

7 Phil. 604

[G.R. No. 3247. March 05, 1907]

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ANGELO SAN JOSE,
DEFENDANT AND APPELLANT.**

D E C I S I O N

TRACEY, J.:

The accused was charged and convicted in the Court of First Instance of the city of Manila of the offense of the falsification of a public document. His employer, under contract with the municipality, raised from an estero a sunken banca which was obstructing navigation. It came up broken into two or three pieces, which were put ashore on the bank and kept there for two months under care of a watchman. No owner or claimant for the banca appearing, the accused, in reply to his inquiry what to do with it, was told by his employer to "Go ahead and take charge of it." It was taken to a shipyard in Malabon and there rebuilt, the parts missing or unsound being supplied from other old vessels, the whole costing 250 pesos, paid by the accused, its value when finished being, according to the evidence before us, 300 pesos. Later it was recognized in the river by an agent of the original owner, Francisca Pascual, who reported it to the customs authorities and it was seized as her stolen property. It appeared that both the proper number and the license number of the original banca had been obliterated, but certain of the figures were plain enough to indicate that they may have corresponded with these numbers. Several witnesses for the prosecution testified to the identity of the banca, although slightly changed in dimensions.

In order to secure his license the accused, when the repairs were finished, filed with the custom-house authorities his affidavit in the following form:

"PHILIPPINE CUSTOMS SERVICE.

"OATH OF OWNER OF VESSEL.

“PORT OF MANILA, *Manila, P. I.*

“I, Angelo San Jose, do solemnly swear (or affirm) that I am the owner of the vessel called the banca No. 17559 and that said vessel was built in the year 1905, at Malabon, Rizal, P. I., and is a banca of 11.45 gross tons and 11.45 net tons, has no decks and no masts, her length is 20.55 ms., her breadth 2.61 ms., her depth is 0.89, and that said vessel is engaged in legitimate trade.

(Signed) “ANGELO SAN JOSE, *Owner.*”

“Sworn to and subscribed before me this 23 day of January, 1905.

(Signed) “CHAS. STEINHILBER.

“(Empowered to administer oaths
under the

“provisions of section 21, Act No.
355.)”

This is claimed to be the public document for the falsification of which he is prosecuted.

Be the document public, official, or private, this is a question which it does not seem necessary to decide at present, considering the point raised by the case; the important thing is the accusation of falsity—the failure to adhere to the truth in the narration of facts. This is the very fact that can not be considered as proven, and it can not be presumed. In this criminal case, it can not be established that the accused was untruthful in calling himself the owner, for with only the proofs herein submitted, it does not appear whether at the date of the document the owner of the banca was the person signing, or that the ownership continued the same until the stranding, nor is the taking out of the pieces and their conversion and use substantiated. For, it must be remembered that the banca was submerged in the Pasig River and obstructed its flow, and that the local authorities had contracted for the removal of the obstruction, and, furthermore, when the pieces were removed the contractor left them at the disposition of the accused, who was one of the workmen, and the accused then reconstructed the banca by the use of new material where the old was lacking.

On these facts it would be proper to first determine in a civil suit the ownership of the thing so rebuilt and whether it had acquired the character of abandoned property under article 460 of the Civil Code. Heed should be given to the decisive character of article 88 of the Law of Waters, August 3, 1866. It says:

“Sunken objects in public streams continue to belong to their owners, but if not raised during one year, they become the property of the persons who raise them with the permission of the public authorities. If they offer an obstruction to the flow of water or navigation, the public authorities shall grant to the owners a reasonable time within which to use their right, on the expiration of which they may be raised as *abandoned*.”

Without having investigated these facts, involving a preliminary question, it is impossible *a priori* to pronounce the accused a criminal, guilty of falsehood because he made a statement which may in fact be perfectly true and lawful and at the same time, in an indirect way, to restore to the original owner the property which had already been lost by abandonment. The judgment appealed from is, therefore, reversed, and the defendant acquitted, with the costs *de officio*.

After the expiration of ten days let judgment be entered in accordance herewith and ten days thereafter the cause remanded to the court from whence it came for proper action. So ordered.

Arellano, C. J., Torres, Mapa, Johnson, and Willard, JJ., concur.
