

G.R. No. 875

[G.R. No. 875. October 13, 1902]

**THE UNITED STATES, PLAINTIFF AND APPELLANT, VS. MATEA JOSE ET AL.
DEFENDANTS AND APPELLEES.**

D E C I S I O N

COOPER, J.:

Matea Jose and Sotera Galves; were charged with the crime of *estafa* committed as follows: That Matea Jose and Sotera Galvez on the 2d day of December, 1901, received from Benita Varela twelve pieces of jusi cloth of the value of 300 pesos, and forty pieces of pina cloth of the value of 200 pesos, as a deposit on commission for administration, under the obligation to sell the same and return the profits thereof to the said Benita Varela; that the said Matea Jose and Sotera Galvez refused afterwards to deliver to the said Benita Varela either the cloth or the money derived from the sale of the same. The defendants were tried in the Court of First Instance in the city of Manila and acquitted of the charge.

The acquittal of the defendants was based upon the fact that such contradictions were found in the evidence as to cause a reasonable doubt as to the guilt of the defendants. We have examined the testimony and find many discrepancies which seem to justify the conclusion reached by the Court of First Instance. The prosecuting witness, Benita Varela, in her testimony states that on the 2d day of December, 1901, she delivered to the defendants, Sotera Galvez and Matea Jose, twelve .pieces of jusi cloth and forty pieces of pina cloth with the understanding that the cloth was to be sold and money paid over, or the goods returned that same evening. That the defendants disappeared and never returned again; that Sotera had been her laundry woman for two or three years; that the goods were delivered to the defendants jointly, but on the faith of her acquaintance with Sotera. In her testimony she says that she began to look, for Sotera after Christmas and contradicts this by saying that she began the search for Sotera on the day the goods were delivered to her, December 2. She says that she saw Sbtera only once afterwards, then testifies that she saw her twice.

She testifies that Sotera continued as her laundry woman until the date of arrest—13th of February. Sotera also testifies this. It is hardly probable that the witness should have retained Sotera as laundry woman if such defalcation had occurred, and still less probable if Sotera so continued that the witness should *not have* seen her quite frequently.

The witness testifies that she never had a like transaction with the defendants except on December 2, when the twelve pieces of jusi and forty pieces of pina were delivered. The testimony of the accused Sotera shows that she had been in the habit for a long time of taking goods on commission from the prosecuting witness. Both defendants deny the occurrence out of which the prosecution arose, but testify to previous transactions had with the prosecuting witness.

There are other discrepancies in the statements made by the prosecuting witness and also in the statements made by the other witnesses produced. While there is evidence to show that the transaction occurred, as stated by the prosecuting witness, and testimony showing a confession by the defendants of having had a transaction with the prosecuting witness on the date mentioned, still there are such discrepancies in the evidence as would cause a reasonable doubt, and the Court of First Instance did not err in acquitting the defendants.

The judgment of acquittal is affirmed, with costs *de officio*.

Arellano, C. J., Torres, Smith, Willard, Mapa, and Ladd, JJ., concur.