

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. LIM SOON, DEFENDANT AND APPELLANT.

G.R. No. 11050. August 07, 1916

Ponente: JOHNSON, J.

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JOHNSON, J.:

This defendant was charged with a violation of Act No. 2381. The complaint alleged:

"That on or about the 16th of January, 1915, on board the steamship Isidoro Pons, lying at anchor in the Pasig River in front of Magallanes Landing, within the jurisdiction of this court and in the city of Manila, Philippine Islands, the said accused did then and there willfully, unlawfully, and feloniously have in his possession and under his control two kilos and three hundred and seventy grams of opium, a prohibited drug. Contrary to law."

Upon said complaint the defendant was duly arrested, arraigned, tried, found guilty of the crime charged in the complaint, and sentenced to be imprisoned for a period of three months and to pay a fine of P500, with subsidiary imprisonment in case of insolvency, and to pay the costs. From that sentence the defendant appealed to this court.

The only assignment of error which he makes here is that the evidence fails to show that the crime imputed to him had been committed within the jurisdiction of the Court of First Instance of the city of Manila. The appellant makes no contention that he was not in the possession of the opium described in the complaint. An examination of the proof shows that on the 16th of January, 1915, the steamship Isidoro Pons mentioned in the complaint was at Magallanes Landing; that the defendant arrived in front of the steamship in a carromata at about 10 o'clock a. m.; that he got out of the carromata and went directly aboard the said steamer with a package in his hand; that the witness was a policeman, Pastor Baldemor, and that he followed him and watched where he was going; that the defendant left the said package in a box on the ship; that said policeman asked him to open said package, which he refused to do; that the policeman called the first officer of the ship and again demanded that the defendant open the box and the defendant again refused; that thereupon the policeman opened the box in which the package had been placed and there found the opium in question.

The only question presented is whether or not the courts can take judicial notice of the fact that a place in the Pasig River, opposite the Magallanes Landing, is within the jurisdiction of the Court of First Instance of the city of Manila. Section 275 of the Code of Procedure in Civil Actions, among other things, provides that the courts may take judicial notice of "the geographical divisions and political history of the world, and all similar matters of public knowledge." We believe that that provision justifies the court in taking judicial notice of a matter of public knowledge and that the existence and location of Magallane3 Landing in the city of Manila is a matter of public knowledge. We believe that if a complaint alleged that a crime was committed at Legaspi Landing, for instance, in the city of Manila, and the proof showed that the crime had been committed at Legaspi Landing, that the court would be justified in taking judicial notice of the fact that the Legaspi Landing was within the city of Manila, without any proof of the latter fact Another example might be given. Suppose a complaint alleged that the crime charged had been committed on the Bridge of Spain in the city of Manila, and the proof showed that the crime had been committed on said bridge, without any proof whatever showing where the Bridge of Spain was located, we

believe that under the above provisions of section 275 the courts would be justified in taking judicial notice of the existence and location of the Bridge of Spain, its location and existence being a matter of public knowledge. A complaint alleges, for example, that a crime was committed in the barrio of Ermita, in the city of Manila. The proof shows that the crime was committed in the barrio of Ermita, but there was no proof adduced showing that the barrio of Ermita was within the city of Manila. We believe, for the reasons above indicated, that the courts would be fully justified in taking judicial notice of that fact without any proof that said barrio was within the city of Manila. (Marzon vs. Udtujan, 20 Phil. Rep., 232; U. S. vs. Chua Mo, 23 Phil. Rep., 233.)

Wigmore, in his valuable work on evidence, section 2575, says:

"Courts should be permitted to give a liberal interpretation to the law permitting them to take judicial notice of facts of public knowledge, especially when a technical interpretation would have the effect of defeating the very purpose and object of the law."

In the case of Master vs. Morse (18 Utah, 21), it was held that courts might take judicial notice of the fact that certain cities had been divided into lots, blocks, and streets, and that judicial notice would be taken of such division. (Board vs. State, 147 Ind., 476; People vs. Etting, 99 CaL, 577; People vs. Faust, 113 CaL, 172; Gilbert vs. National Cash, etc., Co., 176 111., 288; Gardner vs. Eberhart, 82 111., 316.)

There being no question raised as to the guilt of the defendant nor as to the penalty imposed by the lower court, and having reached the conclusion that the error assigned had not been committed by the lower court, we are of the opinion that the sentence appealed from should be affirmed, with costs. So ordered.

Torres and Araullo, JJ., concur.

Moreland, J., agrees to the conviction and sentence and, therefore, to the affirmance thereof.

Trent, J., dissents. Thinks the law does not authorize the court to take judicial notice of "Magallanes Landing."

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