

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. CRISPIN PERALTA, DEFENDANT AND APPELLANT.

G.R. No. 7194. August 17, 1912

Ponente: JOHNSON, J.

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JOHNSON, J.:

This defendant was charged with the crime of estafa, alleged to have been committed as follows:

"The said accused (about the 22d of May, 1910), being sergeant of municipal police of the municipality of Sorsogon, P. I., and as such a public officer, did, with abuse of his office, about the 7th to the 22d of May of said year, demand and receive, from Claro Rentoria the sum of P4 for payment of the latter's cedula for the year 1909; and said accused, upon receiving the said sum, instead of purchasing the required cedula for the aggrieved party, appropriated and diverted it to his own use, to the detriment of said Rentoria, and refused to return it or the cedula, although the interested party demanded that he do so; in violation of law."

After hearing the evidence adduced during the trial of the cause, the Honorable Jose C. Abreu, judge, found the defendant guilty of the crime charged in said complaint and sentenced him to be imprisoned for a period of three months of arresto mayor, with eleven years and one day of disqualification from holding any public office, and to pay the costs. From that sentence the defendant appealed.

After hearing the evidence adduced during the trial of the cause, the Honorable Jose C. Abreu, made the following findings of fact, which we find, upon examination, are fully supported by said evidence:

"In the month of May, 1910, and for some time prior thereto, the accused was municipal police sergeant of Sorsogon. As such police officer he was ordered to arrest all persons delinquent in the payment of their personal cedula. Upon arresting the delinquents and taking them to the city hall, the accused was in the habit of receiving from them various sums of money wherewith to pay their cedula taxes, issuing receipts to the persons who thus delivered money to him. Once he turned into the treasury P50, which he received in the manner before stated, with a list of the persons to whom cedula were to be issued in exchange for the receipts issued by him.

"One Claro Rentoria, who was arrested in the barrio of Guinlajon for not having a cedula, upon being taken to the house of the lieutenant of the barrio, there delivered to the accused the sum of two pesos wherewith to get a cedula for the year 1909, which said Rentoria had not yet bought, the latter promising to deliver later on two more pesos, for he was obliged to pay the penalty for delinquency. This took place on May 7, 1910, and on May 22 the said Rentoria delivered the two pesos remaining to be paid to complete the sum required for the purchase of his cedula for the year 1909. But the accused did not turn in this amount with the P50 before mentioned nor did he get Claro Rentoria's cedula for the year 1909, nor did he return to the latter the said sum, notwithstanding the repeated demands made upon him for the delivery of the cedula or the return of the money. Only some time in October or November, 1910, after it had been discovered that the accused was collecting money without authority from various persons for the payment of their respective cedula, and after several complaints had been made against him to the captain of the Constabulary, who in turn submitted the

matter to the provincial governor, in accordance with the first provision of Act No. 610, did the accused deposit in the keeping of a clerk of the municipal treasury of Sorsogon the said sum of four pesos, instead of returning it to Rentoria."

The appellant attempts to show in his brief that the crime described in the complaint and proven during the trial, does not constitute the crime of estafa.

We think that the facts proven clearly constitute a violation of paragraph 5 of article 535 of the Penal Code, and that the defendant is guilty of the crime charged in the complaint. The sentence of the lower court is therefore hereby affirmed, with costs.

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

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