

1 Phil. 682

[G.R. No. 971. February 03, 1903]

THE UNITED STATES ET AL., COMPLAINANTS AND APPELLEES, VS. PONCIANO VILORIA, DEFENDANT AND APPELLANT.

D E C I S I O N

TORRES, J.:

On the 15th of June, 1900, Maria Mina, a citizen of Narvacan, Ilocos Sur, filed a complaint against Ponciano Viloria for the redemption of a piece of land sold by her to the latter for \$120, subject to the right of redemption, alleging that the purchaser had refused to reconvey the same. The defendant declined to answer the complaint on the ground that the justice of the peace of Narvacan was without jurisdiction, inasmuch as the value of the property sold was \$220 as shown by a private document exhibited at that time. This document, which appears in the record on page 88, was impugned by the private prosecutor as a forgery, and she asked that a prosecution be instituted for this crime. This petition was reproduced in a formal complaint dated on the 14th of August, 1900 (record, p. 1), in which she alleges that the accused presented the said false document *animus lucrandi*, and to the damage of the complainant. That she had not drawn, authorized, or signed the said document, inasmuch as she was absent from Narvacan at the date thereof, and that it was not true that she had agreed to limit the time within which to redeem the property, nor that she had received an increase of \$100 over the \$120, which was the consideration for the land covered by the original document (record, p. 87), and denied that in consideration of the increased price she had sold upon similar terms another piece of adjacent land lying to the east of the first tract, alleging that she was still in possession of the latter property and citing several witnesses to that effect.

Upon this complaint and in view of the result of the preliminary investigation conducted at the instance of the complainant, the judge directed that the defendant be prosecuted for the crime of falsification of a private document. The accused appeared for arraignment and

plead not guilty. In his subsequent testimony he stated (record, p. 128) that about five years ago Maria Mina had mortgaged to him a piece of land belonging to her situated at a place called Tamdagan, at the town of Narvacan, for the sum of \$120; that on the 8th of June, 1898, at the request of Maria Mina, who needed money to pay an indebtedness to one Bonifacio Azada, and in accordance with their agreement, the witness advanced her another \$100 in consideration of another small piece of land adjacent to the land covered by the mortgage, which it was agreed was to be converted into a sale, with the reservation to the vendor of the right to redeem within one year; that in accordance with this agreement he directed Juan Martinez and Severino Cabaya, since deceased, on the afternoon of June 8, 1898, to go to the house of the complaining witness and pay her the said sum of \$100, and that the woman, Mina, herself made the final copy of the contract from the draft drawn, writing it at the foot of the old document, which, together with the draft of the agreement, had been taken to her by the bearers of the money; that the latter upon their return to the house after nightfall brought with them the said writing (original record, p. 88; translation record, p. 211); that Basilia Ballejos, Bonifacio Azada, and the two messengers were eyewitnesses to the writing of the document by Maria Mina. The witness added that when the justice of the peace of Narvacan appointed Don Oregorio Navarro receiver to take possession of the two pieces of land as the result of the civil action brought by Maria Mina that the witness was in possession of the land, and that when the receiver was discharged the land was returned to him.

He who to the damage of another or with the intention to cause damage commits any one of the forgeries or falsifications designated in article 300 of the Penal Code in a private document, is subject to the penalty prescribed by article 304 thereof.

The complaining witness charged the accused with having counterfeited, simulated, or feigned in the document on page 88 of the record her handwriting, signature, and scroll, and of having been guilty of falsehood by having expressed in this document contracts and stipulations which were not agreed upon between them, this with the intention of causing her damage as shown by the fact of his having introduced it in evidence in the civil case as a defense to her action.

The complaining witness, Mina, having denied the authenticity of the document and of the signature and scroll, which it purports to bear, alleging that they are not her signature or scroll, and that she did not write the same, the burden of proof is on the accused who affirms the authenticity of the document and the veracity of its contents to show these facts, and her denial is sufficient for the document to be regarded as false unless these facts are

properly proven.

However, notwithstanding the denial of Maria Mina and her allegation of the falsity of this document, and notwithstanding the testimony of the witnesses presented by her at the trial for the purpose of proving that she was absent from Narvacan and was in Vigan on the date in which the document purports to have been written and signed, and therefore that she could not have written it. and that the land said to have been sold by this document to Viloría with the right of redemption had not been delivered to the latter but was still in her possession, and was under cultivation by Cornelio Cardona at her account, the record shows sufficient evidence to the contrary to prove that the sale actually took place, and that the document attacked as false is authentic.

Upon an examination of the evidence introduced by the accused it appears that four witnesses were present when the complainant wrote and signed the document on the afternoon of June 8, 1898. Only three of them testified to this fact, the fourth witness having died after the occurrence and prior to the trial, although it appears from the record of the preliminary investigation in the case and which was sent up with the trial record that this witness also testified in the same way. It can not therefore be believed that the complaining witness was absent on that afternoon from the town of Narvacan or that she was in Vigan, as testified to by four witnesses. This view is further supported by the fact that two of these witnesses testified only to statements made by one of the other two. The fifth witness, Anatalio Pichay, in whose house the complaining witness, Mina, alleges that she stopped while in Vigan does not remember the date or the year in which this occurred.

Three witnesses, residents of the neighborhood, and owners of property adjacent to the land referred to in the deed, testified that the accused is the owner of the said land which was formerly the property of the complaining witness, Mina, and that Juan Martinez and Bibiana de la Cuadra have been successively cultivating it for the account of the accused since 1898. This is corroborated by the testimony of other witnesses who, however, state that the land was being cultivated in the name of Bonifacio Azada, to whom the accused conveyed the second piece of land. This statement was also made by the accused in his testimony. It is worthy of note that when the land was put in the hands of a receiver at the instance of Maria Mina on account of the civil action referred to, the receiver, Gregorio Nayarro, who took charge of the land, upon being examined as a witness for the prosecution stated that he did not remember who possessed the lands of which he had been receiver, nor did he remember to whom they were returned at the expiration of the receivership.

Upon this examination of the merits of the case and of the evidence introduced, and in view of the result of the examination by experts of the handwriting, signature, and scroll of the complaining witness, the exercise of a sound discretion leads to a complete conviction that the contract expressed in the document referred to was actually entered into; that the document is authentic; that Ponciano Viloría purchased the said lands which were not possessed by or under the control, even of the complaining witness, who, for the purpose of recovering them, was obliged to invoke the aid of the courts, and therefore Viloría is not guilty of the crime of which he is charged.

Upon these grounds justice requires that the appealed judgment should be reversed and the accused Ponciano Viloría acquitted for lack of evidence of the crime of which he is charged, with the costs of both instances *de officio*. The court below is directed to make the necessary orders with respect to the property of the accused, which has been attached. So ordered.

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