

Title: The People of the Philippines v. Que Po Lay

Facts: The defendant and appellant, Que Po Lay, was charged with violating Central Bank Circular No. 20 in relation to Section 34 of the Republic Act No. 265 (the Central Bank Act). Que Po Lay was in possession of foreign exchange (U.S. dollars, checks, and money orders) totalling approximately \$7,000, and he failed to sell it to the Central Bank or its agents within one day following its receipt, as mandated by the Circular. The Court of First Instance of Manila found Que Po Lay guilty, sentencing him to six months imprisonment, a fine of P1,000 with subsidiary imprisonment in case of insolvency, and payment of costs.

Issues: The primary legal issue was whether Circular No. 20 of the Central Bank, which was not published in the Official Gazette prior to Que Po Lay's act or omission, could legally be enforced. The case centered around the requirement of publication for laws and regulations with penal sanctions, and whether Circular No. 20 should be considered as having the force and effect of law without such publication.

Court's Decision: The Supreme Court reversed the decision of the Court of First Instance of Manila, acquitting Que Po Lay. The Court recognized that Circular No. 20, although not a statute, held the force and effect of law once promulgated in accordance with legislative authority. Referring to both statutory law (section 11 of the Revised Administrative Code) and jurisprudence, the Court emphasized the necessity of publication in the Official Gazette for legal provisions to become effective and enforceable—particularly those with penal consequences. In this case, since the Circular was not published until some three months after the appellant's conviction, it was ruled that the penal provision of the Circular was not binding until after its publication, and as such, Que Po Lay had not violated a legally enforceable regulation at the time of his offense.

Doctrine: The doctrine established or reiterated in this case is that before a law, regulation, or circular intended for implementation of law and carrying a penalty for its violation may be held to bind the public, it must be published in the Official Gazette. The publication of such legal documents is essential to notify the public officially of their contents and of the penalties for violating them.

Historical Background: The requirement of publication in the Official Gazette before a circular or regulation takes effect is rooted in principles of due process and the rule of law, which seek to ensure that individuals are aware of the laws and regulations by which they are expected to abide. This case showcases the balance between executive authority to issue

regulations and the need for these regulations to follow certain procedural requirements to have the force of law. The case reflects the judiciary's role in ensuring that executive actions conform to statutory and constitutional expectations, which is crucial in maintaining a system where every individual has the chance to be informed of the laws before being treated as bound by them.