

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. MANUEL VALDES VACANI, DEFENDANT AND APPELLANT.

G.R. Nos. 43250, 43251. August 22, 1935

Ponente: DIAZ, J.

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DIAZ, J.:

Manuel Valdes Vacani was charged with and convicted of unlawful possession of a revolver, marked LLC & X, caliber .32, with five bullets, in violation of section 2692 in connection with section 878 of the Revised Administrative Code, in criminal case No. 47899 of the Court of First Instance of Manila (G. R. No. 43250); and of unlawful possession of 192 counterfeit 5-peso bills, in violation of article 168 of the Revised Penal Code, in criminal case No. 47900 of said court (G. R. No. 43251). In the first case he was sentenced to pay a fine of P50 with subsidiary imprisonment in case of insolvency, plus the costs of the suit; and in the second, to an indeterminate penalty of from eight years and one day to eleven years and four months of prision mayor, with the corresponding accessory penalties, and to pay a fine of P2,000, also with the costs of the suit. He appealed from said two judgments and in his brief he now contends that the lower court committed the alleged errors stated therein as follows:

"The court a quo erred in holding that the accused Manuel Valdes Vacani had the revolver, Exhibit A, with the five bullets, Exhibit B, in his possession and under his control, with animus possidendi, and in convicting said accused of unlawful possession of a firearm, instead of acquitting him with costs de oficio.

"The court a quo erred in holding that the accused Manuel Valdes Vacani had the 192 counterfeit bank notes, Exhibit C, in his possession and under his control, with animus possidendi, and with intent of using and circulating them, knowing that said bills were counterfeit, and in convicting him by virtue thereof of the crime defined in article 168 of the Revised Penal Code, instead of acquitting him with costs de oficio."

By agreement and upon petition of the prosecution and the defense, the two cases in question were tried jointly in the lower court, and the judgments appealed from were rendered in the same decision.

According to the evidence for the prosecution, consisting of the testimony of policemen Fortunato Mercado and Anacleto Bustamante and of the objects and documents of record as Exhibits A (a revolver), B (five bullets), C (192 counterfeit bills), D (cans, pieces of wood, pieces of paper), E (printing press), and F (appellant's statement in the afternoon of his arrest), appellant was caught at about 2 o'clock in the afternoon of May 25, 1934, in his house situated at No. 1061 Dart Street, in possession of a revolver with the marks and caliber above stated and with five bullets, and 192 counterfeit bills which were an imitation of 5-peso certificates of deposit issued by the Treasury of the Philippine Islands.

The appellant did not deny, but on the contrary, admitted that all said articles had been found in his possession, but alleged and attempted to prove in his defense that they were not his and that they had been brought to his house in a package on the night of May 24, 1934, by an unknown young man who told him that they were sent by

one Paco Ponce. He affirmed that said young man also handed him a note reading, more or less, as follows: "Friend Valdes (or Mr. Valdes). I am sending you this package with the request that you keep it for me until I come to see you. I also request you not to open it"; that immediately after the note and the package were turned over to him, said young man left in a taxi under the pretext that he was in a great hurry; that as soon as the young man was gone, he opened the package and found that it contained the revolver (Exhibit A), with its five cartridges (Exhibit B), and the 192 bills in question (Exhibit C); that he immediately tried to locate said Ponce from among the three persons whom he knew bore the same name and from whom he suspected said package had come; that not having found him on the night he received the package or the following morning, he then decided to report the matter to the constabulary through Lieutenant Simeon Garcia who, according to him, was his friend with office in the Bureau of Public Works at Port Area; and that as he failed to find said lieutenant therein, he left the latter a note, Exhibit 1, which reads as follows:

"5/25/34

"Lieutenant Simeon L. Garcia.

"My Dear Lieutenant: This is the second time this morning that I come to your office because I find it necessary to talk to you about certain prohibited articles which have accidentally come to my possession. It is 11 o'clock in the morning and I cannot wait for you any longer as I also 'have other important things to do, and so I request you to wait for me here this afternoon between two-thirty and three, when I shall come back.

"Yours affectionately,

"M. Valdes"

The appellant also alleged and attempted to prove that when the policemen, who went to his house showed him the search warrant, with which they were provided, he forthwith told them that he had the counterfeit bills which they were looking for and that he proceeded to deliver the bills immediately to them together with the revolver, Exhibit A.

None of the defenses set up by the appellant may be given credit for the following reasons:

Policeman Mercado who had received orders to watch the house of the appellant and to observe his movements from the latter part of April, 1934, testified that at about noon of May 25, 1934, he saw the appellant arrive at his house and enter his room carrying a revolver in his belt and in one hand a package which he placed on the table; that a moment later said policeman saw him examine against the light a bill of the nature of the counterfeit bills forming part of Exhibit C; that when Mercado and other policemen, whom he had telephoned right away about what he had seen a few moments before, went to the appellants house with the corresponding search warrant, said appellant told them that he no longer had the counterfeit bills which they were searching for because they had been taken away by the same person who had brought them there the night before; that this notwithstanding, when they /insisted on searching the house anyway, the appellant whispered to his wife what she should do, as she was seen to go downstairs and to return immediately to the appellant, not having succeeded in entering the closet where it seemed she wanted to go, because one of the policemen had gone there before her and taken the revolver, Exhibit A, with its bullets, from under her clothing, the appellant telling them later that it was all he had; that upon seeing that they were not satisfied with such excuse, as they were more determined to search the entire house, he delivered to them the package of bills, Exhibit C, concealed in a straw hat hanging on a wall of his room, again telling them that he had nothing more; that in addition to the things voluntarily delivered to them by the appellant, they found the printing press, Exhibit E, and the cans of paint, pieces of wood and pieces of paper, Exhibit D. All of this in addition to the circumstance that the appellant's testimony during the trial greatly differs from his statement at the police station in the afternoon of his arrest, shows that he had the revolver and the counterfeit

bills in question in his possession, not as he claimed, but with intent to keep and later use them for his benefit.

It should be borne in mind that when the facts were yet very recent and fresh in the mind of the appellant, as they had taken place only a few hours before he made his statement, Exhibit F, he affirmed in said document that although he had wondered why said Paco Ponce sent him the package in question, he did nothing to locate him or to bring said package to the authorities until the following day. However, testifying in his favor during the trial, he said that the first step taken by him upon knowing that the package contained articles forbidden by law was to look for Paco Ponce in the house where he knew Ponce resided (Zurbaran Street), but as he did not find him therein because the doors were locked, he left things as they were until the following day.

It should also be borne in mind that in his statement to the police, Exhibit F, appellant stated several times that he intended to deliver the package containing the revolver and the counterfeit bills to the police, but, testifying during the trial, he changed front stating that he decided not to report the matter to the police because he suspected some members thereof, having formerly charged him with unlawful possession of counterfeit bills, but to the constabulary with the aid of his friend, Lieutenant Simeon L. Garcia.

If to all this are added the circumstance that the appellant did not keep the note sent him by said Paco Ponce in spite of having discovered later that said package contained articles prohibited by law; the other circumstance that, according to his own testimony, his first intention was to locate Paco Ponce beforehand in order to tell him to destroy said articles because he did not want to prejudice him; and the additional and more important circumstance that he told nothing to the policemen about the note which he had left in Lieutenant Garcia's office, which shows that said note is merely a fabricated evidence, there is stronger reason to believe that the accused had all said articles in his possession for an unlawful purpose. If this is not so, why did he have the printing press, inks and the pieces of paper, Exhibit D?

The excuse given by the appellant to the policemen in the same afternoon of his arrest that his state of mind on the night he received the package containing the revolver and the counterfeit bills was such that he knew not what to do, for which reason he had to leave things as they were until the following day, is childish. The fact that the appellant wrote the letter, Exhibit 1, to Lieutenant Simeon L. Garcia and left it in the latter's office, has all the earmarks of a pure invention calculated to prepare for himself a good defense; because when his statement was taken at the police station he made no mention of having gone to said lieutenant's office or to the Bureau of Public Works, which incident he should not have forgotten, being much more important than all the other incidents referred to in his statement, Exhibit F. It is probable that the appellant, knowing that Lieutenant Garcia was not in his office, went there to leave the letter in question in order to prepare beforehand a good means of defense in case he should be prosecuted, a thing certainly not unusual in a man with the qualities of the appellant, who is educated and intelligent, and furthermore has already had the experience of having been prosecuted once, although unsuccessfully, for the same crime of unlawful possession of counterfeit bills; inasmuch as the very context and nature of the letter in question, which contains accurate data of the number of times and the hours when the writer thereof was in the office of said officer for the purpose of seeing him in connection with certain prohibited articles which, according to him, had accidentally come to his possession, indicate that he has prepared it for said purpose; and this is all the more clear because he did not make said letter a secret, having left it open, and without envelope, notwithstanding the fact that it refers to things that might seriously prejudice him, as if purposely to invite whoever might see said note to read it and be informed of its contents. The testimony of Lieutenant Garcia discloses that he was in the province in the morning of May 25, 1934, for which reason he was informed of said letter only about the early part of the following month.

The fact that the appellant at first denied to the policemen who conducted the search in his house that he had counterfeit bills in his possession, telling them, upon being shown the judicial warrant with which they were

provided, that he only had a revolver, when he very well knew that they had not gone there in search of any weapon, shows no other than his intention to conceal the bills, Exhibit C; as he might have then thought it preferable to suffer a light penalty for unlawful possession of a firearm to losing said bills; and he might have also thought that with said stratagem he could perhaps mislead the policemen and induce them to leave his house without conducting any search and thus retain the bills in question,

In view of the foregoing, we are of the opinion and so hold that none of the alleged errors assigned by the appellant as committed by the lower court is tenable, and that said appellant is, in fact guilty of the two crimes with which he was charged in cases Nos. 47899 and 47900 of the Court of First Instance of Manila (G. R. Nos. 43250 and 43251).

The penalties imposed upon him in said two cases are in accordance with law, wherefore the two appealed judgments are affirmed in all their parts, with costs to the appellant. So ordered.

Abad Santos, Hull, Vickers, and Recto, JJ., concur.

Judgments affirmed.

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