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[G.R. No. 472. April 28, 1902]

**THE UNITED STATES, COMPLAINANT AND APPELLANT, VS. JOSE REYES,
DEFENDANT AND APPELLEE.**

D E C I S I O N

MAPA, J.:

The complaint charges the defendant with the crime of *estafa* and falsification, and alleges that he, while an employee of the Manila-Dagupan Railway, on the 18th of July, 1901, in the vicinity of the Province of Manila, issued a ticket to a passenger who was going from Manila to Caloocan, and who continued his trip to Malolos; that the difference in the fare amounted to 1 peso and 22 cents; that the ticket issued simulated that the trip was from Manila to Bocaue and the charge only 18 cents; and that he rendered account to the company for this amount, appropriating the balance of the sum received.

It appears, therefore, that the complaint does not precisely designate the place where the falsification was committed, nor where occurred the appropriation of the money with which the accused is charged. The testimony introduced has not resulted in determining the first point, but this is not the case with respect to the second. It appears from the testimony of the accused himself that he rendered an account, to the station master at Tarlac, of the money collected on the trip in question that he there delivered the money collected during the trip, amounting to 6 pesos and 48 cents, and that there also, finally, he delivered the stub in which, it is charged, the simulation or falsification denounced was committed. There is nothing in the record to contradict or offset the testimony of the accused. In addition to his testimony the record discloses an itemized account of the collections made by him on the trip in question, in which appears the entry corresponding to the stub alleged to have been falsified. This document is dated in Tarlac and contains an invoice of delivery, signed by the accused, and a receipt, signed by the station master at that point, for the sum of 6 pesos and 48 cents. As part of this sum is included, the 18 cents entered on the stub in question which

appears as one of the vouchers of the account referred to. This document fully corroborates the statements of the accused, and these facts considered together constitute in our judgment a sufficient demonstration that the appropriation of the difference resulting between the sum of 18 cents entered on the stub and the 1 peso and 22 cents actually collected as charged in the complaint was consummated in Tarlac, and that in Tarlac, also, he made use of the stub referred to in rendering an account of the trip in question, and delivering the amount collected to the station master at that point.

This being so, under article 29 of the General Compilation of Laws upon Criminal Procedure, jurisdiction to try the offense charged is vested in the court of Tarlac, not only because it was within the territory of that court that the appropriation constituting the crime of *estafa* charged was committed, but also because within the same territory the accused made use of the document alleged to be false, it not appearing with certainty, on the other hand, at what place the falsification was committed. (Judgment of the supreme court of Spain of October 7, 1896.)

The fact that the Court of First Instance of Manila took jurisdiction of the offense charged, because, in the opinion of the court, the place of the commission of the crime was not clearly shown, is not an obstacle to the court's declaring itself to be without jurisdiction as soon as the lack of jurisdiction appeared from proceedings subsequently had. Jurisdiction over criminal cases can not be conferred by consent. (Art. 23 of the compilation above cited.)

We therefore affirm the order appealed, with the costs of this instance to the appellant.

Arellano, C. J., Torres, Cooper, Willard, and Ladd, JJ., concur.