

THE PEOPLE OF THE PHILIPPINES, PETITIONER, VS. THE HONORABLE JOSE TEODOKO, SR., JUDGE OF THE SECOND BRANCH OF THE COURT OF FIRST INSTANCE OF NEGROS OCCIDENTAL, 12TH JUDICIAL DIS...

G.R. No. L-8079. February 29, 1956

Ponente: LABRADOR, J.

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LABRADOR, J.:

This is an original action of certiorari against Judge Jose Teodoro, Sr. of the Court of First Instance of Negros Occidental to annul two orders issued by him in the course of the trial of Criminal Case No. S739, entitled *People vs. Ruperto Angudong*. In one order he rejected an attempt of the assistant provincial fiscal to identify a certified true copy of the service record of the defendant in the Bureau of Civil Service, one of the papers in said record being a certified copy of a certified true copy of a certificate issued by one Dra. Rosario Abeto. A witness of the Fiscal from the Bureau of Civil Service was testifying on and identifying the record, declaring that the original of the certificate could not be found in the files of the Bureau, when upon objection that the original certificate must be produced, the respondent judge ordered the whole testimony to be stricken out.

In the second order respondent judge also blocked a similar attempt on the part of the Fiscal to identify a similar certified true copy of the service record of the defendant in the Bureau of Health. Among the papers in the record was a certified true copy of a certificate by one Mrs. Florentina Decena de Torres. Both records were being identified as parts of public records when the court rejected the attempt to identify them, on the objection of counsel for defendant that as defendant in the criminal action was being accused of falsification, the original document falsified must be produced.

It is to be noted that the defendant in the criminal case is not being accused of falsifying or forging a certificate, but of using a false certificate under Article 175 of the Revised Penal Code. The pertinent parts of the information are as follows:

The "undersigned City Attorney ex-officio accuses Dr. Roberto Angudong for Violation of Article 175, of the Revised Penal Code, committed as follows;

"That on or about the months of July and August, 1947, in the City of Bacolod, Philippines, and within the jurisdiction of this Hon. Court, the herein accused being then the temporary District Health Officer of Negros Occidental, with official station in the City of Bacolod, Philippines, fully knowing that he had not served as Puericulture Center Physician of the Puericulture Center of Himamaylan and Binalbagan, Negros Occidental, from 1932-1939, did, then and there, willfully, unlawfully and feloniously cause to be prepared and issued a Certificate to the effect that he had served as such Puericulture Center Physician of Himamaylan and Binalbagan, Negros Occidental, during the said years, from 1932-1939, when in fact and in truth he did not so serve as such Puericulturu Center Physician of Himamaylan and Binalbagan, Negros Occidental, and after having received such Certificate and full conscious of its untruthfulness and falsity, he forthwith forwarded the same to the Commissioner of Civil Service, Manila, in order to qualify for reinstatement and subsequent

appointment as permanent District Health Officer of Negros Occidental, and he did in fact qualify and was consequently appointed as such permanent District Health Officer of Negros Occidental, on October 22, 1948, effective July 1, 1947, on the basis of the aforementioned false certificate." (See page 9 of the Record on Appeal).

The false certificates used by defendant were evidently those documents, certified copies of which were in the official records of the Bureau of Health and the Bureau of Civil Service. But the offense charged is not the falsification of the certificates but the use thereof, by which defendant must have secured his appointment.

It must be noted that the Fiscal was only identifying the official records of service of the defendant preparatory to introducing them (the said records) as evidence. That said official records can be proved by certified copies, there can be no question (section 41, Rule 123 of the Rules of Court). The time for the presentation of the records had not yet come; presentation was to be made after their identification. For what purpose and to what end the Fiscal would introduce them as evidence was not yet stated or disclosed; Said records would at least prove that defendant's appointment as District Health Officer of Negros Occidental was in part occasioned by or related to the certificates. The objection of counsel for the defendant was, therefore, premature, especially as the Fiscal had not yet stated for what purpose he would introduce the said records, much less because he had not stated that he intended to prove the false certificates by said records. So was the ruling of the respondent judge sustaining the objection; both were premature and beside the point. In *Employee's Welfare Assn.* this connection, attention is invited to section 72 of Rule 123 of the Rules, which provides:

"The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified."

And the time for objecting to evidence is when the same is offered.

"Time of the objection.—'Every objection to the admissibility of evidence shall be made at the time such evidence is offered, or as soon thereafter as the objection to its admissibility shall have become apparent; otherwise, the objection shall be treated as waived. * * *'" (3 Moran, *Comments on the Rules of Court*, 1952 ed., p. 555, citing the cases of *Abrenica vs. Gonda*, 34 Phil., 739 and *Marsh vs. Hand*, 35 Md. 128)

As the official records sought to be identified were not yet being presented, nor the purpose thereof disclosed, the objection thereto and the ruling sustaining the objection were both premature.

The writ is hereby granted, and the orders complained of annulled, and the respondent judge ordered to proceed in accordance herewith. Costs shall be against the defendant Ruperto Angudong in the criminal case. So ordered.

Parás, C. J., Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

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