

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. FAUSTO YADAO ET AL., DEFENDANTS AND APPELLEES.

G.R. No. L-6835. March 30, 1954

Ponente: BENGZON, J.

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BENGZON, J.:

The sole question for decision is whether the information filed against defendant-appellees in the Court of First Instance of Rizal sufficiently describes a violation of section 1 of Republic Act No. 145, which reads as follows:

"Any person assisting a claimant in the preparation, presentation and prosecution of his claim for benefits tinder the laws of the United States administered by the United States Veterans Administration, who shall, directly or indirectly, solicit, contract, for charge, or receive, or who shall attempt to solicit, contract for, charge, or receive any fee or compensation exceeding twenty pesos in any one claim, or who shall collect his fee before the claim is actually paid to a beneficiary or claimant, shall be deemed guilty of an offense and upon conviction thereof shall for every offense be fined not exceeding one thousand pesos or imprisoned not exceeding two years, or both, in the discretion of the court."

Said information alleges that defendants conspiring together, willfully did "offer to assist one Floerto Jazrain in the prosecution and expeditious approval of his legitimate claim of \$2,207 for benefits under the laws of the United States administered in the Philippines by the United States Veterans Administration, and as consideration for which, said accused directly solicited and/or charged said Floerto Jazmin as fee or compensation the sum of P800 which is in excess of the lawful charge of P20 in any one claim."

The Honorable Julio Villamor, Judge, upheld a motion to quash, on the ground that the facts charged did not constitute a public offense. Hence this appeal by the prosecution, raising the juridical issue above stated.

It is clear, in our opinion, that section 1 of Republic Act 145 punishes:

- (a) Any person assisting a claimant etc., * * * who shall directly or indirectly solicit * * * a fee exceeding twenty pesos;
- (b) Any person assisting a claimant * * * who shall attempt to solicit, * * * a fee exceeding twenty pesos; and
- (c) Any person assisting a claimant * * * who shall collect his fee before the claim is actually paid.

In all the three instances the person must be one "assisting" the claimant[1] The participle "assisting" and the clause "assisting a claimant in the preparation etc." qualify "any person" as antecedent of the pronoun "who" in the phrases, "who shall solicit", "who shall attempt to solicit" or "who shall collect".

Examining the information, we find it does not aver that the defendants assisted or were assisting the claimant for veterans benefits. It merely asserts they offered to assist, and it is evident that violation is committed only when a persons assisting a claimant solicits, contracts for, charges or receives or attempts to solicit etc. more than is permitted by law. One who offers to assist, but does not assist, is not included within the penal prohibition, which by its nature must be restrictively interpreted, or strictly construed against the government.[2] Of course there was

an attempt to commit the offense described by Republic Act No. 145. But the said statute does not expressly punish attempts to commit the offense, and the provisions of the Penal Code about attempts (tentativas) do not apply.[3]

The prosecution relies upon *Sanchez vs. U. S.* 134 Fed. (2nd) 279, 63 S. Ct. 1325, 319 U. S. 768 wherein this was said:

"A showing that an excessive fee was solicited, contracted for, charged or received for assistance in preparation and execution of necessary papers in any application to Veterans' Administration will support a conviction of violation of fee limitation for assistance in such application regardless of whether such assistance was in fact rendered."

But such adjudication is not conclusive, because the statute therein construed differs materially from ours. It punishes "any person who shall directly or indirectly contract for, charge or receive, or who shall attempt to solicit, contract for excessive compensation." The section does not contain the phrase "assisting a claimant" after the words "any person" and before the words "who shall etc". That phrase conditions each and every violation of section 1 of Republic Act No. 145.

The appealed decision quashing the indictment is, therefore, affirmed, without costs.

Paras, C. J., Pablo, Padilla, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador, Concepcion, and Diokno, JJ., concur.

[1] Whether "assisting" includes persons engaged by the veteran to assist him, although not yet actually rendering assistance—we do not decide.

[2] *U. S. vs. Abad Santos*, 36 Phil. 243.

[3] *U. S. vs. Basa*, 8 Phil. 89.

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