

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. GAN LIAN PO, DEFENDANT AND APPELLANT.

G.R. No. 11772. August 31, 1916

Ponente: MORELAND, J.

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MORELAND, J.:

It is charged in the information in this case that:

"On or about the 29th day of February, 1916, in the city of Manila, Philippine Islands, the said Gan Lian Po, Gan Sua, Gan Tiao, Gan Hoo, Gan Chian, Co Ngang, and Ko Seng, conspiring and confederating together, did then and there willfully, unlawfully, and feloniously have in their possession and under their control 206 grams and 15 centigrams of cocaine and 2 kilos and 889 grams of morphine, the latter a derivative of opium and both prohibited drugs."

The appellant in this case was charged in the information just referred to with six others. At the close of the Government's case five of the accused were acquitted on motion of counsel for the defendants on the ground that the evidence failed to show their guilt. One of the accused, Ko Seng, pleaded guilty and he was duly convicted and sentenced in accordance with law. The appellant pleaded not guilty; and, after trial, was convicted and sentenced to one year's imprisonment, to pay a fine of P2,000 and one-seventh of the costs.

It appears that the appellant was the owner of a building located at No. 317 Ilang-Ilang Street in which he conducted the business of manufacturing sacks. The superintendent and manager of that business was the defendant, Ko Seng, whom we have referred to as having pleaded guilty. On the 29th of February, 1916, several police officers raided the premises and found a considerable quantity of cocaine and morphine hidden away in a certain room among a mass of sacks. Arrests were made and after preliminary investigation, the persons already mentioned, including the appellant, were charged with the illegal possession of morphine and cocaine with the result heretofore stated.

The particular point in controversy is whether or not the appellant knew of the presence of the opium in his building and among his sacks. The reason for this contention lies on the fact that, under the law of the Philippine Islands, when a prohibited drug is found on given premises the owner thereof, if he is in possession, is presumed to know of its presence there and, in the absence of evidence to the contrary, will be held to be in possession of the opium with intent to possess. While it is admitted that the opium was found in the premises of the appellant, knowledge that it was there is denied. The only question in the case, therefore, is to determine whether the accused knew that the opium was in his building prior to the time it was discovered by the police.

The Government offered several witnesses. Mr. Larew testified that he was a patrolman serving on the police force of the city of Manila; that he was one of the party who raided the appellant's premises at the time referred to in the information. He stated that none of the persons accused of the commission of the crime were present in the room at the time the opium was discovered. He said that all of the accused declared to him on being arrested that the contraband belong to Ko Seng. His testimony in no way connects the appellant with the prohibited drugs,

except that it was found in his building. His evidence is typical of that of the other raiders except Sergeant J. J. Sullivan.

J. J. Sullivan, a sergeant of police, also testified for the prosecution. In his direct examination he said that the appellant told him that the drugs belonged to Ko Seng. On cross-examination, however, he testified as follows: "Go Lian Po stated, when we made the raid there, that he knew that the drug was hidden up there in his premises, and then he said that Ko Seng was the owner of it." He also stated in response to a question by counsel for the appellant that the appellant did not state to him that Ko Seng told him the drugs were hidden there. He maintained that Gan Lian Po told him in Spanish that he knew the drugs were hidden on his premises. The words which the witness declared the appellant used from which he inferred that he knew that the drugs were hidden on his premises were these: "Si, señor, mi sabe morphine." The witness declared that the appellant made the statement to him at the police station. He asserted that the first statement of the appellant was made to him before he knew that he was arrested.

The appellant denied on the stand that he had knowledge that the drugs were in his building; and that they must have been secretly placed there by his employees.

We do not believe that the evidence shows the guilt of the accused beyond a reasonable doubt. While it is true that, as a matter of law, when opium is found in a house or other building belonging to and occupied by a particular person, the presumption arises that such person is in possession of such prohibited drug in violation of law, and the fact of finding the opium on his premises, together with the presumption referred to, is sufficient to convict, he may escape a conviction by showing to the satisfaction of the trial court that the opium was placed on his premises by some other person or persons without his knowledge or consent. The finding of the drugs in the building owned by the appellant and hidden under sacks belonging to him raised the presumption of knowledge and, standing alone, was sufficient to convict. The appellant, however, accepted the opportunity offered by the law to rebut the presumption of knowledge and sought to establish his innocence thereof. He testified, as a witness in his own behalf, that, until the moment of the raid, he had no knowledge whatever of the presence of the drugs on his premises. He declared also that the business was under the control and superintendence of his foreman, Ko Seng, and that he placed the drugs in the place where they were found, concealing from the appellant the fact that they were there. He showed also that he had a considerable number of employees who occupied the building and that the circumstances afforded every opportunity for the concealment of the opium in or about his premises without the possibility of his knowing of its presence. He denied that he said to Sergeant Sullivan that he knew the opium was there before the raid was made.

Except for the testimony of Sergeant Sullivan there would be no evidence of knowledge except the presumption to which we have referred. A careful reading of the testimony of Sergeant Sullivan, together with that of the appellant and his witnesses, leads us to the conclusion that there was a confusion in the mind of the sergeant when he was giving his testimony. The appellant admits that he told the sergeant that he knew the opium was there, but insists that, at the time of making that statement, he also told the sergeant that he obtained knowledge of that fact only after the raid had been made, stating to him that, while the officers were searching the room in which the drugs were found, his foreman, Ko Seng, ran to his office and told him that there were morphine and cocaine in the room where the officers were searching. The sergeant seems to have taken the statement to mean that he knew of the presence of the morphine in his premises before the raid took place. The only difference between the testimony of the sergeant and that of the appellant relates to the time when the latter obtained his information, the appellant insisting that he stated that he obtained the knowledge after the raid had begun and the sergeant maintaining that he told him that he had that knowledge prior to the raid. The inability of the Sergeant to speak Chinese and the ignorance of English of the appellant, and the ignorance of both of the Spanish language, in

which their conversations were carried on, rendered it very easy to obtain false impressions as to what either of them said; and, where the misunderstanding related to a matter concerning which it was especially difficult for one to express himself in a language which he knew only slightly, it was very natural that mistakes and misunderstandings resulted. Apart from the natural disinclination of the appellant to admit a fact which would aid very materially in sending him to jail, we are of the opinion that the testimony as a whole with respect to the knowledge of the appellant lacks that cogency and clearness which ought to characterize the evidence in a criminal case. It is not altogether clear, even if we accept the testimony of Sergeant Sullivan, that the appellant meant to say that he knew the drugs were in his premises prior to the raid. When the sergeant asked him if he knew that fact the only answer he got was "Si, señor, mi sabe morphine." This is far from meaning necessarily that he knew the drugs were on his premises. The words might easily be taken to mean that he was acquainted with morphine; that he knew it as a substance or a drug; and given the ignorance of the appellant of the language which he was then using, for he was using both Spanish and English, we do not believe that the statement is sufficient to warrant the finding that he knew the drugs were on his premises prior to the raid.

Taking the case as a whole we are of the opinion that the appellant has successfully rebutted the presumption arising from the presence of the opium on his premises. The judgment appealed from is reversed and the accused acquitted. So ordered.

Torres and Araullo, JJ., concur.

Johnson and Trent, JJ., concur in the result.

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