

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. BIENVENIDO MAPA AND CECILIO A. TOLEDO, DEFENDANTS AND APPELLANTS.

G.R. No, 30725. July 31, 1929

Ponente: JOHNS, J.

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JOHNS, J.:

It appears that the first entry in what is known as Exhibit A was made on the 27th day of July, 1920, and that the number of the certificate was No. 1648, and it was issued to and in favor of Feliciano Leviste and attested by Aurelio A. Torres, then deputy clerk; that this book has been in use ever since that date, from which time certificates have been issued to all persons who have passed the Bar examinations in consecutive numbers down to and including No. 3339, which was issued on the 15th day of May, 1929, to and in favor of Fortunato R. Ybiernas and attested by Albert, the clerk; that from this date there are remaining blank certificates in the book which have not been used down to and including No. 6447.

As printed in the book, all of these certificates are in the following form: "No.....
"Mr....., of, is hereby registered as an attorney-at-law, having taken the necessary oath and signed this roll with the Deputy Clerk who certifies.

"Manila, P. I.,.....of....., 19.....

"Deputy Clerk""

"5—————17"

When issued the name of the person passing the Bar examination is written on the first line followed by his residence, the certificate is then dated and signed in the handwriting of the attorney to whom it refers, and is attested by the signature of the deputy clerk or clerk who issues the certificate. That is to say, such certificates show upon their face the names and signatures of all persons who have passed the Bar examinations from the 27th day of July, 1920, down to and including the 15th day of May, 1929, and it appears that all of them are officially signed by the deputy clerk of the court appointed and authorized for that purpose, or by the clerk himself, and the book is kept in the clerk's office among the other records of the Supreme Court, and as such is open and subject to inspection like any other record in that office. It will also be noted that the person to whom the certificate is issued personally signed his own name to the certificate. Hence, in the very nature of things, when so signed and certified in that book, the certificate becomes not only a public, but an official document. To hold otherwise would be to say that no paper of any kind in the clerk's office is an official document.

There is no merit in defendant's contention that the court erred in finding "that the Roll of Attorneys, Exhibit A, is an official book of the Supreme Court."

It is next contended that error was committed "in admitting Exhibit H and the testimony of the Government witness Antonio Hipolito."

The body of Exhibit H is as follows:

"This is to certify, that Cecilio A. Toledo of Bulan, Sorsogon, was duly admitted to practice as an Attorney And Counselor at Law in all the courts of these Islands, on the seventeenth day of December, A. D. nineteen hundred twenty-seven.

"That his name appears upon the Roll of Attorneys of this Court, and that he is in good and regular standing as such Attorney and Counsellor at Law; further, that he has not been suspended or disbarred and is not laboring under any disability to practice in the courts of the Philippine Islands.

"Given under my hand and the seal of said court, this seventeenth day of December, A. D. 1927."

This was attested by the clerk of the Supreme Court and countersigned by the Chief Justice, and upon its face recites that the name of the defendant Toledo "appears upon the Roll of Attorneys of this Court" and is authorized "to practice law in the Philippine Islands."

It appears from the evidence of Antonio Hipolito, to which this objection is made, that this certificate in its present form, except as to the name of the defendant, which was then blank, was brought to him at his home about 2 p. m. by the defendant Mapa, with instructions and directions to Hipolito to fill in and insert the name of Cecilio A. Toledo, which he did as it now appears in the certificate. That evidence was certainly competent as tending to show that the defendant Mapa was a party to the alleged crime. It further appears that upon the strength and receipt of that certificate, the defendant Toledo opened up an office in the City of Manila and commenced the practice of law.

The defendant Mapa was an old and trusted employee in the clerk's office, and as such had the care and custody of Exhibit A, known in the record as the Roll of Attorneys.

It appears upon its face that certificate No. 3098 in question was originally issued to and in favor of Vicente A. Rufino and signed by him. It now appears upon its face that an attempt was made to erase his name on the first line of the certificate. But as found by the trial court, the letter "A" and his name "Rufino" are still visible to the naked eye, and the first part of his name "Vicente" can now be dimly traced with the aid of a magnifying glass, but that Rufino's signature to the body of the certificate cannot be traced, and there is no evidence of it left. But the certificate does clearly show upon its face that an erasure has been made on the line where his name was signed to the certificate, and that an attempted erasure was made of his name on the first line, and it shows that the name of the defendant, Cecilio A. Toledo, is signed on the line of the certificate where the name of Vicente A. Rufino was formerly signed, but the name of the defendant does not appear on the upper line of the certificate where the name of Vicente A. Rufino was formerly written by the deputy clerk.

As a part of his duties, the defendant Mapa had the control and custody of all such certificates, and the changes and alterations in certificate No. 3098 were made during the time that he had such official custody. In that situation, it is hard to conceive how such erasures could be made and the defendant Toledo could sign that certificate without the knowledge and collusion of the defendant Mapa. The evidence is conclusive that the name now signed to that certificate is that of the defendant Toledo, and the very fact that the defendant Mapa took Exhibit H above quoted in blank to the witness Hipolito and requested and instructed him to fill in Toledo's name in that certificate is strong evidence that Mapa was a party to the commission of the crime. The record is conclusive that Cecilio A. Toledo failed in his examination, and it appears from the report of the examiners that his general average was 57 only, which was away below the required passing grade.

"Upon the question of conspiracy, the lower court says:

"The evidence proves such facts and justifies such, conclusions, that it is impossible to deny that said

defendant, by reason of his work and since he was in charge of the Roll of Attorneys, Exhibit A, and the papers concerning the 1927 bar examination, knew that his co-defendant Toledo had not passed said examination, and that, therefore, he had no right to be registered in the roll, Exhibit A, as an attorney or to hold a lawyer's diploma; and knowing, moreover, as he had to know by reason of his work and his responsibility, that the name of Attorney Vicente A. Rufino appeared in the inscription No. 3098, he and his codefendant, or both, erased, or made, or consented that the name and signature of Vicente A. Rufino be erased and that Cecilio A. Toledo stamped his signature on the same line where Vicente A. Rufino had put his. That, with the knowledge of all of these facts, he, the defendant Mapa, made Antonio Hipolito fill the blank spaces of the diploma, Exhibit H, to convert it into a diploma of his co-defendant Cecilio A. Toledo. We say that Mapa had knowledge of such facts, because before he decided to employ the services of Hipolito to fill out the diploma in favor of Toledo, it was necessary to know whether or not this candidate had passed the examination, and to be brief, it was necessary to know whether or not he was registered as an attorney in the Roll of Attorneys. It is not to be supposed that an employee of the standing and responsibility of Mapa would have ordered the issuance of a diploma without making any inquiry beforehand by means of the book and the record in his charge if Toledo was or was not an attorney admitted by the Supreme Court."

To which we might add that Mapa was the legal custodian of Exhibit A, known as the registered Roll of Attorneys, and he also was given an authentic list of all of the names of the persons who had passed the Bar examination, and that he was the legal custodian of that list, and the name of the defendant Toledo did not appear upon that list, for the simple reason that he had not passed.

The evidence is conclusive that the falsification could not have been made without the connivance, aid, consent and approval of the defendant Mapa, and that he was a party to the crime. The falsified certificate No. 3098 in question recites that his co-defendant Toledo "is hereby registered as an attorney-at-law, having taken the necessary oath and signed this roll with the Deputy Clerk who certifies." The evidence is conclusive that that certificate was false, and that Mapa knew it was false, and that the name of his co-defendant Toledo did not appear on the list in his possession of those who had passed the examination. Yet, knowing that certificate to be false, he personally took and delivered Exhibit H to Antonio Hipolito with instructions to have the name of his codefendant inserted in that certificate, which was done, and Exhibit H recites upon its face "that his name appear upon the Boll of Attorneys of this Court." At the time he did this, he knew that Exhibit H, which recites that Toledo "is hereby registered as an attorney-at-law/" was a falsified document, and that the admission of Toledo to practice as an attorney-at-law was a gross fraud on both the profession and this court, which was all the more grievous because the defendant Mapa was a trusted employee in the clerk's office.

We are clearly of the opinion that the evidence proves Mapa's guilt beyond a reasonable doubt.

The Attorney-General points out that Mapa was sentenced to eight years and one day of prision mayor, to pay a fine of 4,500 pesetas, with subsidiary imprisonment in case of insolvency, and that in view of his sentence of eight years' imprisonment, he ought not to be required to suffer subsidiary imprisonment for failure to pay the fine. With that we agree. That portion only of the sentence is revoked, but in all other things and respects, the sentence of the lower court is affirmed, with costs.

As to the defendant, Cecilio A. Toledo, the evidence of his guilt is also conclusive. He knew that he had failed in his examination in which he received an average of 57 per cent only, and yet with the aid and connivance of his co-defendant, he signed certificate No. 3098 which recites that he "is hereby registered as an attorney-at-law" and "signed this roll with the Deputy Clerk who certifies." In doing that he used and appropriated the certificate in and to which the deputy clerk had certified that Vicente A. Rufino was "registered as an attorney-at-law," and he knew that Rufino's name had been erased from that certificate, and when he signed that certificate he knew that his name was substituted for the erased signature of Rufino, and when he later received his certificate of admission,

he knew that he had not passed the examination, and that it was obtained through fraud and falsification of the records in the clerk's office with the aid and connivance of his co-defendant.

There is no merit in his appeal. The judgment of the lower court is. affirmed, with costs. So ordered.

Avanceña, C. J., Johnson, Street, Villamor, and Villa-Real, JJ., concur.

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