5 Phil. 487

[G.R. No. 2030. January 04, 1906]

ALFRED DAVID OEHLERS, PLAINTIFF AND APPELLEE, VS. ROBERT HARTWIG, DEFENDANT AND APPELLANT.

D E C I S I O N

WILLARD, J.:

Section 5 of the act of Congress of March 3, 1903 (32 Stat. L., 1213), is as follows:

> "That for every violation of any of the provisions of section four of this act the person, partnership, company, or corporation violating the same, by knowingly assisting, encouraging, or soliciting the migration or importation of any alien to the United States to perform labor or service of any kind by reason of any offer, solicitation, promise, or agreement, express or implied, parol or special, to or with such alien, shall forfeit and pay for every such offense the sum of one thousand dollars, which may be sued for and recovered by the United States, or by any person who shall first bring his action therefor in his own name and for his own benefit, including any such alien thus promised labor or service of any kind as aforesaid, as debts of like amount are now recovered in the courts of the United States; and separate suits may be brought for each alien thus promised labor or service of any kind as aforesaid. And it shall be the duty of the district attorney of the proper district to prosecute every such suit when brought by the United States."

This law is in force in these Islands. (*In re* Allen,[1] 1 Off. Gaz., 782.)

The plaintiff, an alien, having been induced by the defendant to come to the Philippine Islands in violation of the law, brought this action in the Court of First Instance of Manila to recover the penalty of $1,000 mention ed in said section 5. He had judgment below, and

defendant has brought the case here by bill of exceptions.

The only question presented is whether a Court of First Instance in the Islands has jurisdiction of an action brought by an individual under section 5 above quoted, to recover the penalty therein mentioned.

Act No. 136 of the Commission, in defining the original jurisdiction of Courts of First Instance, says, in section 56, that they shall have jurisdiction—

> "3. In all cases in which the demand, exclusive of interest, or the value of the property in controversy, amounts to one hundred dollars or more."

The jurisdiction thus conferred upon Courts of First Instance was confirmed by Congress before the passage of the act of March 3, 1903. [Act of July 1, 1902, section 9 (32 U. S. Stat. L., 691).] The demand in this case being for more than $100, the Court of First Instance had jurisdiction of the suit, unless there is something in the act of March 3, 1903, or in some other law, which deprives it of that jurisdiction. (U. S. *vs*. Sweet, 1 Phil. Rep., 18.)

This jurisdiction was not taken away by section 29 of the act, for that simply confers jurisdiction upon the circuit and district courts of the United States, but does not make that jurisdiction exclusive.

The principal argument of the defendant, however, is that that provision of section 5 which says that the sum of $1,000 may be sued for and recovered "as debts of like amount are now recovered in the courts of the United States" indicates that the only courts in which such an action can be maintained are the circuit and district courts of the United States, and he says in his brief that the plaintiff in this case is not without remedy, for he can maintain an action in a district or circuit court of the United States if he can find the defendant in the district to which such court pertains.

The contention of the defendant would lead to the result that an action for this penalty could not be maintained in any Territory of the United States, for although the territorial courts are vested with all the powers of district and circuit courts of the United States, yet that does not make them such courts. (McAllister *vs*. V. S,, 141 U. S., 174..) It also leads to the conclusion that such an action could not be maintained in Porto Rico or in Hawaii, for although courts have been established in those islands which are called district courts of the United States, yet they are not established by virtue of the provision of the Constitution of

the United States relating to the judicial power, but are established by virtue of other powers vested in Congress.

We agree, however, with counsel for the plaintiff, that the claim of the defendant in this respect is met by the case of Lees *vs*. United States (150 U. S., 476). That was an action brought in a district court of the United States by the United States to recover the penalty of $1,000 by virtue of the provisions of the act of February 26, 1885. The third section of that act is very similar to the fifth section of the present act, and it provides that where there is a violation thereof—

> "The offender shall forfeit and pay for every such offense the sum of one thousand dollars, which may be sued for and recovered by the United States, or by any person who shall first bring his action therefor, including any such alien or foreigner who may be a party to any such contract or agreement, as debts of like amount are now recovered in the circuit courts of the United States."

It was claimed in that case that this provision of the law conferred exclusive jurisdiction upon the circuit court. The Supreme Court did not agree with this contention. It said, among other things (page 479):

> "It in effect provides that although the recovery of a penalty is a proceeding criminal in its nature, yet in this class of cases it may be enforced in a civil action, and in the same manner that debts are recovered in the ordinary civil courts."

And again:

> "But taking the clause as a whole, giving force to all its words, it would seem to refer to the form of the action rather than to the forum."

Therefore, even if we consider that the words "in the courts of the United States" refer only to the circuit and district courts, as claimed by the appellant, this phrase does not, under the authority of Lees *vs*. United States, mean that the action must be brought in those courts to the exclusion of all others. It would not, therefore, take away from the Courts of

First Instance of Manila the general jurisdiction over this action conferred upon it by law.

And it will have been observed that the words "in the circuit court of the United States," found in the act of 1885, have in the act of March 3, 1903, been changed to "in the courts of the United States." It is the claim of the appellant that the courts referred to are the circuit and district courts only. If it had been the intention of Congress to so limit the act, it would have been more natural to have amended the phrase as found in the act of 1885, by inserting the word "district" after the word "circuit." Any doubt, however, which might exist as to the meaning of this term is removed, we think, by the provisions of section 33 of said act of March 3, 1903. That section is as follows:

> "That for the purposes of this act the words 'the United States' as used in the title, as well as in the various sections of this act, shall be construed to mean the United States, and any waters, territory, or other place now subject to the jurisdiction thereof."

The insertion of this section in the law shows that Congress then had in mind Porto Rico, Hawaii, and the Philippines. It expressly made the law applicable to those countries. (Gonzales *vs*. Williams, 192 U. S., 1, 16.) It intended, of course, that the law should be enforced therein, and it must have intended that it would be enforced therein in the courts there established. And when, in section 5, it changed the phrase "in the circuit court" to the phrase "in the courts of the United States," and in section 33 declared that the words "United States" should include the Insular possessions, we think it used the phrase "in the courts of the United States" to indicate not only those courts in which is lodged the judicial power defined in the Constitution, but also all courts which derive their authority from the United States. To sustain the claim of the appellant that this case can be tried in the circuit court of any district in the United States, if the defendant can be found therein, would amount to a nonenforcement of the law as to all cases arising in the Philippines. Applying the definition of section 33 to section 5, that section would read "as debts of like amount are recovered in the courts of the United States, including the courts of Porto Rico, Hawaii, and the Philippines."

The claim of the appellant that inasmuch as he would be entitled to a jury trial in the circuit court of the United States, he is entitled to a jury trial here, is met by what we have already said. As the phrase "in the courts of the United States" includes the courts in the Philippines, it follows that a case brought in the Philippines must be tried as other civil

actions are there tried.

Section 711 of the Revised Statutes of the United States, relied upon by the defendant, has nothing to do with the case, since that refers to States.

The fact that at the time Act No. 136 was passed the right of action given by the act of March 3, 1903, did not exist, is not important. Courts of First Instance are courts of general jurisdiction, and every time a new right is created it is not necessary to expressly give that court jurisdiction to enforce it. (Lees *vs*. U. S., 150 U. S., 476, 479.)

The contention of the defendant that this act, when it provided for a penalty, also provided a particular and exclusive remedy for enforcing it, can not be maintained in view of the decision in the case of Lees *vs*. United States. The provisions of section 5 simply declare that the remedy should be such as already existed in the courts of the United States.

The fact that there is no United States district attorney in the Philippine Islands might have prevented the United States from maintaining the action, bnt it can not prevent a citizen from so doing. See, moreover, Act No. 1344 of the Commission.

We hold that the Courts of First Instance of Manila have jurisdiction of this suit, and the judgment is accordingly affirmed, with the costs of this instance against the appellant, and after the expiration of twenty days judgment should be entered in accordance herewith and the case remanded to the court below for execution thereof. So ordered.

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

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[1] 2 Phil. Rep., 630.

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