

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. ALBERTO M. SABBUN, DEFENDANT AND APPELLEE.

G. R. No. L-18510. January 31, 1964

Ponente: LABRADOR, J.

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LABRADOR, J.:

This is an appeal prosecuted by the Republic against an order of the Court of First Instance of Cagayan, Hon. Roberto Zurbano, presiding, sustaining a motion of the accused-appellee in the above-entitled case to quash the information with respect to collections made by accused-appellee four years prior to January 19, 1959, the date of filing of the information.

On January 19, 1959, the fiscal filed an information accusing the accused-appellee of violation of Republic Act No. 145, as follows:

"The undersigned accuses Alberto M. Sabbun for Violation of Republic Act No. 145, committed as follows:

"That in the month of December, 1949, and subsequent thereafter, in the municipality of Abulog, province of Cagayan, and within the jurisdiction of this Honorable Court, the said accused Alberto M. Sabbun, being the one who helped and assisted the spouses Benito Dacquoag, (now deceased) and Juana Acluba Vda. de Dacquoag', in the preparation, presentation and prosecution of their CLAIMS for benefits under the laws of the United States administered by the United States Veterans Administration, Manila Philippines, in connection with the death of their son Veteran Federico Dacquoag, during the last World War, did then and there wilfully, unlawfully and feloniously, directly solicit, charge and receive as his fee and compensation for his services as follows, to wit: the amount of P600.00 sometime in December, 1949, from the two checks received by the said spouses; the total amount of P1,480.00 as deductions taken from the monthly pensions of said spouses beginning January, 1950, to February, 1956, inclusive; and the amount of P170.00 as deduction taken from the monthly pensions of the surviving spouse Juana Acluba Vda. de Dacquoag, beginning March, 1956, to September, 1957, inclusive; which total amount of P2,250.00, exceeded the amount of P20.00 each for every claim as authorised by Republic Act No. 145, to the damage and prejudice of the said spouses Benito Dacquoag and Juana Acluba Vda. de Dacquoag in the total amount of P2,210.00, representing the balance thereof after deducting the sum of P40.00 as total fees for the two claims of the said spouses."

Upon the filing of the above information, counsel for the accused moved to quash it, alleging that the criminal action, charged has been extinguished and that such information charges more than one offense. The court sustained the motion as to collections made 4 years prior to the filing of the information but denied it as to those made within the four-year period. Against this order the Republic has appealed, contending that the offense charged in the information is a continuing offense and the prescriptive period for the offense began only from September, 1957 when the crime was first discovered, and that in any case the prescriptive period is 8 years and not 4 years as found by the trial court.

Without considering the other legal issues raised in the appeal, We hold that the offense charged is a continuing offense. The first collection of P600 made in 1949 is an integral part of the offense committed, and so are the

collections thereafter up to September, 1957. The collections made on different dates, i.e., P600 in December, 1949, P1,480 from January, 1950 to February, 1956, the amount of P170 from March, 1956 to September, 1957, are all part of the fees agreed upon in compensation for the service rendered in filing the claim, and collecting the pensions received by the offended party from time to time. The periodical collections form part of a single criminal offense of collecting a fee which is more than the prescribed amount fixed by the law. The collections were impelled by the same motive, that of collecting fees for services rendered, and all acts' of collection were made under the same criminal impulse (People vs. Lawas, G.R. No. L-7618, June 30, 1956). Only one offense was, therefore, committed and since the last act of collection was made within the period of prescription, the offense has not prescribed as yet at the time of the filing of the information. The offense may not be considered divided into different acts, each act subject to prescription independently of the others.

Wherefore, the order appealed from is hereby set aside and the court below is hereby ordered to proceed with the case in accordance herewith. Without costs. So ordered.

Bengzon, C. J., Padilla, Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

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