

[G.R. No. L-5791, December 17, 1910]

THE UNITED STATES, plaintiff-appellee, vs. BERNARDO GREGORIO and EUSTAQUIO BALISTOY, defendants-appellants.

D E C I S I O N

TORRES, J.:

Appeals were interposed by the defendants Bernardo Gregorio and Eustaquio Balistoy from the judgment rendered in the two causes prosecuted, No. 1574, against Bernardo Gregorio, and No. 1575, against Eustaquio Balistoy, which were consolidated and in which but one judgment was rendered, and forwarded to this court and registered under No. 5791.

In the suit instituted by Pedro Salazar, as a creditor against Eustaquio Balistoy, in the justice of the peace court of Libog, for the payment of a certain sum of money, judgment was rendered, on April 4, 1908, wherein the debtor was sentenced to pay to the plaintiff P275.92, with interest thereon, and the costs. For the execution of the said judgment, two rural properties belonging to the debtor were attached and the 27th of May, 1908, was set as the date for the sale and adjudication of the said attached properties to the highest bidder. On the 18th of the same month, Bernardo Gregorio requested the deputy sheriff to exclude the said realty from the attachment, alleging that he was the owner of the land situated in Tambogon, one of the properties levied upon, 400 brazas in circumference, situate in the pueblo of Bacacay, the location and boundaries of which are expressed in his petition, for the reason that he had acquired it by purchase from the judgment debtor, Balistoy, in 1905, prior to the filing of the compliant. By reason of this claim and petition the judgment creditor, Salazar, had to give a bond, in view of which the sheriff proceeded with the sale of the said property, and of another, also attached for the sum of P300, and both were adjudicated to the judgment creditor, according to the certificate, Exhibit C.

In order that the claim of intervention presented to the sheriff might prosper, Bernardo Gregorio attached thereto the document Exhibit D, at the end of which and among other particulars appears the memorandum dated in Libog as of February 22, 1905, and signed by Eustaquio Balistoy, Lorenzo Gregorio, and

Cirilo Valla, and in which Balistoy states that he bought the land referred to in the said document from Luis Balistoy and sold it to Bernardo Gregorio for P300, wherefore he signed as such vendor.

The charge consists in that Balistoy, with intent to injure his creditor, Pedro Salazar, and for the purpose of avoiding the attachment and sale of one of the properties belonging to him, to secure the payment of the judgment obtained by his creditor in the aforementioned suit, did, with disregard of the truth in the narration of the facts, execute or write the said memorandum whereby, on February 25, 1905, he made or simulated a conveyance of one of the attached properties in favor of the said Bernardo Gregorio, according to the aforesaid copy, when in fact the said memorandum was written in April, 1908.

For the foregoing reasons a complaint was filed in each of the two aforesaid causes in the Court of First Instance of Albay, charging each of the defendants with the crime of the falsification of a private document, and proceedings having been instituted in both causes, which were afterwards, by agreement of the parties thereto, consolidated, the court, on November 6, 1909, pronounced in both of them the judgment appealed from, written in duplicate, whereby Balistoy was sentenced to the penalty of one year eight months and twenty-one days of presidio correccional, to the accessory penalties, to pay a fine of 1,501 pesetas, and, in case of nonpayment thereof through insolvency, to suffer the corresponding subsidiary imprisonment, provided it should not exceed one-third of the principal sentence, and to pay the costs incurred in cause No. 1575; and likewise, Bernardo Gregorio was sentenced to the penalty of three months and eleven days of arresto mayor, to pay a fine of 1,980 pesetas, and, in case of insolvency, to the corresponding subsidiary imprisonment, with the provision that it should not exceed one-third of the principal penalty, to the accessory punishments, and to pay the costs occasioned by cause No. 1574. From these sentences the defendants, respectively, appealed.

This case concerns the falsity of a document alleged to have been written on a date prior to the one whether it actually was prepared, which instrument simulates the sale of a parcel of land by its owner to a third party, with the intent to defraud the creditor who, through proper judicial process, solicited and obtained the attachment and sale of the said property in order, with the proceeds of such sale, to recover the amount which the owner of the land owed him.

The sale was recorded in a memorandum, made upon a private document, according to the alleged copy of the latter presented at trial which belonged to the owner of the land; and, notwithstanding the fact that the sheriff, who carried out the proceedings of attachment and sale, testified to his having seen the original of the said document, or at least the original memorandum of the conveyance, the only record that could be of use to the intervener, who claimed a lien on the land which was to be sold at public auction; certainly the mere exhibition of a copy of an unauthenticated public document could not legally produce the effect of suspending the sale of the said land, inasmuch as such copy is not sufficient proof of the right of the intervener and opponent, being a mere copy of a private document whose legality has not been proven.

In the charge filed in this cause against the vendor and the vendee of the land in question, it is stated that these parties, the defendants, simulated the said memorandum of sale or conveyance of the land with intent to injure the creditor, Pedro Salazar; but as the original document, setting forth the said memorandum, was not presented, but merely a copy thereof, and furthermore, as it could not be ascertained who had the original of the document containing the memorandum in question, nor the exact date when the latter was written; the said memorandum, presumed to be simulated and false, was not literally compared by the sheriff who testified that he had seen its original for but a few moments, nor by any other officer authorized by law to certify to documents and proceedings such as are recorded in notarial instruments, nor even by two witnesses who might afterwards have been able to testify before the court that the copy exhibited was in exact agreement with its original; therefore, on account of these deficiencies, doubt arises as to whether the original of the document, Exhibit D, really existed at all, and whether the memorandum at the foot of the said exhibit is an exact copy of that alleged to have been written at the end of the said original document.

In criminal proceedings for the falsification of a document, it is indispensable that the judges and courts have before them the document alleged to have been simulated, counterfeited, or falsified, in order that they may find, pursuant to the evidence produced in the cause, whether or not the crime of falsification was committed, and also, at the same time, to enable them to determine the degree of each defendant's liability in the falsification under prosecution. Through the lack of the original document containing the memorandum alleged to be false, it is improper to hold, with only a copy of the said original in view, that the crime prosecuted was committed; and although, judging from the testimony of the witnesses who were examined in the two consolidated causes, there is reason to entertain much doubt as to the defendant's innocence, yet, withal, this case does not furnish decisive and conclusive proof of their respective guilt as

coprincipals of the crime charged. Defendants in a criminal cause are always presumed to be innocent until their guilt be fully proven, and, in case of reasonable doubt and when their guilt is not satisfactorily shown, they are entitled to a judgment of acquittal. In view of the evidence produced in both of the aforesaid criminal causes, said causes can only be terminated by such a finding.

For the foregoing reasons, it is proper, in our opinion, with a reversal of the judgment appealed from, to acquit, and we hereby do acquit Eustaquio Balistoy and Bernardo Gregorio, with the costs of both instances de oficio. So ordered.

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