

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. MANUEL GUZMAN, DEFENDANT AND APPELLANT.

G.R. No. 8196. July 30, 1913

Ponente: JOHNSON, J.

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JOHNSON, J.:

This defendant was charged with the crime of estafa. The complaint alleged:

"That the said Manuel Guzman, on or about February 6, 1909, in the municipality of Enrile, Province of Cagayan, P. I., being and performing the duties of justice of the peace of said municipality, did willfully, illegally, and criminally and with abuse of his office abstract and appropriate to himself the sum of P16, equivalent to 80 pesetas, which he received from Jacinto Camacam as fees for appeal from the judgment rendered in the civil cause prosecuted by Pedro Dayag et al. against Jacinto Camacam et al., for detainer of a parcel of realty, without having applied said sum to the object for which it was paid; nor has he returned it to the said Camacam, having appropriated it to himself to the injury of the said Jacinto Camacam."

After hearing the evidence, the Honorable Carter D. Johnston, judge, found the defendant guilty of the crime charged and sentenced him to be imprisoned for a period of six months and to pay the costs, and to indemnify Jacinto Camacam in the sum of P16, and in case of insolvency to suffer subsidiary imprisonment in accordance with the provisions of law. From that sentence the defendant appealed. The appellant in this court alleges that the evidence adduced during the trial of the cause is insufficient to show that he is guilty of the crime of estafa.

From an examination of the evidence adduced during the trial of the cause the following facts seem to be proven beyond a reasonable doubt:

- That on the 23d of January, 1909, and for some time theretofore, as well as for some months thereafter, the defendant was the justice of the peace in the municipality of Enrile, of the Province of Cagayan.
- That on the said 23d of January, 1909, Pedro Dayag and others commenced an action in the court of the justice of the peace over which the defendant presided against one Jacinto Camacan and another, for the recovery of a certain parcel of land, particularly described in the complaint filed in said cause. (See record, p. 12.) The defendants were duly cited to appear in said court.
- Said cause (Dayag et al. vs. Camacam et al.) was set down for trial, and after hearing the evidence, the defendant rendered a sentence on the 1st of February, 1909, in favor of the plaintiffs and against the defendants for the restitution of the land in question, and ordered the defendants to pay to the plaintiffs the sum of P120 as damages, and to pay the costs.
- The defendants gave due notice of their intention to appeal from the judgment of the justice of the peace and within the time required by law, they deposited with the justice of the peace, the defendant, the sum of P16 required by law, as well as the bond required by law, in order to perfect their appeal to the Court of First Instance.
- 5. Notwithstanding the appeal of Jacinto Camacam and another from the decision of the defendant as justice of

the " peace in said cause, and notwithstanding the fact that the defendants in said cause (Camacam and another) did all that the law required them to do in order to perfect their appeal, the defendant failed to send the record in said cause to the clerk of the Court of First Instance of the Province of Cagayan, as he was required to do under the law.

- That notwithstanding the perfected appeal by Jacinto Camacam and other, the defendant issued an execution upon his said sentence against the defendants and took from them the property in question and delivered the same to the plaintiffs in that cause and by means of an execution, through the sheriff of said province, sold at public auction property belonging to the said defendants, amounting to P120.

The present criminal action against the defendant is based upon the theory that the said P16 paid to him for the purpose of perfecting the appeal and his failure or refusal to return the same made him guilty of the crime of estafa. The Solicitor-General, in a carefully prepared brief, contends that the defendant is not guilty of the crime of estafa as defined and punished under article 534, in relation with article 535 of the Penal Code, but is guilty of the crime of embezzlement, as defined and punished in Act No. 1740 of the Philippine Commission, and that the complaint alleges sufficient facts, if proven, to convict the defendant of the crime of embezzlement. The P16 paid to the defendant for the purpose of perfecting the appeal, by Jacinto Camacam, was not paid to the defendant in his private capacity, but as justice of the peace. The money was not the money of the defendant but belonged to the public funds of the Government of the Philippine Islands. It was the duty of the defendant to account for said funds as a public official of the Government. The defendant received the money without any obligation to return it to the defendants in that cause, but with the obligation to pay the same to the Government. He failed to comply with that obligation. He converted the money to his own use. He is, therefore, guilty of the crime of embezzlement of public funds, punishable under the provisions of said Act No. 1740. We fully agree with the recommendation made by the Solicitor-General. Therefore the sentence of the lower court is hereby reversed, the defendant is found guilty of the crime of embezzlement, and is hereby sentenced to be imprisoned for a period of six months, to pay a fine of P16, and to pay the costs. So ordered.

Arellano, C. J., Torres and Trent, JJ., concur.

MORELAND, J., dissenting:

I cannot agree to the conviction of the accused of the crime of malversation of public funds under the information.

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