

6 Phil. 10

[G.R. No. 2292. March 22, 1906]

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. FRANCISCO CASTRO,
DEFENDANT AND APPELLANT.**

D E C I S I O N

CARSON, J.:

The accused in this case is charged with the falsification of a private document in that on or about the 25th day of February, 1903, he (signed the name of one Eegino Sevilla, deceased, to a certain bill of sale of a boat or *barangay*, the property of the estate of the said Sevilla.

Evidence was introduced at the trial strongly tending to prove that the accused did in fact attach the signature of Regino Sevilla to the document in question for the purpose of defrauding Sevilla's heirs and depriving them of their property in the said boat. It does not appear, however, that any attempt was made to simulate the genuine signature, and there is evidence of record that Sevilla himself did not know how to write or even to sign his own name. This court, adopting the doctrine laid down by the supreme court of Spain, has frequently held that upon a charge of falsification by attaching the signature of another to a written document conviction can not be had unless it appears that an attempt has been made to simulate the genuine signature of that person; and, therefore, while the accused may have been guilty of the crime of *estafa* or one of its allied offenses, he can not be convicted of the crime of falsification of a private document as charged in the information and as defined and penalized in article 304, taken in relation with article 300 of the Penal Code. (Decisions of the supreme court of Spain, December 27, 1882, and April 15, 1885; U. S. vs. Paraiso, 1 Phil. Rep., 66; U. S. vs. Roque, id., 372; U. S. vs. Buenaventura, id., 428.)

The accused is acquitted of the crime with which he is charged and the judgment and sentence appealed, from is reversed with the costs of both instances *de officio*. So ordered.

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

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