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[G.R. No. 3022. December 06, 1906]

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. SEBASTIAN LOZANO, DEFENDANT AND APPELLANT.

D E C I S I O N

WILLARD, J.:

On the 2d day of September, 1904, Ullmann & Co. recovered a judgment against the defendant for 2,575 pesos and costs. An execution was duly issued on this judgment and returned unsatisfied. Thereafter, in proceedings-supplementary to the execution provided for in sections 474 *et seq*. of the Code of Civil Procedure, the defendant was examined under oath as to his property. He testified on that occasion that the jewels which he had bought from Ullmann & Co., and the purchase of which was the basis of Ullmann & Co. ;s action against him, he had deposited for safe-keeping with Juliana Quichico, wife of Tambunting.

The complaint in this case, which is for perjury, charges that that statement was false and that Juliana Quiohico held the jewels not in deposit but in pledge.

Whether or not false testimony given in proceedings supplementary to execution would constitute a violation of article 321 of the Penal Code, we do not decide, because we think that in no event was the evidence in this case sufficient to prove that the statement made by the defendant in such examination Avas false. The only testimony upon that point is the testimony of Juliana Quichico, who testified that she held the jewels in pledge. The defendant, testifying in his own behalf, was shown a copy of his statement made in the supplementary proceedings and testified that that was the same declaration which he made upon that occasion. According to the practice in force during the Spanish domination this, it would seem, would be a ratification and reiteration of the statements contained in that document, but however that may be, he did not admit at the trial of this case that the statements made by him in the supplementary proceedings were false. We therefore have

his statement made in those proceedings to the effect that the property was held as a deposit, and the statement of Juliana Quichico in this case that the property was held as a pledge. The latter witness testified that there was no written evidence of the pledge. As a general rule the testimony of one witness is not sufficient upon which to base a conviction of perjury. (The United States *vs.* McGovevn,[1] No. 2731, decided November 6, 1906.)

The judgment of the court below is reversed and the defendant is acquitted, with the costs of both instances *de oficio.*

After the expiration of twenty days let judgment be entered accordingly, and ten days thereafter the case will be returned to the lower court for execution. So ordered.

Arellano, C. J., Torres, Mapa, Johnson, Carson, and *Tracey, JJ.,* concur.

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[1] 6 Phil. Rep., 621.

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