

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. GUILLERMO I. VENTURA, DEFENDANT AND APPELLANT.

G.R. No. L-15079. January 31, 1962

Ponente: BENGZON, C.J.

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BENGZON, C.J.:

This is an appeal from the decision of the Court of First Instance of Rizal finding Guillermo I. Ventura guilty of illegal practice of medicine under Section 770 in connection with Section 2678 of the Revised Administrative Code, and sentencing him, this being his second offense, to pay a fine in the sum of P500.00, with the corresponding subsidiary imprisonment in case of insolvency and to pay costs.

Appellant, the accused, was charged with the above offense in an information which alleges that in February 1955, he did,

"willfully, unlawfully and feloniously and for compensation and reward, practice medicine in the said City (Pasay) by treating and applying electrical appliances to patients for the purpose of curing them with their ailments, diseases, pains, and physical defects from which they are suffering and by holding out himself to the public by means of signs, advertisements, and other means, to be a Doctor of Medicine."

The lower court found, as facts, the following:

"* * * in the year 1949, the accused herein, Guillermo I. Ventura, was convicted by the court of First Instance of Rizal of a 'similar offense' or illegal practice of medicine in the municipality of Pasay, now Pasay City and sentenced to pay a fine of P200.00 under the same legal provisions, or Section 770 in connection with Section 2678 of the Revised Administrative Code.

"* * * by reason of certain complaints the National Bureau of Investigation had received from the President of the Philippine Federation of Private Medical Practitioners and from the Chairman of the Board of Medical Examiners, the National Bureau of Investigation on December 16, 1955, sent its morgue attendant Jose Natayan to the clinics of the accused at No. 2454 M. de la Cruz Street, Pasay City. Natayan was at that time suffering from pains in his back and he asked the accused to see his sickness. The accused attended to Natayan; wrote something on a piece of paper; and then he told him that he (Natayan) 'was sick of lumbago'. Thereupon, the accused asked Natayan to pay P5.00 and then asked him to pay the amount to a lady employee in the clinic which Natayan did. At the request of the accused, Natayan, then went around the other side of the clinic where he was given an enema of hot water by a male attendant. Then Natayan was asked to lie down on a table where his back was exposed to a big bulb for around fifteen minutes and afterwards to a red colored bulb for another ten minutes. Thereafter Natayan went back to the accused, who told him to come back to his clinic for six consecutive days. After that Natayan went back on the same day or December 16, 1955 to his office in the National Bureau of Investigation.

The following day, Natayan returned to the clinic of the accused with the National Bureau of Investigation raiding party composed of two agents, two attorneys and one photographer. After he was dropped by the National Bureau of Investigation agents about seven meters away from the clinic of the accused, Natayan

proceeded to the office of the accused, who then and there told him that another treatment would be applied to him and that he would pay P3.00. After paying this amount and while Natayan was lying on a table about to be given treatment the National Bureau of Investigation agents raided the place.

The accused herein, Guillermo I. Ventura, is not a duly registered masseur or a physician qualified to practice medicine."

Appellant seeks a reversal here of aforementioned judgment of conviction on the grounds: (1) that the offense charged in the information had already prescribed; (2) that the laws involved are unconstitutional and void; (3) that granting that the said laws are valid the accused should not have been prosecuted thereunder because he was not engaged in the practice of medicine (4) that Congress, in passing House Bills Nos. 2405 and 357 recognized and believed in the efficacy of the drugless systems of healing and although said bills were vetoed by the President of the Philippines and thereby did not become regular statutes, they may be considered as concurrent resolutions formally establishing the drugless system of healing as a separate and distinct profession, not covered by Section 770 of the Medical Law; (5) that the complainants and the Government are estopped from prosecuting the accused under Section 770 because they were the ones who induced him to practice drugless healing after his conviction in 1949; and (6) that the accused has an implied license to practice drugless healing from the people of the Philippines and the Chairman of the Medical Board of Examiners.

Appellant, testifying on his behalf admitted that for the past 35 years, he had been practicing as a naturopathic physician, "treating human ailments without the use of drugs and medicines" and employing in his practice "electricity, water and hand", without a license to practice medicine; that during this time he had treated 500,000 patients, more or less, about 90% of whom were healed, and that he had studied drugless healing in the American University, Chicago, Illinois for about four years.

Invoking prescription, he argues that in view of the fact that he had begun the alleged practice of medicine thirty-five years ago without the required license, the crime charged in the information had already prescribed.[1]

The records reveal that the accused begun practicing his method of drugless healing 35 years ago. This practice was first discovered by the authorities in 1949. He was prosecuted and convicted therefore the same year. Sometime after he again set up a clinic. He had a lucrative clientele and nobody bothered him.

However, at about February, 1955, the President of the Philippine Federation of Private Medical Practitioners, complained to the National Bureau of Investigation that appellant was advertising himself as capable of treating human ailments without drugs. Upon investigation, appellant was found to be without certificate of registration to practice such profession either from the Board of Medical Examiners or from the Committee of Examiners of Masseurs. So, this prosecution started in 1956. It is clear that the four-year period of prescription of the offense charged should be computed from February, 1955 when the National Bureau of Investigation discovered appellant's alleged illegal practice of Medicine.

Appellant also questions the constitutionality of Section 770 in relation to Section 775 of the Revised Administrative Code. It is appellant's theory that to require, of any person whose business is merely to stimulate by mechanical means the nerves of the body, many years of study in medical schools, taking up obstetrics, general surgery, gynecology, bacteriology and many other sciences, is curtailment of the exercise of one's calling, a violation of the constitutional principle that all men have the right to life, liberty, and the pursuit of happiness and are entitled to the equal protection of the law. It is furthermore theorized that inasmuch as drugless healing is not taught in any of the medical schools prescribed, how could the members of the Medical Board of Examiners pass on the competence of these drugless healers?

This same contention was presented to and settled by this Court in the case of *People vs. Buenviaje* who was

convicted of illegal practice of medicine for practicing chiropractor.[2] It held:

"There is very little force in this argument. The subjects in which an examination is required relate to matters of which a thorough knowledge seems necessary for the proper diagnosis of diseases of the human body and it is within the police power of the State to require that persons who devote themselves to the curing of human ills should possess such knowledge."

In the instant case, we must again uphold those immutable concepts of the police power of the State. Under this power, the State may prescribe such regulations as in its judgment will secure or tend to secure the general welfare of the people, to protect them against the consequences of ignorance and incapacity as well as of deception and fraud. As one means to this end, it has been the practice of different States, from time immemorial to exact in any pursuit, profession or trade, a certain degree of skill and learning upon which the community may confidently rely, their possession being generally ascertained in an examination of parties by competent persons, or inferred from a certificate to them in the form of a diploma or license from an institution established for instruction on the subjects, scientific and otherwise, with which such pursuits have to deal.[3]

Appellant claims that his act of stimulating the affected nerves of the patients without use of any drug or medicine is not practice of medicine; that "practice of medicine" is confined only to the systems taught by the medical schools, namely, the regular, the homeopathic and the electric schools or systems.

Section 770 of the Revised Administrative Code in no uncertain terms covers appellant's acts. The statutory definition as to what acts constitute illegal practice of medicine as provided in said Section 770 includes the acts and practices performed by appellant. By his own statements, he admitted to have continuously diagnosed and treated more or less 500,000 instances of different kinds of human ailments and to have prescribed remedies therefor.

As regards the contention that there are at least two concurrent resolutions declaring formally that Congress has recognized the drugless methods of healing, we need not elaborate further than to say that not until such recognition is actually embodied in a statute, shall we extend consideration of such method.

Appellant pleads that the lower court erred in not holding that the complainants and the government are estopped from prosecuting him because they were the ones who induced him to practice drugless healing after his conviction in 1949. He tried to show that medical practitioners, members of Congress, provincial governors, city mayors and municipal board members wrote to him requesting his help for persons suffering from all kinds of ailments; that municipal ordinances and resolutions were also passed authorizing him not only to practice his method of healing but also to put up clinics in some municipalities; that he was even extended free transportation facilities to work in the Central Luzon Sanitarium in Tala, Caloocan, Rizal.

Above plea cannot be sustained by this Court. The doctrine of estoppel does not apply to the government.[4] It is never estopped by mistakes or errors on the part of its agents, even assuming without conceding that said municipalities had encouraged appellant's practice. We cannot allow the bargaining away of public health and safety for the semblance of benefit to a few government officials, people or even municipalities.

Similarly, there is no such thing as implied license to practice drugless healing by the mere fact that the Chairman of the Board of Medical Examiners had permitted appellant to serve free in the Central Luzon Sanitarium in Tala, Caloocan, Rizal, or that countless people persisted in engaging his services. For one thing, these people might have contracted his services on the mistaken notion that he was duly licensed to practice his profession; for another, a repetition of illegal acts can never make them legal.

As additional argument, appellant urges acquittal under the new Medical Act of 1959[5] wherein the practice of

physiotherapy is recognized as a distinct science. He claim coverage of said law on the ground that he practices physiotherapy by massage through physical devices and upon the recommendation of duly registered physicians.

The above argument has no merit because there is strong evidence to the effect that appellant alone diagnoses his patients' ailments and applies that remedies therefor[6] without written order or prescription by a registered physician.

Wherefore, the decision appealed from is hereby affirmed in all parts and respects. Costs against appellant.

Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, and De Leon, JJ., concur.

[1]SEC. 1 (Act 3673). — Violations penalized by special acts shall unless otherwise provided in such Acts, prescribe in accordance with the following rules:

(b) after four years for those punished by imprisonment for more than one month but less than two years.

[2] 47 Phil. 536.

[3] U.S vs. Gomez Jesus, 31 Phil. 225-233

[4] Republic vs. Go Bon Lee, 111 Phil. 805; Koppel-(Phil.) Inc. vs. Collector of Internal Revenue, 113 Phil., 17.

[5] Republic Act 2383, Sec. 11. Exemptions. — The Preceding section shall not be construed to affect (a) any medical student duly enrolled in ay approved medical college or school under training, serving without any professional fee in any government or private hospital, provided that the renders such service under the direct supervision and control of a registered physician; (b) any legally registered dentist engage exclusively in the practice of dentistry; (c) any duly registered masseur or physiotherapist, provided that he applies massage or other physical means upon written order or prescription of a duly registered physician or provided that such application of massage or physical means shall be limited to physical or muscular development.

[6] See Exhibit "A".

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