

1 Phil. 130

[G.R. No. 198. February 14, 1902]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. JUAN LLAMES,
DEFENDANT AND APPELLANT.**

D E C I S I O N

TORRES, J.:

As a clerk in the internal-revenue office of Ambos Camarines, Juan Llames received from the Chinaman Chua-Tauco the sum of \$15.25, Mexican currency, which the latter paid on behalf of Gregorio Loriña as fees on forestry products. Llames executed a receipt for the said sum (dated October 26, 1897), falsifying therein the signatures of the collector of internal revenue, Joaquin Mendoza, and of the superintendent, Ramon Maria Saidin, which to all appearances authorize the said document, which is of the kind which is issued by the Internal Revenue Department, and is on one of the regular printed forms. The falsity of the receipt was discovered, and the document, together with the defendant, was sent to the Court of First Instance, with an official communication from the Civil Governor in which he stated that the accused had confessed his guilt.

The facts related, which are fully established by the evidence adduced by the testimony of the officers mentioned, as well as that of the complaining witness, Gregorio Loriña, owner of the amount embezzled, and by the certificate by which it is certified that the defendant did not turn over the said sum to the treasury of the internal-revenue office, constitute the compound crime of embezzlement with falsification of an official document, penalized in articles 300, 301, and 535, No. 5, together with article 89 of the Penal Code. The crime of falsification was committed as a means to the embezzlement from Gregorio Lorina of the sum which the latter" paid through the medium of the said Chinaman as forestry fees which he owed to the Internal Revenue Department. Therefore the falsification was a necessary means to the consummation of the embezzlement, because the accused, upon the payment of the money to him, was obliged to give an apparently authentic receipt for it.

Of these crimes the sole principal by direct participation, confessed and convicted, is the defendant, Juan Llamas, who, in his examination, admitted that he had executed the false document in his own house, imitating the signatures of the collector and superintendent, availing himself of one of the printed forms which were on hand in the office for receipts and filling with written words the blank lines, and that he had spent the money received.

In the commission of this compound crime no generic circumstance, either mitigating or aggravating, is to be considered, nor should there be considered the circumstance provided for in article 11 of the Code, for the reason that the defendant, as a clerk, has sufficient enlightenment to understand the grave character of the acts which he committed and of their consequences. Therefore the defendant has incurred the maximum degree of the penalty for the graver crime—that is to say, the medium grade of *presidio mayor*, according to article 89 of the Code.

In virtue, then, of the considerations set forth the sentence reviewed should be reversed, Juan Llamas sentenced to the penalty of eleven years of *presidio mayor*, to a fine of 5,000 pesetas, to the accessory penalties provided in article 57 of the Code, to the payment of an indemnity of 15 pesos and 25 centimos, Mexican currency, to the aggrieved party, Loriña, without subsidiary imprisonment for inability to pay the fine and the indemnity, according to article 51 of the Code, and to the payment of the costs in both instances. The order declaring the insolvency of the defendant, made in the attachment proceedings, is approved. So ordered.

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