

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. JOSE CORRALES, DEFENDANT AND APPELLANT.

G.R. No. 9230. November 10, 1914

Ponente: CARSON, J.

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CARSON, J.:

Jose Corrales, the appellant in this case, was convicted in the court below of the crime of misappropriation of public funds, and sentenced to nine months' imprisonment and to pay the costs of the trial.

The evidence of record conclusively establishes that on June 6, 1913, the accused, who at that time was clerk of the Court of First Instance of Misamis, received the sum of P321.88 from a Chinaman named Melliza, that being the amount of a fine and costs which had been imposed upon Melliza; that instead of giving Melliza the prescribed official receipt, the accused handed him a copy of the judgment of conviction with a note at the foot showing "Multa y costas pagadas" (fine and costs paid); that on June 13, 1913, the district auditor examined the property and accounts of the accused, the property, books, and accounts of his office having been duly submitted by the accused for that purpose; that the sum of P321.88, collected from Melliza, was not turned over to the auditor nor was it found with the funds or property of the accused, nor was any reference to its payment developed as a result of the inspection) that before 12 o'clock on the day following (June 14) an information was filed charging the accused with the misappropriation of this money; that a few hours later the accused went to the house of the auditor, and told him that the amount in question was in the office safe, in the drawer in which he kept his personal funds.

The accused substantially admitted the facts above set out, but claimed that when he received the money from Melliza he was busy, and not having time to enter the receipt of the money in his books, he put it in the drawer of the safe in which he kept his personal funds, intending to make the proper entry at his convenience; that thereafter he forgot all about the incident until after the auditor had closed his examination; that the money continued in the safe in the drawer with his personal funds, and was never withdrawn by him; and that when he recalled the transaction after the inspection, he prepared an official receipt for the money and sent it to Melliza, and then went to the house of the auditor and told him what had occurred.

If this story could be believed it would be sufficient to raise a reasonable doubt as to the existence of any criminal intent to misappropriate these funds in the mind of the accused. But we agree with the trial judge that the evidence of record conclusively establishes the falsity of the account of what occurred as given by the accused.

The auditor testified that when the accused came to him on June 14 to tell him that the money was in the safe, he asked the accused when he had put it there, and that the accused then and there admitted that he had put the money in the safe at about half past 5 of the afternoon of the day before (June 13) after the inspection had been completed. Counsel for appellant does not question the fact that this admission was made to the auditor, though he does contend that the evidence as to this admission should be disregarded, on the ground that it was incompetent and inadmissible.

We are of opinion that the evidence fully sustains the trial judge in refusing to accept as true the story told by the accused on the witness stand, and especially his claim that, through an oversight, the money in question had not been placed with the other government funds in his safe, but had remained untouched in the safe in his office, together with his personal funds, from the time it was received until the day after the inspection, when he informed the auditor that it was in the safe.

The failure of the accused to make any note of the receipt of the money in the books and accounts of his office; his substitution of a nonofficial receipt in lieu of the prescribed official receipt which it was his duty to give the person from whom he received the money; the fact that this money was not turned over by him at the time of the inspection of his office by the auditor, and that he made no reference to it until a criminal prosecution had been instituted against him the day after the inspection; and finally his admission to the auditor that he had returned the money to the safe a few hours after the inspection, all conclusively establish the fact that he misappropriated these funds, and leave no room for doubt as to the falsity of his claim that he had forgotten all about the receipt of this substantial sum of money until after the inspection, and that it had been lying in the drawer with his personal funds from the time when it was received until the day after the inspection when he reported the matter to the auditor.

Counsel for the accused does not attempt to question the truth of the testimony of the auditor as to the admission of the accused that he had put the money in the safe on the afternoon of the day of the inspection of his property and accounts. Counsel contends, however, that this evidence was incompetent and should not be taken into consideration, because as counsel contends: First, it was not first made to appear that it was freely and voluntarily made, without compulsion or inducement; and second, it was not made under oath.

These contentions of counsel cannot be maintained. Counsel relies chiefly on the statutory provisions which forbid the introduction of testimony as to extrajudicial confessions unless it is first made to appear that the alleged confession was made freely and voluntarily and without inducement or compulsion. But a distinction must be made between confessions and admissions. A confession, as distinguished from an admission, is a declaration made at any time by a person, voluntarily and without compulsion or inducement, stating or acknowledging that he had committed or participated in the commission of a crime. The term admission, on the other hand, is usually applied in criminal cases to statements of fact by the accused which do not directly involve an acknowledgment of the guilt of the accused or of criminal intent to commit the offense with which he is charged. The statutory provision excluding evidence as to confessions until and unless the prescribed foundation is laid is not applicable to admissions, which do not amount to confessions although they may be sufficient, when taken together with other evidence of surrounding circumstances, to sustain an inference of the guilt of the accused. The reason for the rule excluding evidence as to confessions unless it is first made to appear that they are made voluntarily does not apply in cases of admissions, although, of course, evidence of the fact that a particular statement was made under duress would tend very strongly to destroy its evidentiary value. It is very clear from all the evidence, and from the circumstances under which the statement was made by the accused to the auditor, that it was not made under duress, and we are of opinion that the trial judge properly took it under consideration as evidence against the accused.

There is no provision of law which prescribes that either confessions or admissions are not competent evidence unless made under oath. It is the fact that they are made by the accused and against his own interest which gives to them their evidentiary value, and provided the fact is established it does not matter whether they are made under oath or not.

The judgment entered in the court below should be affirmed, with the costs of this instance against the appellant. So ordered.

Arellano, C. J., Torres, Johnson, and Araullo, JJ., concur.

Moreland, J., dissents.

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