

[G.R. No. 1934. April 29, 1905]

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. JUAN DE LEON ET AL.,
DEFENDANTS AND APPELLANTS.**

D E C I S I O N

CARSON, J.:

Juan de Leon and Albino de Leon, the accused in this case, were found guilty in the Court of First Instance of Tarlac of the crime of uttering a counterfeit bank note, as defined and penalized in article 292 of the Penal Code, and sentenced to two years and five months of *presidio correccional* and a fine of 625 pesetas and the payment of the costs of the proceedings.

The case comes to this court upon the appeal of Albino de Leon, no appeal having been entered on behalf of his coaccused, Juan de Leon. It appears that the accused were brothers, and that Juan de Leon having paid a debt with a counterfeit 50-peso note of the Spanish-Filipino Bank, and the creditor having expressed some doubt as to the genuineness of the note, the said Albino de Leon assured him that the said note was good, and promised that if it should prove to be counterfeit he himself would make good the loss. It was further shown that the note was in fact counterfeit and that the said Albino de Leon refused to make good the amount as he had promised.

The crime with which the appellant was charged is defined and penalized in article 292 of the Penal Code, and in order that it may exist it must be shown affirmatively that the note in question was uttered knowing it to be counterfeit.

It was not proven that Albino de Leon was aware that the note in question was counterfeit when he aided his brother in uttering it, and guilty knowledge of this fact being an essential element of the crime with which he was charged, he should not have been convicted either as principal or accomplice.

The sentence appealed from should therefore be reversed in so far as it affects the said Albino de Leon, with the costs of this appeal and one-half the costs of the proceedings in the trial court *de officio*. So ordered.

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

Date created: May 14, 2014