

1 Phil. 127

[G.R. No. 106. February 14, 1902]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. EMILIANO PARAISO,
DEFENDANT AND APPELLANT.**

D E C I S I O N

WILLARD, J.:

In the year 1900 the defendant was the agent in Vigan of the business house known as "The Philippine Trading Company." In the month of March he signed a document with the name of Luis Encarnacion in which it was made to appear that the latter had received from him as such agent the sum of 150 on account of the purchase of 100 picos of maguey. In July he signed with the same name a similar receipt for the sum of \$970. During the trial the defendant confessed that it was true that the receipts were false, that he had not bought maguey from Encarnacion, and that he had not paid the latter any money. He signed the receipts in imitation of the writing and rubric of Encarnacion.

The accused kept the said receipts in his house without having delivered or shown them to anyone or made any use of them. Van Sternberghe, then the cashier of the accused, produced them to the court. It does not appear how the latter obtained them, although the counsel for the defendant stated at the trial in the court below that while the accused was absent in Manila Van Sternberghe, who lived in his house, took the said receipts.

The defendant made false entries in the books of the company by which it appears there were paid to Encarnacion on the dates of the receipts the sums which are stated therein. Nevertheless he is not accused of any crime based upon the said entries. The complaint is limited to the falsification of the receipts. It is probable that the entries were made first, the receipts having been drawn up later in order that they might be availed of in corroboration of the entries. It is not explained to us how the fact of the existence of these entries can have any relation to the facts of the case. It is not proved that prejudice to the company might have arisen because of the entries or the receipts.

The crime provided for and punished in article 304 is not committed by the mere falsification of the document. It does not suffice that the document itself be false, but there must also be proved the prejudice caused to a third person or the intention to cause it. And here we find a certain difference between this and other crimes, as, for example, the counterfeiting of money. (Art. 280.) In order to cause prejudice to a third person it is absolutely necessary to make use of the falsified document after it is written—that the person who executes it realizes some act which makes it effective. If a person falsifies a promissory note and keeps it in his house it can not in any manner operate to the prejudice of a third person. If an individual falsifies a promissory note and, after keeping it in his house for a time, destroys it, he does not prejudice anyone by the mere fact of having made it. It is evident that a person can not be declared guilty under the first clause of this article “to the prejudice of a third person” unless he does two things; in the first place he must have counterfeited the false document, and secondly, he must have performed an independent act which operates to the prejudice of a third person. It appears equally evident that the same rule should be applied to the second clause “with intent of causing it.” In the first place he must have counterfeited the document, and secondly, he must have performed some other independent act in order to make use of it—an act which, while it does not result in prejudice to a third party, has been done nevertheless with the intention of causing such prejudice. The fact that no prejudice has been caused would not be due in such case to the desistance of the defendant himself but to causes absolutely independent of his will. To maintain the contrary would be equivalent to completely suppress from the article the phrase “to the prejudice of a third person,” because in every case there exists undoubtedly in the mind of the falsifier at the time of uttering the document the idea or intention to make unlawful use of the same to the prejudice of a third person. Let us suppose the case in which a person falsifies a check, authenticating it with the signature of another who has money on deposit in the bank. He presents the said check at the bank and the employees of the latter, without noting the falsification, pay him the money. In this case he is guilty under the first clause, since he has caused prejudice to the bank. Suppose that he presents the check and the employees on noting the falsification refuse to deliver him the money. In this case he is guilty under the second clause, for, although nobody is prejudiced, he had the intention of causing prejudice by having performed certain acts to that end. Supposing that he falsifies the check and keeps it in the house without making use thereof, he can not be considered guilty in accordance with either of the two clauses.

The law never punishes the mere intention to commit a crime. For this it is necessary that something be done in the way of putting such intention into effect. In order to class as

criminal (won acts of this kind they must constitute an attempted crime according to article 3 of the Penal Code prevailing. It results evidently that the acts committed by the defendant in this case do not fall within the terms of said article.

The judgment is therefore reversed and the defendant freely acquitted with the costs *de oficio*. It is so ordered.

Arellano, C. J., Torres, Cooper, Mapa, and Ladd, JJ., concur.

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