

5 Phil. 447

[G.R. No. 2120. December 21, 1905]

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. SIMPLICIO LEYSON,
DEFENDANT AND APPELLANT.**

D E C I S I O N

JOHNSON, J.:

This defendant was charged with the crime of falsification of a public document as a public official, committed in the following manner:

“That on or about the 15th of January, 1904, in the city of Manila, Philippine Islands, the said Simplicio Leyson, being then and there a public official, to wit, a clerk in the employ of the department of assessments and collections, a bureau of the Government of the Philippine Islands, did willfully, unlawfully, feloniously, falsely, fraudulently, and corruptly falsify a public and official document, to wit: A receipt for the payment of industrial taxes, in words and figures as follows: [Here was set out in the complaint a copy of the receipt to which the signature of J. Y. McCarty was signed] in this, that the said Simplicio Leyson did then and there counterfeit and feign the signature of J. Y. McCarty and include in the act of signing the said receipt for industrial taxes the participation of the said J. Y. McCarty, when in truth and in fact the said J. Y. McCarty had no such participation, and by perverting the truth in a narration of the facts in this, that the said Simplicio Leyson did then and there represent and pretend that the said J. Y. McCarty signed the said receipt for the payment of industrial taxes and that the said J. Y. McCarty participated in the act of making the said receipt, when in truth and in fact the said J. Y. McCarty did not sign the said receipt

for the payment of industrial taxes nor participate in the making thereof, all contrary to the provisions of the statute in such cases made and provided." Which complaint was duly signed and sworn to.

After hearing the evidence, the inferior court found the following facts to be true:

First. That the defendant was not a public official, as charged in the complaint, but was an employee in the public service.

"A public official is one who performs an act in the public service by authority vested in him by virtue of his public position. It does not appear that this defendant had any such authority at the time he obtained the receipt to which was added the name of J. Y. McCartney, as aforesaid; the nature of his employment was not such as to make any action or service done or performed by him official."

Second. That the receipt herein-before mentioned in finding No. 1 is an official document.

Third.

That the defendant counterfeited and feigned, upon the public document mentioned in finding No. 2, the signature of J. Y. McCartney, chief of the division in the office of the assessor and collector of the city of Manila, Philippine Islands, who, as supervisor of such department and whose signature was necessary to its completion, thereby apparently completed it.

Upon this finding of facts the inferior court found the defendant guilty as an individual of the falsification of a public document and sentenced him to be imprisoned for a period of seven years of *presidio mayor*. From this decision the defendant appealed to this court.

The evidence adduced during the trial discloses the following facts :

That the defendant, during the latter part of the

year 1963 and the first part of the year 1904, was employed at first as a messenger in the office of the assessor and collector of the city of Manila and later was employed in writing what are known as "*bajas*;" that during said last employment in the said office he had access to the industrial-tax receipts in the said office, which were prepared but not signed; that during the month of January many people were visiting the said office for the purpose of paying their industrial taxes; that on or about the 15th day of January, 1904, a Chinaman called Si Cho went to the said collector's office for the purpose of paying his industrial tax, and there met the defendant, who received from the said Si Cho the sum of 10.50 pesos, in payment of his industrial tax; that the defendant then and there informed the said Si Cho that he would deliver to him a receipt for the said money at his place of business on the following day; that on the 16th day of January the said defendant delivered to the said Chinaman the receipt which was described in the complaint filed in this cause and which was admitted in evidence and marked "Exhibit A" and was numbered 22315, and which contained the name of the said J. Y. McCartey. This signature of the said J. Y. McCartey is alleged to have been signed to the said receipt by the defendant, fraudulently and without authority.

During the trial it was also proven that the defendant had delivered to other Chinamen industrial-tax receipts of exactly the same character as that described above, each containing the alleged signature of the said J. Y. McCartey. These other receipts were identified, admitted in evidence, and marked "Exhibits B, C, D, and E." The said J. Y. McCartey, whose duty it was to sign these receipts before they were issued, stated in open court that the signature which said receipts bore was not his signature. The fact that the defendant had access to the blank receipts in the office of the assessor and collector and the fact that he personally received the money on the said receipt marked "Exhibit A," as well as the other receipts admitted in evidence, and delivered the same to the respective parties, each containing the name of the said J. Y. McCartey, is sufficient to convince us that he forged and counterfeited the signature of the said J. Y. McCartey which the said receipts contained.

It is contended on behalf of the defendant that in signing the name of J. Y. McCartney to the said receipt by him there was no attempt to imitate the signature of the said McCartney and therefore the defendant was not guilty of the crime of the falsification of a public document, and cites in support of this contention the cases following: United States vs. Paraiso (1 Phil. Rep., 66), United States vs. Roque (1 Phil. Rep., 372), and United States vs. Buenaventura (1 Phil. Rep., 428).

It is true that these cases sustain the doctrine that when there has been no attempt made to imitate the signature or writing of another there can be no conviction for the falsification of a document. These cases were based upon Spanish jurisprudence.

However, an examination of the signature, made by the defendant, of J. Y. McCartney to "Exhibit A," the document alleged to have been falsified, in comparison with the true signature of the said J. Y. McCartney affixed to "Exhibit F," convinces us that there was a manifest attempt on the part of the defendant to imitate the true signature of the said J. Y. McCartney; therefore we conclude that the defendant, in signing the name of J. Y. McCartney to the said document marked "Exhibit A" attempted to imitate the signature of the said J. Y. McCartney and is therefore guilty of the falsification of said document.

The receipts issued by the department of assessments and collections of the city of Manila are public documents; therefore when the defendant falsified the same he was guilty of the falsification of a public document.

The defendant was not only charged with falsifying a public document but he was charged with falsifying a public document as a public official. A public official or a public functionary is defined by article 401 of the Penal Code as follows:

"For the purposes of this and of the preceding titles of this book, every person shall be considered a public official who, by the immediate provisions of law or by popular election or appointment by competent authority, takes part in the exercise of

public functions.”

It appears from the evidence that the defendant had been duly appointed as a clerk in the office of the said assessor and collector of the city of Manila and that the duties which he performed were in their nature public duties.

In our judgment, therefore, the defendant was a public functionary within the provisions of said article 401 and that he did, as such, counterfeit the signature of J. Y. McCartney to the document admitted in evidence during the trial of said cause marked “Exhibit A.”

It is the judgment of this court, therefore, that the defendant is guilty of falsifying a public document in the manner and form charged in said complaint. The judgment of the inferior court is therefore hereby reversed and the defendant is sentenced to be imprisoned for a period of twelve years and one day of *cadena temporal*, to pay a fine of 1,250 pesetas, and to pay the costs. So ordered.

Arellano, C. J., Mapa, Carson, and Willard, JJ., concur.
