

6 Phil. 539

[G.R. No. 2944. October 29, 1906]

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. FILOMENO BACARRISAS,
DEFENDANT AND APPELLANT.**

D E C I S I O N

CARSON, J.:

Under the provisions of Act No. 440 of the Philippine Commission, the trial judge in this case appointed a friend of the accused as counsel for the defense (*defensor*), there being no practicing attorney in the municipality where the trial was had. It appears that there were at least two practicing attorneys in the province at that time and under these circumstances it is contended that the act relied upon does not authorize the appointment of any person, not a member of the bar, as counsel for the defense in criminal cases. In support of this contention our attention is directed to the authorized Spanish version of an act of the Philippine Commission, published by the Bureau of Printing in 1904, which provides as follows:

“Que en las provincias en donde no hay abogados en ejercicio el tribunal podra admitir o nombrar, cuando lo juzgue procedente, una persona de reconocida honradez, buena reputacion y habilidad para que defienda al procesado, aun cuando la persona referida no sea abogado en ejercicio—”

Which, being literally translated, is as follows:

“That in the provinces wherein *there are no practicing lawyers* the court may, in its discretion, admit or assign some person resident in the province of good repute, probity, and ability to act as counsel for the defendant, although the person so admitted or assigned be not a duly authorized member of the bar.”

The Spanish version is clearly misleading, as the original provides—

“That in provinces *where duly authorized members of the bar are not available* the court may, in its discretion, admit or assign some person resident in the province, of good repute, of probity and ability to act as counsel for the defendant, although the person so assigned be not a duly authorized member of the bar—”

And Act No. 63 of the Philippine Commission provides that—

“In the construction of all acts which have been or shall be enacted by the United States Philippine Commission, the English text shall govern, except that in obvious cases of ambiguity, omission, or mistake the Spanish text may be consulted to explain the English text.”

(The italics are inserted to direct attention to the exact point where the translation varies from the original.)

The evidence of record sustains the finding of the trial court and we find no error in the proceedings prejudicial to the rights of the accused. The judgment of the trial court is affirmed with the costs of this instance against the appellant.

After the expiration of ten days from the date hereof let the case be remanded to the court below for proper action. So ordered.

Arellano, C. J., Torres, Mapa, Willard, and Tracey, JJ., concur.