

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LOURDES TAGALA ADANO, ACCUSED-APPELLANT.

Ponente: CASTILLO, M., J.

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CASTILLO, M., J.:

This is the appeal from the Joint Judgment of the Regional Trial Court (RTC) of Daet, Camarines Sur, Branch 40 dated 17 October 2012 finding accused-appellant Lourdes Tagala Adano guilty of an election offense under Section 261 (y) (2) of Batas Pambansa (BP) Blg. 881, as amended, in relation to Section 45 (j) of Republic Act (RA) No. 8189.[1] The dispositive portion of said decision reads:

WHEREFORE, premises considered, judgment is now rendered:

a) With respect to Criminal Case No. 10674, the prosecution having proved the guilt of the accused beyond reasonable doubt for violation of election offense as charged in the amended information, accused Lourdes Tagala Adano is hereby sentenced to suffer the indeterminate penalty of imprisonment from one (1) year to two (2) years which shall not be subject to probation and who is further disqualified to hold public office as well as deprivation of her right to suffrage; and

b) With respect to Criminal Case No. 10675, there being doubt as to the guilt of herein accused Lourdes Tagala Adano for the election offense as charged in the information, she is therefore ACQUITTED from the aforesaid charge and the property bond posted for her provisional liberty is cancelled and released from any judicial liability in connection with this case.

SO ORDERED.[2]

The factual antecedents of the case are as follows:

In three (3) separate criminal informations, accused-appellant was charged with violation of Section 261 (y) nos. (2) and (5) and Section 261 (z) no. (2) of BP Blg. 881, as amended, in relation to Section 45 (j) of RA No. 8189, to wit:

Criminal Case No. 10674

That sometime on June 21, 1997 at Barangay 2, municipality of Mercedes, province of Camarines Norte, and within the jurisdiction of this Honorable Court, above-named accused, who, having had registered as voter on June 15, 1997 at Barangay Mangcasay, Paracale, Camarines Norte, did then and there, willfully, unlawfully and feloniously, makes knowingly untruthful statement in his [sic] second Voter Registration Record (VRR) which reads: “x x x; and that I am not registered as a voter in any other precinct.”, a false representation made under oath, in violation of the law.

CONTRARY TO LAW.[3]

Criminal Case No. 10675

That sometime on May 11, 1998, both at Brgy. Mangcasay, municipality of Paracale, and Barangay 2, municipality of Mercedes, all in the province of Camarines Norte, and within the jurisdiction of this Honorable

Court, above-named accused, who, having had simultaneously registered in both places, did then and there, willfully, unlawfully and feloniously casts her votes twice, a prohibited act, in violation of the law.

Daet Camarines Norte, November 24, 2000.[4]

Criminal Case No. 10676

That sometime on June 21, 1997 at Brgy. 2, Municipality of Mercedes, province of Camarines Norte, and within the jurisdiction of this Honorable Court, the above-named accused, who, being a registered voter of Brgy. Mangcasay, Paracale, municipality of Camarines Norte, did, then and there willfully, unlawfully and feloniously registers anew as a voter at Brgy. 2, Mercedes, Camarines Norte, without filing an application for cancellation of her previous registration, in violation of the law.

CONTRARY TO LAW.[5]

On 21 August 2001, accused-appellant filed a motion to dismiss Criminal Case No. 10676, which was granted by the court a quo in the Order dated 30 August 2001.[6] On 22 May 2012, the Office of the City Prosecutor filed a motion to admit amended information dated 9 May 2002 in Criminal Case No. 10674, to which accused-appellant filed a motion to quash. In the Order dated 23 May 2012, the court a quo admitted the amended information and denied the motion to quash.[7] Upon arraignment under the amended information in Criminal Case No. 10674 and the information in Criminal Case No. 10675 on 3 September 2002, accused-appellant entered a plea of “not guilty”. After the pre-trial, trial on the merits ensued.[8]

Evidence for the prosecution sought to establish the following:

Prior to the conduct of the 11 May 1998 synchronized national and local elections, the COMELEC (Commission on Elections) conducted a nationwide registration of voters. On 15 June 1997, accused-appellant filed an application for registration as voter with the election officer in Barangay Mangcasay, Paracale, Camarines Norte (Brgy. Mangcasay, hereinafter). She accomplished her Voter's Registration Record (VRR) by filling out the needed information. Her application was approved on that day as shown in her VRR with Serial No. 15870408.[9]

On 21 June 1997, accused-appellant, being fully aware of her previous application as voter in Brgy. Mangcasay, filed another application for registration as voter with the election officer in Barangay 2, Mercedes, Camarines Norte (Brgy. 2, hereinafter). As shown in her VRR with Serial No. 39777856, she knowingly made a false and untruthful statement which reads: “I am not registered as a voter in any other precinct”, while the truth was that she was fully aware of her previous registration as voter in Brgy. Mangcasay, which she made on 15 June 1997.[10]

On 11 May 1998 election, accused-appellant voted in Brgy. Mangcasay using Ballot No. 0154284. It was written on the dorsal portion of her VRR with Serial No. 15870408. She also cast her vote in Brgy. 2 using Ballot No. 0124437, as shown on the dorsal portion of her second VRR with Serial No. 39777856.[11]

On the other hand, evidence for the defense sought to establish the following:

On 15 June 1997, accused-appellant filed an application for registration as voter with the election officer in Brgy. Mangcasay by accomplishing the VRR. She was given a sample document, which was completely filled out as a guide in filling out the needed information. On 17 June 1997, she and her husband, Ruben Adano, transferred their residence to Mercedes, Camarines Norte to seek a more lucrative earning for her husband. On 21 June 1997, she filed an application for registration in Mercedes, believing that her previous registration in Brgy. Mangcasay would be automatically cancelled or invalidated. She was not asked if she had previously registered, but was merely told to accomplish a VRR by copying the sample format handed to her.[12]

In November 1997, accused-appellant and her husband decided to go back to Brgy. Mangcasay because her husband's earnings continued to diminish and could no longer support their family. On 11 May 1998, at around 9:00am to 10:00am, she cast her vote at the Barangay Hall of Mangsacay. She was in the company of her sister and brother-in-law. On her way home, she saw her husband at the store of the then Barangay Chairman, Dante De Vera, and she decided to stay with him until around 11:00am. Thereafter, accused-appellant and her husband headed home. Upon arriving home, accused-appellant prepared and ate lunch. Then she took an afternoon nap with her husband for about two (2) and a half hours. She woke up at around 3:00pm and headed back to the Barangay Hall of Mangcasay to wait and witness the counting of ballots. At around 5:00pm, she went home. She cooked, ate dinner, and went to sleep. She denied having voted in Brgy. 2.[13]

Dante De Vera, then Barangay Chairman of Mangcasay during the 11 May 1998 elections, corroborated the testimony of accused-appellant in so far as what transpired on 11 May 1998. He stated that accused-appellant voted only once in Brgy. Mangsacay. He did not know whether accused-appellant made a false statement in her registration. He also did not know if she registered twice. Accused-appellant went to the Barangay Hall sometime in November 1999 bringing with her the letter/subpoena from the COMELEC which charged her with violation of election laws. He accompanied her to her sister-in-law, Lani Adano, in Brgy. 2 where another subpoena against her was also received. He advised Lani Adano to inquire with the office of COMELEC in Mercedes, Camarines Norte about said letter.[14]

Lani Adano, sister-in-law of accused-appellant, testified that she informed the latter that she received a letter/subpoena from the COMELEC. She was advised by Dante De Vera to inquire with the office of the COMELEC in Mercedes, Camarines Norte about the letter received by accused-appellant. At the said office, she was advised to bring accused-appellant to the provincial office of COMELEC to which advice they acceded. Accused-appellant was advised to submit her counter-affidavit. Lani Adano claimed that she could attest to the fact that accused-appellant did not cast her vote in Brgy. 2 during the 1998 elections.[15]

After consideration of the evidence submitted by the parties, the court a quo rendered the assailed joint decision finding her guilty of having knowingly made a false statement in her VRR, but acquitting her of the offense of having voted twice in the 11 May 1998 elections on the ground of reasonable doubt. In Criminal Case No. 10674, accused-appellant did not dispute the fact that she indeed applied for registration as voter twice. The court a quo held that her defense that she was not informed by the election officer in Brgy. 2 that her earlier registration as voter in Brgy. Mangcasay would not be automatically cancelled by her subsequent registration was not a valid defense. It held that a violation of the election law was mala prohibita, and as such, criminal intent was not necessary. Good faith, ignorance, or lack of malice was beside the point. In Criminal Case No. 10675, the court a quo found that there was no proof beyond reasonable doubt that accused-appellant voted twice on 11 May 1998. The prosecution failed to present an expert witness to prove that the thumbmark appearing on the dorsal portion of the subject VRR and the thumbmark appearing on the front portion thereof belonged to one and the same person. The same was true with respect to the signature appearing on the front and dorsal portions of the subject VRR.[16]

Aggrieved with the judgment of the court a quo in Criminal Case No. 10674, accused-appellant filed the instant appeal with the lone assignment of error[17], to wit:

THE COURT A QUO GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE HER GUILT BEYOND REASONABLE DOUBT.

In support of the foregoing, accused-appellant invokes double jeopardy. She contends that her acquittal in Criminal Case No. 10675 (double registration) should operate to bar her prosecution for Criminal Case No. 10674

(knowingly making a false statement). These charges arose from the same facts (her acts of registering as voter in Brgy. Mangcasay and Brgy. 2) and were prosecuted under the same provision of the Omnibus Election Code. Whether accused-appellant made a knowingly false statement is evidentiary. Since she was acquitted by the court a quo in Criminal Case No. 10675 (double registration), it necessarily means that she did not register twice. If she did not register twice, she could not have made a knowingly false statement in her application for registration.[18]

Secondly, accused-appellant contends that even assuming that double jeopardy did not attach, the prosecution failed to prove her guilt beyond reasonable doubt. Although a violation of the election law, which is a special law, is *malum prohibitum*, it does not automatically mean that conviction always awaits those found in “commission” of the act. Not all election offenses are *mala prohibita*. When a crime is punished by a special law, intent to commit a crime is not necessary as a rule. It is sufficient that the offender has the intent to perpetrate the act prohibited by the special law. Intent to commit the crime and intent to perpetrate the act must be distinguished. Accused-appellant claims that she was a first-time registrant and voter. She was not assisted by any election officer but was merely handed a sample registration form. She was not asked whether she had an active registration in another municipality. She was not aware of the registration procedure that she was supposed to cancel her previous registration before she could be allowed to register anew. In other words, she had no intent to commit the prohibited act.[19]

Finally, accused-appellant contends that the election officers were remiss in their duty in assisting accused-appellant when they did not ask whether she had a previous registration. The court a quo cannot just brush it aside with the presumption of regularity in the performance of official duty. This presumption was overwhelmed by the irregularity committed by the election officers. Moreover, the presumption of regularity of performance of official function cannot overcome the presumption of innocence nor constitute proof beyond reasonable doubt.[20]

We are not persuaded.

Accused-appellant has the burden of substantiating a claim for jeopardy, the requisites of which are as follows: (1) a first jeopardy must have attached prior to the second; (2) the first jeopardy must have been validly terminated; and (3) the second jeopardy must be for the same offense as in the first.[21] As to the first requisite, the first jeopardy attaches (a) after a valid indictment; (b) before a competent court; (c) after arraignment, (d) when a valid plea has been entered; and (e) when the accused was acquitted or convicted, or the case was dismissed or otherwise terminated without his express consent.[22] The test for the third element is whether one offense is identical with the other or is an attempt to commit it or a frustration thereof; or whether the second offense includes or is necessarily included in the offense charged in the first information.[23]

Contrary to accused-appellant's notion, the crime charged in Criminal Case No. 10675, for which she was acquitted, was not for “double registration” but for “voting twice”. The information in said case clearly provides:

That sometime on May 11, 1998, both at Brgy. Mangcasay, municipality of Paracale, and Barangay 2, municipality of Mercedes, all in the province of Camarines Norte, and within the jurisdiction of this Honorable Court, above-named accused, who, having had simultaneously registered in both places, did then and there, willfully, unlawfully and feloniously casts her votes twice, a prohibited act, in violation of the law.[24]

The foregoing charge is an election offense under Section 261 (z) (2), Article XXII of BP Blg. 881, which states:

SECTION 261. Prohibited Acts. — The following shall be guilty of an election offense:

xxx

xxx

XXX

(z) On voting:

XXX

XXX

XXX

(2) Any person who votes more than once in the same election, or who, not being a registered voter, votes in an election.

Evidently, the above crime is not the same or identical to the crime charged in Criminal Case No. 10674, for which accused-appellant was convicted of an election offense under Section 261 (y) (2), Article XXII of BP Blg. 881, which provides:

(y) On Registration of Voters:

XXX

XXX

XXX

(2) Any person who knowingly makes any false or untruthful statement relative to any of the data or information required in the application for registration.

Neither does the offense of “voting twice” include or is necessarily included in the offense of “knowingly making a false or untruthful statement”. These two (2) violations, separately defined under Section 261, Article XXII of BP Blg. 881 are clearly distinct and different from each other. The contention that such violations arose from the same facts and were prosecuted under the same Omnibus Election Code does not support accused-appellant's claim of double jeopardy. The doctrine of double jeopardy is a constitutional safeguard against exposing the accused from the risk of being prosecuted twice for the same offense, and not a different one.[25] There is simply no double jeopardy when the subsequent information charges another and a different offense, although arising from the same act or set of acts.[26] Prosecution for the same act is not prohibited. What is forbidden is the prosecution for the same offense.[27]

Even assuming arguendo that accused-appellant is referring to the dismissal of the information in Criminal Case No. 10676, where the acts described therein pertain to “double registration”, no jeopardy still attaches, because it was dismissed on account of the motion to dismiss filed by accused-appellant before her arraignment.[28] It is settled that jeopardy does not attach in favor of the accused when the case was dismissed before he/she entered his/her plea, or when the case was dismissed with his/her consent or at his/her instance.[29]

As regards the contention that accused-appellant did not intend to commit the prohibited act and that she believed in good faith that her prior registration as a voter would be automatically canceled or invalidated by her second registration, such is equally untenable. The case of *Garcia v. Court of Appeals*[30], which held that prohibited acts under Section 27 (b) of RA No. 6646 are mala in se, is inapplicable in the instant case. Obviously, the law applicable in said case (RA No. 6646) is different from the law being applied in the instant case (BP Blg. 881 in relation to Section 45 (j) of RA 8189). In said case, the prohibited acts in Section 27 (b) of RA No. 6646 were declared mala in se because the Supreme Court ruled that it was not the intent of the law to punish election canvass errors and mistakes committed due to overwork and fatigue of canvassers.

It must be noted that the ruling in *Garcia v. Court of Appeals* is an exception to the rule because although RA No. 8189 is a special law, the acts prohibited in Section 27 (b) thereof are deemed mala in se, which make the intent or malice material in determining the guilt of the offender/s. These are not the kinds of acts punished under BP Blg. 881 in relation to RA No. 8189, which fall under the general rule that offenses prohibited and punished by a special law are mala prohibita.[31] In violation of special laws, the intent or motive of the offender in committing the prohibited acts thereunder is immaterial.[32] Therefore, accused-appellant's claim of good faith or lack of intent to violate the law is inconsequential.[33] Mere commission of the illegal act is punishable.[34]

Notably, accused-appellant admitted in her pleadings that she in fact applied for registration as a voter in Brgy. 2, knowing fully well that she had previously registered as a voter in Brgy. Mangcasay. Hence, when she attested in her VRR with Serial No. 39777856 that she was “not registered as a voter in any other precinct”, she knowingly made a “false or untruthful statement relative to any of the data or information required in the application for registration”, a prohibited act or election offense under Section 261 (y) (2), Article XXII of BP Blg. 881 in relation to Section 45 (j) of RA No. 8189. Again, her claim of good faith is immaterial because what is being punished in mala prohibita offenses is the commission of the very act which is made illegal by the law.[35]

Finally, with regard to the contention that the presumption of innocence should prevail over the presumption of regularity in the performance of official function or duty, such doctrine is inapplicable in the instant case. As the offense charged is malum prohibitum, in which the mere commission of the act is punishable, an admission by the accused that he/she committed such prohibited act overthrows the presumption of innocence. When accused-appellant attested in her second VRR that she was not a registered voter in any other precinct, she already consummated the act prohibited in Section 261 (y) (2) of BP Blg. 881 in relation to Section 45 (j) of RA No. 8189. She cannot claim presumption of innocence when she never disputed that she committed such illegal act. Her defense that the election officers in charge of the voters' registration were remiss in their duty of assisting and/or informing her that she was prohibited to register anew unless her previous registration was canceled is utterly untenable.

The election officers could not have possibly known of accused-appellant's previous registration unless she voluntarily disclosed such fact to them. If we were to follow accused-appellant's reasoning, it was she who did not act with diligence, as she could have readily inquired from any of the election officers present during the registration if it was valid for her to register again as a voter in Brgy. 2 in spite of her earlier registration as voter in Brgy. Mangcasay. The election officer could have prevented her from registering again if she told him/her of such fact. As she purportedly just assumed that her prior registration would be automatically canceled or invalidated by her subsequent registration, such assumption further indicates her negligence, and not the election officer's negligence. Also, if she were diligent, she would have read in the VRR that she would make an attestation that she was not a registered voter in any other precinct. However, accused-appellant still proceeded with her second registration.

There are two conclusions that may be derived from her action: (1) that she was ignorant of the law, or (2) that she deliberately brushed off such attestation. In either case, accused-appellant is guilty of an election offense under Section 261 (y) (2) of BP Blg. 881, as amended, in relation to Section 45 (j) of RA No. 8189. Ignorantia legis non excusat. “Ignorance of the law excuses no one from compliance therewith.”[36]

WHEREFORE, premises considered, the instant appeal is **DISMISSED**. The decision of the Regional Trial Court of Daet, Camarines Sur, Branch 40 dated 17 October 2012 in Criminal Case No. 10674 is **AFFIRMED**.

SO ORDERED.**CERTIFICATION**

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

MARIFLOR P. PUNZALAN CASTILLO

Lazaro-Javier, A.C., and [*]Barrios, MM., JJ., concur.

[*] Acting Junior Member, vice Justice Laguilles, per Office Order No. 243-14-ABR dated May 23, 2014.

[1] Rollo, p. 39.

[2] Rollo, pp. 42-43.

[3] Records, Vol. 1, p. 66.

[4] Records, Vol. 2, p. 1.

[5] Rollo, p. 52.

[6] Id.

[7] Rollo, pp. 52-53.

[8] Rollo, p. 53.

[9] Rollo, p. 54.

[10] Id.

[11] Id, pp. 54-55.

[12] Rollo, p. 29.

[13] Id.

[14] Id, pp. 29-30.

[15] Rollo, p. 30.

[16] Rollo, pp. 41-42.

[17] Rollo, p. 25.

[18] Rollo, pp. 32-33.

[19] Rollo, pp. 34-35.

[20] Rollo, pp. 35-36.

[21] Braza v. Sandiganbayan, G.R. No. 195032, February 20, 2013.

[22] Id.

[23] Id.

[24] Supra, note 4. Emphasis supplied.

[25] Supra, Braza v. Sandiganbayan.

[26] Id.

[27] Id.

[28] Rollo, p. 52; Records, pp. 41-46, 71.

[29] Antone v. Beronilla, G.R. No. 183824, December 8, 2010.

[30] See Rollo, p. 33; G.R. No. 157171, 14 March 2006.

[31] See Spouses Romualdez v. COMELEC, G.R. No. 167011, December 11, 2008; Baytan v. COMELEC, G.R. No. 153945, February 4, 2003.

[32] People of the Philippines v. Chua, G.R. No. 187052, September 13, 2012; Nala v. Barroso, G.R. No. 153087, August 7, 2003; See also People v. Bayona (61 Phil. 181) as cited the Brief for Accused-Appellant (Rollo, p. 34).

[33] Id, Baytan v. COMELEC.

[34] Supra, People of the Philippines v. Chua.

[35] Id; supra, Baytan v. COMELEC.

[36] Article 3 of the Civil Code of the Philippines.

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