

FELICIANO MANIEGO Y CATU, PETITIONER, VS. THE PEOPLE OF THE PHILIPPINES, RESPONDENT.

G. R. No. L-2971. April 20, 1951

Ponente: BENGZON, J.

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BENGZON, J.:

This petitioner was convicted, by the Fifth Division of the Court of Appeals, of a violation of article 210 of the Revised Penal Code. He pleads for acquittal, insisting upon purely legal points.

The facts found by that appellate court are substantially the following:

"That on February 27, 1947, the accused, although appointed as a laborer, had been placed in charge of issuing summons and subpoenas for traffic violations in the Sala of Judge Crisanto Aragon of the Municipal Court of the City of Manila. It appears furthermore, from the testimony of Clerk of Court Baltazar and Fiscal De la Merced, then Deputy Fiscal attending to traffic violations, that the accused had been permitted to write motions for dismissal of prescribed traffic cases against offenders without counsel, and to submit them to the Court for action, without passing through the regular clerk. On the day in question, Felix Rabia, the complainant herein, appeared and inquired from the accused about a subpoena that he received. He was informed that it was in connection with a traffic violation for which said Rabia had been detained and given traffic summons by an American MP. The accused after a short conversation went to Fiscal De la Merced and informed the Fiscal that the case had already prescribed. The Fiscal having found such to be the case, instructed the accused that if the traffic violator had no lawyer, he could write the motion for dismissal and have it signed by the party concerned. This was done by the accused and after the signing by Felix Rabia the matter was submitted to the Court, which granted the petition for dismissal.

"According to Felix Rabia and Agent No. 19 (Laforteza) of the National Bureau of Investigation, the accused informed Rabia that the latter was subject to a fine of P15; that Rabia inquired whether the same could be reduced because he had no money, and that the accused informed Rabia that he could fix the case if Rabia would pay him P10; which Rabia did and the accused pocketed. This charged was denied by the accused."

The pertinent portion of article 210 of the Revised Penal Code reads:

"Any public officer who shall agree to perform an act constituting a crime, in connection with the performance of his official duties, in consideration of any offer, promise, gift or present received by such officer, personally or through the mediation of another, shall suffer the penalty of prision correccional in its minimum and medium periods and a fine of not less than the value of the gift and not more than three times such value, in addition to the penalty corresponding to the crime agreed upon if the same shall have been committed.

If the gift was accepted by the officer In consideration of the execution of an act which does not constitute a crime, and the officer executed said act, he shall suffer the same penalty provided in the preceding paragraph * * *"

As correctly indicated by counsel for petitioner the four essential elements of the offense are: (1) that the accused is a public officer within the scope of article 203 of the Revised Penal Code; (2) that the accused received by

himself or thru another, some gift or present, offer or promise; (3) that such gift, present or promise has been given in consideration of his commission of some crime or any act not constituting a crime; (4) that the crime or act relates to the exercise of the functions of the public officer.

There can be no question that petitioner was a public officer within the meaning of article 20.3 which includes all persons "who, by direct provision of law, popular election or appointment by competent authority, shall take part in the performance of public functions in the Philippine Government, or shall perform in said government or any of its branches, public duties as an employee, agent or subordinate official or any rank or class." That definition is quite comprehensive, embracing as it does, every public servant from the highest to the lowest. For the purposes of the Penal Code, it obliterates the standard distinction in the law of public officers between "officer" and "employee".

Petitioner, however, contending that the Court of Appeals erred in regarding him as a public officer, expounded and discussed several grounds arranged under the following headings:

- "a. The doctrine of 'the temporary performance of public functions by a laborer' should not apply in defendant's case.
- b. The overt act imputed on the accused does not constitute a circumstance by which he may be considered a public official.
- c. His appointment as laborer came from one source, while the designation and delimitation of the functions of his appointment came from another source."

After having carefully considered the expository argumentation, we are unconvinced. The law is clear, and we perceive no valid reason to deny validity to the view entertained by the Spanish Supreme Court that, for the purposes of punishing bribery, the temporary performance of public functions is sufficient to constitute a person a public official. This opinion, it must be stated, was followed and applied by the Court of Appeals because the accused, although originally assigned* to the preparation of summons and subpoenas, had been allowed in some instances to prepare motions for dismissal of traffic cases.

And this Tribunal has practically concurred with the Spanish court when it opined[1] that a laborer in the Bureau of Posts temporarily detailed as filer of money orders was a public officer within the meaning of article 203 of the Revised Penal Code. Indeed, common sense indicates that the receipt of bribe money is just as pernicious when committed by temporary employees as when committed by permanent officials.

The second essential element has likewise been proven. The Court of Appeals said this petitioner received ten pesos from Rabia (and pocketed the money) in consideration of his "fixing" Rabia's case, and thereafter he "fixed" it by filing a motion for dismissal, which was approved in due course.

In connection with the last two elements of the offense, it should be stated that our pronouncements under the first sufficiently answer petitioner's propositions elaborated in several parts of his brief, revolving around the thesis that since he was a mere laborer by appointment he may not be convicted, because the preparation of motions for dismissal is not surely the official function of a laborer. Enough to recall that although originally appointed as a mere laborer, this defendant was on several occasions designated or given the work to prepare motions for dismissal. He was consequently temporarily discharging such public functions. And as in the performance thereof he accepted, even solicited, a monetary reward, he is certainly guilty as charged.

Wherefore, there being no issue about the penalty imposed, the decision of the Court of Appeals is affirmed in toto. With costs.

Paras, C. J., Feria, Pablo, Tuason Montemayor, Jugo and Bautista Angelo, JJ., concur.

[1] People vs. Palomo, 40 Off. Gaz., 10th Supp. p. 2087.

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