

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. MANUEL PACE CARLOS, DEFENDANT AND APPELLANT.

G.R. No. L-3637. November 29, 1950

Ponente: REYES, J.

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REYES, J.:

The accused was convicted of theft in the justice of the peace court of Jaen, Nueva Ecija. On appeal to the Court of First Instance, he was again found guilty of the crime and sentenced to two months and one day of arresto mayor. He appealed to the Court of Appeals, but the case has been endorsed to us on the ground that it involved a question of jurisdiction.

The property stolen consisted of a table and two chairs, worth about P17, belonging to the municipal government of Jaen and forming part of the equipment of the Jaen Elementary School. The principal witness for the prosecution, the policeman Elias Magtalas, testified that some time in late December, 1941, or early January of the following year the said table and chairs were taken by him from the school building to the house of the accused by order of the latter, who was then chief of police. Magtalas was accompanied by a police sergeant now dead. It would appear that in those days looting was rampant in the poblacion of Jaen because the townspeople had fled to the hills for fear of the Japanese forces. After liberation, the mayor of the town, Bartolome Garcia, circularized the townspeople enjoining them to return any government property that had come to their possession. Some complied with the circular. But the accused, who had by then ceased to be chief of police, refused, to return the table and chairs in question, claiming that they were his. They had to be seized by authority of a search warrant issued by the justice of the peace.

There can be no question that the said table and chairs were part of the equipment of the Jaen elementary school. Being of the standard type prescribed by the Bureau of Education, they were readily identified by the town treasurer. They also had their distinguishing marks. The policeman Magtalas said that, while the table was being hauled into defendant's house, one of its drawers collided with the door and was damaged, while the chairs were without the armrest, for defendant had these removed.

The accused denied having ordered any school property taken to his alleged residence in the poblacion, and in that connection he would have the court believe that the only house he had was in the barrio of Langla and that he was most of the time in Manila where he was engaged in the "buy and sell" business. In corroboration he presented the testimony of Iluminada Fainilosa, who declared that the house in the poblacion where the table and chairs in question were seized by the police was hers and that the table had been acquired by her from a furniture dealer from Manila while the chairs were given to her by one Dalmacio Baguisa. This witness, however, could not present any written evidence of ownership and the persons from whom she claimed to have acquired the furniture were not put on the stand to corroborate her. On the other hand, her neighbors testified that the house belonged to defendant and that he actually lived there. According to the witness Encarnacion Esquivel, the said house formerly belonged to her brother but it was sold by him to defendant, who thereafter moved into it. It may well be true as claimed that defendant had his house in the barrio, where his legitimate family was. But it appears no less

certain that he had bought himself another house in the poblacion, where, according to the policeman Elias Magtalas, he stayed and kept his mistress.

The defense impugns the veracity of the policeman on the ground that his testimony conflicts with the affidavit he had previously signed, for while he declared in court that he was the one who took the table and chairs from the school house to defendant's residence, that fact was not mentioned in the affidavit and what he there stated is that he knew there was some government equipment in defendant's house because he had seen it there. The two declarations are not necessarily contradictory. One is more explicit than the other. But the policeman explained that he did not bother to go into details in his affidavit, thinking that after all the whole truth could, be related in court at the trial. The important fact is that the table and chairs, indubitably identified at the trial as government property, were actually found in defendant's house and defendant had refused to surrender them on demand, claiming that they were his. This is clearly established by the testimony of Mayor Garcia and the policeman Magtalas and made entirely believable by the fact that a warrant had to be issued to have the property seized. Against the rather vague claim that defendant was not in the house when the police went there with a search warrant, there is the vivid account of Magtalas that on that occasion he found defendant eating together with Iluminada Familosa so that when he handed the search warrant for defendant to read, the latter had to wipe the rice off his hands by rubbing them against the wall.

Not much importance can be given to the contention that this case was filed because there was bad blood between him and the mayor due to political rivalry. Even supposing that the mayor really had reasons to wish him ill, that fact alone would not be sufficient to discredit the prosecution, since the commission of the crime has been clearly proved.

Neither is there merit in the claim that the prosecution has failed to prove that the crime was committed within the jurisdiction of the court. It is clearly inferable from the testimony of the witnesses that the school building from which the properties were taken was no other than the town school in Jaen. And this fact is also made clear by the testimony of the municipal treasurer when he said that the school equipment of which the stolen properties formed part had been purchased by him and sent to the principal of the Jaen Elementary School.

The judgment appealed from being in accordance with law and the evidence, the same is hereby affirmed, with costs against the appellant.

Paras, Feria, Pablo, Bengzon, Padilla, Tuason, Montemayor, and Jugo, JJ., concur.

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