro Narciso, not being able to reach Manila within a prescribed time, had authorized said Aragon to make the transaction in question for him. The accused Castro further asserted that Aragon asked him to make these misrepresentations as a special favor to him because he, Aragon, was unable to consummate the transaction with W. F. Stevenson & Co. as he was indebted to them in a considerable sum of money.

It is apparent that there is in reality no dispute as to the main facts of this case. Substantially the whole defense of

the accused is based upon a lack of criminal intention, his counsel asserting that having acted entirely in good faith and upon the honest belief that the representations that he was making were true, he had no intention whatever of injuring anybody or of unlawfully depriving any person of his property.

The learned trial court found himself entirely unable to believe this story, stating in the opinion which forms the basis of his judgment of conviction that the defendant is a man of sufficient intelligence to understand right from wrong, he being a man of education, experience and capacity; and that even if he were deceived at the beginning, he must necessarily have learned the truth before the fraud was consummated, at which time, if he had been an honest man, he would have denounced his friend and prevented the fraud." Moreover, asserts the learned trial court, even if he did not find out the fraud before it was consummated, he certainly must have learned it between the time of its consummation and the date of his arrest, a period extending over about two months, at which time he was morally and legally under the obligation to denounce the transaction and to save the situation as far as he could. He did nothing of the kind; but, rather, took a portion of the money thus obtained and proceeded to spend it in riotous living. These circumstances, taken in connection with the fact that the accused Castro, when arrested, at first denied having taken any part whatever in the transaction, indicated to the learned trial court that he had full knowledge of the aim and purpose thereof.

Upon the proofs we have no doubt whatever of the guilt of the appellant. The learned trial court properly and correctly weighed the evidence. The transaction was a bold and criminal fraud, practiced in a high-handed manner, and fully deserved the condemnation which it received at the hands of the court below.

The information alleges and the proofs show that the appellant in this case committed two distinct crimes, one of estafa, defined and punished under subdivision 1, article 535, of the Penal Code, and the crime of falsification of a private document, defined and punished in article 304 of said code. Inasmuch, however, as the one crime was a necessary means of committing the other, the accused can not be punished for both offenses. Under the provisions of article 89 of the Penal Code, he must be punished in the maximum degree of the more serious crime. Falsification of a private document is the more serious of the two inasmuch as it is punished not only by presidio correccional in its minimum and medium degrees, as estafa is punished, but also by a fine of from 625 to 6,250 pesetas. The maximum degree of presidio correccional in its minimum and medium degrees is from 2 years 11 months and 11 days to 4 years and two months. The penalty imposed by the learned trial court is, therefore, within the law.

The judgment of conviction is affirmed, with costs against the appellant.

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

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