

the extra-judicial confession was signed and sworn to. But he did not.

Judge Angeles stated in court that he himself read to Jasmilona the contents of the affidavit (extra-judicial confession) and has asked the latter whether or not, he was willing to sign the same and to swear to the truth of its contents. Jasmilona said yes, and willingly. Moreover, he also stated that when such extra-judicial confession was about to be read to the accused, for signature and oath, he (Judge Angeles) ordered the soldiers accompanying the prisoner to leave the room.

Considering therefore the circumstances under which this extra-judicial confession was executed, we are not inclined to disagree with the lower court on its finding that it was voluntarily made.

The next question is whether or not said extra-judicial confession may serve as the basis for the conviction of appellants Jasmilona, Villanueva and Peral.

It is urged that granting the confession was admissible, appellant Jasmilona must be absolved because said affidavit contains exculpatory statements exonerating him from guilt. On this point, we say that courts need not believe the confession in its entirety.

As to the other accused, it was allegedly error for the lower court to use the extra-judicial confession of Jasmilona against them.

On this issue, the rule is that where the recitals in the extra-judicial confession of one of the conspirators are corroborated in its important details by other proofs in the record, it may be considered as part of the evidence against the parties concerned.

In the case of U. S. vs. Reyes, et al.(1) we opined:

"The truth of the incriminating statements of Miguela Sibug, Damaso Valencia's widow, in connection with each of the said three defendant, is proved by those made by the other witnesses for the prosecution, Lorenzo Reyes, and by the confession, although extra-judicial, made by Faustino Mañago himself in the municipality of Hagonoy to the lieutenant of the Constabulary, Cristobal Cerquella, and to the municipal president and a policeman of the said pueblo; and this confession is worthy of credence and is admissible against him, as it is likewise credible and admissible against his co-defendants, Abdon de Leon and Severino Perez, his accusation of their participation in the crime, inasmuch as the confession is corroborated both by the testimony of Miguela Sibug herself and by that of Lorenzo Reyes and confirmed by other evidence related thereto and found in the record."

This brings us to the query: Are the recitals in the extra-judicial confession and the other proofs sufficient to support conviction?

We are satisfied that the trial judge made painstaking efforts to evaluate the evidence of record. The circumstances it found to have indicated the guilt of the accused, are indeed substantiated. We do not need to recount them now.

At this juncture, it may be added that we think the trial judge exercised sound judgment when it considered Jasmilona's confession against the other two defendants as an exception to the general rule against its admission, for the following reasons:

"While a confession is against him but not against his co-defendants to whom said confession is hearsay evidence, the rule, however, admits of certain exceptions. One of them is when a defendant, who made the confession, is called to testify as a witness for his co-defendants, his confession then becomes competent evidence for the purpose of contradicting his testimony in behalf of his co-defendants (People v. Manalo, 46 Phil. 573). This was what happened in this case because Emitterio Villanueva and Pedro Peral adopted as part of their defense not only the testimony of Felix Jasmilona

but also the statement given by him before the Justice of the Peace of Calamba on March 10, 1956."

It is urged that some of the prosecution witnesses were biased, because Enrique Fatiga was a dismissed tenant of Emitterio Villanueva, and Benito Mendoza was related by marriage to the deceased, (Mendoza's wife being his niece). However, upon examining the testimony of such witnesses, this Court finds no compelling reason for disbelief. There is no tinge at all of exaggeration or improbability in their testimonies. Besides, the defense itself has shown that the differences between Fatiga and Villanueva had been settled amicably sometime in October, 1950, many years before this fatal incident.

On the other hand, the defendants' alibi carries no weight. Aside from the fact that it is not corroborated by others, it is definitely without sufficient strength in the fact of the assertion of witnesses who saw them at or near the scene of the crime on Dec. 27, 1955.

Appellants ascribe error to the lower court in concluding that there was conspiracy among them. In support of their assertion, they claim that accused Peral and Jasmilona had no motive in killing the deceased, Loreto Estacio; that it was only Emitterio Villanueva, who had been charged by the deceased in the Justice of the Peace Court of Calamba in the criminal complaint, who could have reason to kill.

Although it is true that there is no direct proof of conspiracy among the accused, their acts, in the light of the recitals in the extra-judicial confession show that the killing of Loreto was planned among them and carried out accordingly. This confession, as stated, is supported and corroborated by competent evidence. The chain of circumstances, fitting well into the statements in the extra-judicial confession, is more than sufficient to establish conspiracy, as found by the trial court.

Wherefore, the judgment of conviction must be upheld, and the sentence affirmed. The imprisonment however should be *reclusion perpetua*, instead of *cadena perpetua*. Costs against appellants, who shall be credited with one-half of the period of their preventive imprisonment, in accordance with Art. 29 of the Revised Penal Code.

So ordered.

Padilla, Bautista Angelo, Concepcion, Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concurred.

X

Sergio del Rosario, Petitioner, vs. People of the Phil., Respondent, G.R. No. L-16806, December 22, 1961, Concepcion, J.

CRIMINAL LAW: USING FORGED PHILIPPINE TREASURY NOTES.—The possession of genuine treasury notes of the Philippines wherein any of "the figures, letters, words or signs contained" in which had been erased and/or altered, with knowledge of such erasure and alteration, and with the intent to use such notes, as they were used by the accused and his co-defendants, is punishable under Article 168, in relation to Article 169, subdivision (1), of the Revised Penal Code (U.S. vs Gardner, 3 Phil., 398; U.S. Solito, 36 Phil., 785).

P. M. Stuart del Rosario, for petitioner.
The Solicitor General, for respondent.

DECISION

Accused of counterfeiting Philippine treasury notes, Sergio del Rosario, Alfonso Araneta and Benedicto del Pilar were convicted by the Court of First Instance of Davao of illegal possession of said forged treasury notes and sentenced to an indeterminate penalty ranging from 8 years and 1 day to 10 years and 1 day of *prision mayor*, and to pay a fine of P5,000, without subsidiary imprisonment in case of insolvency, as well as a proportionate part of the costs. On appeal, the judgment was affirmed.

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(1) 32 Phil. 163, 173.

- yer X objected, first, to the validity of the inquiry as a whole, there being no specific complaint against him and, second, to the above questions on the ground of his right not to incriminate himself. Rule on his objections with reasons.
- IV. (a) According to Rule 127, what conduct on the part of an attorney may be punished as contempt?
 (b) In the long, protracted hearing of the major Communist leaders before Judge Medina, counsel for the accused persisted in making long, repetitious, and unsubstantial arguments, objections, and protests; repeatedly make charges of bias and prejudice; and persisted in asking questions on matters already ruled as excluded. Would such conduct constitute contempt? Reason out your answer.
- V. (a) What is the extent of an attorney's authority to bind his clients according to the Rules of Court?
 (b) It appears that having been adjudicated a 1/2 undivided share in a farm land, plaintiffs were able to obtain a writ of execution on a specific portion of the lot which they themselves had selected. The execution admittedly departed materially and radically from the tenor of the judgment, but the plaintiffs asserted that the counsel for defendants gave his assent. Was such an assent binding on his clients? Reason out your answer.
- VI. (a) On what grounds may a member of the Bar be removed or suspended by the Supreme Court?
 (b) It was shown that Attorney X was prosecuted and convicted in three criminal cases for having solicited, charged and received as fees, amounts in excess of the limit fixed by Republic Act No. 145 for the preparation, presentation and prosecution of benefit claims by three war veterans. Thereafter, disbarment proceedings were

instituted against him. Should he be disbarred? Why?

- VII. (a) In a disbarment proceeding, it was shown that respondent, a member of the Bar, was previously convicted of murder and with his co-defendants was sentenced to life imprisonment, which decision was thereafter affirmed on review by the Supreme Court. After serving part of the sentence, respondent was granted a conditional pardon, the unexecuted portion thereof being remitted. At about the same time, the widow of the deceased filed a verified complaint before the Supreme Court praying that he be disbarred. Respondent pleaded the conditional pardon and sought the dismissal of the disbarment proceeding. How would you rule? Explain.
 (b) Prepare a chattel mortgage.
- VIII. In outline form, prepare a complaint or petition:
 (a) Contesting the validity of a legislative Act.
 (b) Contesting the validity of an executive order.
 (c) Contesting the validity of a municipal ordinance.
- IX. Prepare *habeas corpus* petitions:
 (a) Seeking the custody of a minor.
 (b) Seeking the release of a person detained without formal charges having been filed against him.
 (c) Seeking relief from a judgment or order of a court of record.
- X. (a) Prepare a petition for certiorari as a special civil action.
 (b) In outline form, prepare a petition for certiorari to the Supreme Court appealing from a judgment of the Court of Appeals.
 (c) You represent a Filipino industrialist desirous of establishing a factory near Manila. He was able to locate such a site with the owner willing to part with such property at practically give away prices as long as he is paid in cash. Draw up a contract or deed, as the case may be, to enable your client to obtain the site.

SUPREME COURT . . . (Continued from page 279)

by the Court of Appeals, except insofar as the maximum of said indeterminate penalty which was increased to 10 years, 8 months and 1 day of *prision mayor*. The case is before us on appeal by certiorari taken by Sergio del Rosario.

It appears that, after showing to complainant Apolinario del Rosario the Philippine one-peso bills Exhibits C, E and G and the Philippine two-peso bill Exhibit H, and inducing him to believe that the same were counterfeit paper money manufactured by them, although in fact they were genuine treasury notes of the Philippine Government one of the digits of each of which had been altered and changed, the aforementioned defendants had succeeded in obtaining P1,700.00 from said complainant, in the City of Davao, on June 23, 1955 for the avowed purpose of financing the manufacture of more counterfeit treasury notes of the Philippines. The only question raised in this appeal is whether the possession of said Exhibits C, E, and H constitutes a violation of Article 168 of the Revised Penal Code. Appellant maintains that, being genuine treasury notes of our government, the possession thereof cannot be illegal. We find no merit in this pretense.

It is not disputed that a portion of the last digit 9 of Serial No. F-79692619 of Exhibit C, had been erased and changed so as to read 0 and that similar erasures and changes had been made in the penultimate digit 9 in Serial No. F-79692691 of Exhibit G, and in the last digit 9 of Serial No. D-716329 of Exhibit H.

Articles 168 and 169 of the Revised Penal Code read:

ART. 168. *Illegal possession and use of false treasury bank notes and other instruments of credit.* — Unless the act is one of those coming under the provisions of any of the preceding articles, any person who shall knowingly use or have in possession, with intent to use any of the false or falsified instruments referred to in this section, shall suffer the penalty next lower in degree than that prescribed in said articles.

"ART. 169. *How forgery is committed.*—The forgery referred to in this section may be committed by any of the following means:

1. By giving to a treasury or bank note or any instrument payable to bearer or to order mentioned therein, the appearance of a true and genuine document.

2. By erasing, substituting, counterfeiting or altering by any means the figures, letters, words or signs contained therein."

It is clear from this provision that the possession of genuine treasury notes of the Philippines wherein any of "the figures, letters, words or signs contained" in which had been erased and/or altered, with knowledge of such erasure and alteration, and with the intent to use such notes, as they were used by petitioner herein and his codendants in the manner adverted to above, is punishable under said Article 168, in relation to Article 169, subdivision (1), of the Revised Penal Code (U.S. vs. Gardner, 3 Phil., 398; U.S. vs. Solito, 36 Phil., 785).

Being in accordance with the facts and the law, the decision appealed from is, accordingly, affirmed, with costs against petitioner Sergio del Rosario.

IT IS SO ORDERED.

Benzon, C.J., Padilla, Bautista Angelo, Labrador, J.B.L. Reyes, Barrera and De Leon, JJ., concurred.

Paredes, J. took no part.

O M I S S I O N

In the case of Caraballo vs. Republic, G. R. No. L-15080, April 25, 1962 published on page 213 of the July 31, 1962 issue of the Lawyers Journal, on line 28 between the words "and" and "his" the following words were inadvertently omitted: "his wife Graciela G. Caraballo live, alleges that he and".