

5 Phil. 149

[G.R. No. 2284. October 20, 1905]

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

D E C I S I O N

TORRES, J.:

The defendant in this case is charged with the crime of falsification of a public document, defined and penalized in paragraphs 4 and 7 of article 300 of the Penal Code.

The trial court, after considering the complaint and the proof introduced at the hearing of the case, rendered judgment on the 4th of November, 1904, convicting the defendant Jose Paraiso of the crime charged in the complaint, and sentenced him to the penalty of fourteen years eight months and one day of imprisonment, and to suffer the accessory penalties of article 56 of the same code, and to the payment of a fine of 5,001 pesetas, or its equivalent in Philippine currency, with costs.

It was proven during the trial of this case that the defendant, Jose Paraiso, was a municipal treasurer, and that he also performed the duties of deputy provincial treasurer, and that as such official, and taking advantage of his office, he collected from some of the residents of the town of Lumbang certain sums of money in excess of the actual amount authorized by law for poll tax certificates issued to them, and failed to pay the same to the provincial treasurer; that notwithstanding this he entered upon the stubs of the said certificates smaller amounts than those actually collected, thus retaining for his own personal use a major part of the money thus collected; that in

making out his abstracts of collections with reference to the stubs, he certified the same as correct, and presented them officially to the provincial treasurer, thereby committing a falsification in that he failed to state the truth in the narration of the facts, and concealed the exact amounts collected by him, with intent to gain, and to this effect he made certain changes and alterations upon the stubs, in violation of the law.

This is not a case of falsification of poll-tax certificates, as provided for in articles 306 and 307 of the Penal Code.

The crime established, and that for which the defendant is directly responsible, is that of having presented an abstract of collections showing amounts falsely entered upon the stubs of certain poll-tax certificates, certified to as an official document, containing the amounts collected for certificates issued, upon which said abstract of collections there appear amounts smaller than those shown on the certificates to the taxpayers.

The provincial treasurer, Mr. Lamb, after explaining that the amounts shown on the abstract of collections were a resume of the amounts shown on the stubs, and that the total amount shown on the stubs was the only amount paid by the defendant to the treasurer, stated that the abstracts of collections that had been exhibited to him for identification were the same ones that were presented and signed by the municipal treasurer, Jose Paraiso.

Mr. Lamb further identified the signatures appearing upon the certificates that he then had before him, he being well acquainted with the signature of the defendant, which appeared in many letters and notes that he had received from him. This witness further testified that the amounts shown on some of the certificates issued by the accused were larger than those appearing on the abstracts, referring, among others to the certificate issued to Pedro Rabie, from whom the defendant received the amount of 6 pesos, whereas in the stub corresponding to the said certificate the amount of 2 pesos was entered. His testimony was corroborated in this respect by Manuel Abad,

the clerk of the defendant, who also testified that when the provincial treasurer went to Lumbang in order to investigate the accounts of the municipal treasurer he asked the president of the municipality why the sum of 6 pesos had been charged for some of the certificates; this in the presence of three other persons besides himself and Mr. Lukenbill, who stated that the stubs of the certificates were compared by him with the abstract of collections signed by the accused Paraiso and found those marked "A" and "H" to correspond with each other, but that the amounts entered upon some of the certificates did not correspond with their respective stubs. The treasurer, Mr. Lamb, further testified that the accused had admitted to him that he had in fact issued certificates for an amount different than that appearing on the stubs, and asked him to protect him, promising that he would not do it again.

The forty certificates issued by the accused show different amounts-that is to say, 6, 5, 4, and 3 pesos in a majority of them-which said amounts were larger than those appearing on the corresponding stubs, and as the official abstracts made out and presented by the accused to the provincial treasurer showed smaller amounts falsely entered upon the stubs, there is no doubt that the defendant committed the crime of falsification, with intent to gain, upon the stubs of the certificates, and particularly upon the official abstracts presented to the provincial treasurer, which said crime is defined and punished in paragraphs 4 and 7 of article 300 of the Penal Code.

The defendant pleaded not guilty, and presented various witnesses, whose testimony can not, however, overcome the evidence introduced by the prosecution; nor can the two certificates exhibited by the defense have this effect, because the very fact that some of these certificates issued and signed by the accused correspond with the stubs, and the further fact that he presented an abstract as to the amounts shown on the stubs corresponding to their certificates, is the best proof of the fact that the certificates introduced in this case were genuine, and were actually issued by the accused, and not by any employee of his.

As to the allegation of the defense relative to the multiplicity of

the crimes charged in the complaint, it will be noticed that the defendant is charged with one single crime of falsification, although in order to better establish the criminality of the accused it became necessary for the prosecution to make a detailed statement of the various criminal acts committed by the accused. If there was any doubt at all, the defense could have excepted by demurrer to the sufficiency of the complaint in which several crimes were charged, but the fact is that neither the accused nor his counsel took advantage of any such exception, nor was any motion made to have the defendant charged with only one crime.

Therefore this is not a case in which the defendant is charged with two or more offenses, for which various penalties may be imposed, nor is it a case of various crimes punished with a single penalty, in accordance with articles 87 and 89 of the Penal Code. Consequently the provisions of section 11 of General Orders, No. 58, have not been infringed by the trial court.

The accused, Jose Paraiso, was charged with the crime of falsification of a public document, and notwithstanding the fact that the complaint contains various charges of falsification committed by the accused, the fact remains that no exception having been taken by the defense to the said complaint, no reason exists why the judgment appealed from convicting the defendant of a single crime should be held defective. The judgment of the trial court is in strict conformance with the proof presented by the prosecution, as well as the defense, and the merits of the case and the law applicable thereto. There is no doubt that the defendant is guilty, and that, as has been demonstrated, had acquired the reprehensible habit of falsifying documents for the purpose of gain.

There being no aggravating or mitigating circumstances to be considered in this case, the judgment of the trial court should be confirmed, with costs to the defendant. Let the cause be returned to the trial court, with a certified copy of this decision, and also of the final judgment that may be entered in accordance therewith, for its execution. So ordered.

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

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