

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. RUFO B. CRUZ, DEFENDANT AND APPELLANT.

G.R. No. L-15132. May 25, 1960

Ponente: GUTIERREZ DAVID, J.

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GUTIERREZ DAVID, J.:

On February 27, 1956, the accused Rufo B. Cruz was charged before the Court of First Instance of Rizal with the crime of falsification of public document alleged to have been committed as follows:

"That on or about the 19th day of October, 1948, in the municipality of Cainta, province of Rizal, Philippines and within the jurisdiction of this Honorable Court, the above-named accused a private person and applicant for Civil Service Examination (Patrolman) did then and there willfully, unlawfully and feloniously, falsify or cause to be falsified and commit acts of falsification in the Philippine Civil Service Form No. 2 (Application for examination) in the following manner to wit: Said accused, under oath prepared, filled up or cause to be filled up the blanks in said Philippine Civil Service Form No. 2, by stating and making it appear in said document that he had never been accused, indicted or tried for violation of any law, ordinance or regulation before any court, when in truth and in fact as the accused well knew, that this statement or fact is false and untrue, because he had been accused and tried in Criminal Cases Nos. 522, 542 and 547 of the Justice of the Peace Court of Cainta, Rizal, thus making untruthful statements in the narration of facts; that said accused filed or caused to be filed said Philippine Civil Service Form No. 2 to the Bureau of Civil Service."

After due trial, the lower court found the accused guilty of the crime charged and sentenced him to suffer an indeterminate penalty of from 4 months and 11 days of arresto mayor to 5 years, 6 months and 21 days of prison correccional, with the accessories of the law, and to pay a fine of not more than P2,000.00, with subsidiary imprisonment in case of insolvency, plus costs. From that judgment, the accused appealed to the Court of Appeals. That court, however, has certified the case to us on the ground that the questions involved are purely legal.

The record shows that on October 19, 1948, the accused Rufo B. Cruz filled up an application blank (Civil Service Form No. 2) for the patrolman examination that was given by the Bureau of Civil Service on November 13 of that year. The application was signed and sworn to by him before the municipal mayor of Cainta, Rizal. Said application contained a number of questions, No. 6 of which reads:

"Have you ever been accused of, indicted for or tried for the violation of any law, ordinance, or regulation, before any court, or have you ever been charged with or tried for any breach or infraction of military, naval, or constabulary discipline before any military, naval, or constabulary tribunal or other authority?"

To said question, the accused answered:

"No, I have never been accused of any sort whatsoever."

During the trial of the case, it was, however, shown that the accused made his answer to question No. 6 knowing fully well that he had previously been charged or criminally indicted before the Justice of the Peace Court of

Cainta, Rizal, for the crimes of "atentado contra la autoridad" (Crim. Case No. 522, filed on July 23, 1931), "lesiones menos graves" (Crim. Case No. 542, filed on March 13, 1933), and physical injuries (Crim. Case No. 547, filed on October 19, 1933). The case for "lesiones menos graves" was forwarded to the Court of First Instance, while the other two were dismissed for insufficiency of evidence.

The above facts are not disputed. Defense counsel, however, contends that the crime committed by the accused, as stated in the application form itself,[1] is perjury, which has already prescribed in accordance with Article 90 of the Revised Penal Code.

We are inclined to agree with the defense that the crime committed is perjury. That offense as defined in Article 183 of the Revised Penal Code is the willful and corrupt assertion of a falsehood under oath or affirmation administered by authority of law on a material matter. The said article provides:

"Art. 183. False testimony in other cases and perjury in solemn affirmation.—The penalty of arresto mayor in its maximum period to prision correccional in its minimum period shall be imposed upon any person who, knowingly making untruthful statements and not being included in the provisions of the next preceding articles, shall testify under oath, or make an affidavit, upon any material matter before a competent person authorized to administer an oath in cases in which the law so requires.

"Any person who, in the case of a solemn affirmation made in lieu of an oath, shall commit any of the falsehood mentioned in this and the three preceding articles of this section, shall suffer the respective penalties provided therein."

This article is similar to section 3 of Act No. 1697 of the Philippine Commission, which was formerly the law punishing perjury. Under said section 3 of that Act, this Court, in the case of *United States vs. Tupasi Molina* (29 Phil., 119), held that a person, who stated under oath in his application to take police examination that he had never been convicted of any crime, when as a matter of fact he had previous convictions, committed perjury. The facts in that case are almost exactly analogous to those in the present, and we find no reason, either in law or in the arguments of the Solicitor General, to modify or reverse the conclusions of this Court therein. More so, because all the elements of the offense of perjury defined in Article 183 of the Revised Penal Code concur in the present case.

We do not, however, find merit in the contention that the crime committed by the accused, which is punishable by arresto mayor in its maximum period to prision correccional in its minimum period, has already prescribed. Under paragraph 3 of Article 90 of the Revised Penal Code, "Those (crimes, punishable by a correctional penalty shall prescribe in ten years; with the exception of those punishable by arresto mayor, which shall prescribed in five years." While the penalty fixed by law is a compound one, the highest penalty shall, according to the last paragraph of the same article, be made the basis of the application of the rules contained therein. The penalty for the crime of perjury being a compound one, the highest of which is correctional, we hold that said crime prescribes in ten years. Even assuming, therefore, that the prescription of the offense here in question began to run from the date of its commission, since there was nothing that was concealed or needed to be discovered, as maintained by the accused, it is apparent that the present proceedings were, under the law, commenced within the statutory period. From October 19, 1948, when the application form was accomplished, to February 27, 1956, when these proceedings were instituted, only 7 years, 4 months and 8 days have elapsed.

The penalty for perjury under Article 183 of the Revised Penal Code, as already seen, is arresto mayor in its maximum period to prision correccional in its minimum period. Since there is no mitigating or aggravating circumstance the penalty should be imposed in its medium period. Applying the Indeterminate Sentence Law, the penalty should be from 4 months of arresto mayor as minimum to 1 year and 1 day of prision correccional as maximum.

Wherefore, with the modification that the accused is hereby sentenced to suffer the penalty of from 4 months of arresto mayor, as minimum to 1 year and 1 day of prision correccional as maximum, the judgment appealed from is affirmed. Costs against the accused-appellant.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, and Barrera, JJ., concur. Reyes, J.B.L., and Endencia, JJ., did not take part.

[1] No. 5 of Instructions to Applicants in the application form reads: "Remember that all the statements made by you are under oath and that all false statements knowingly made will render you liable to prosecution for perjury."

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