

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ANTONIO ABAD SANTOS, DEFENDANT AND APPELLANT.

G.R. No. 12262. February 10, 1917

Ponente: MORELAND, J.

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MORELAND, J.:

The appellant here is accused of violating the Internal Revenue Law. He was convicted and sentenced to pay a fine of P10. He appealed.

Section 185 of Act No. 2339 (now section 2727 of the Administrative Code) reads as follows:

"A person who violates any provision of the Internal Revenue Law or any lawful regulation of the Bureau of Internal Revenue made in conformity with the same, for which delinquency no specific penalty is provided by law, shall be punished by a fine of not more than three hundred pesos or by imprisonment for not more than six months, or both."

Pursuant to the authorization in the Internal Revenue Law, the Collector of Internal Revenue issued Circular No. 467, the third section of which reads as follows:

"3. Printers, publishers, contractors, common carriers, etc.—Each printer, publisher, contractor, warehouseman, proprietor of a dockyard, keeper of a hotel or restaurant, keeper of a livery stable or garage, transportation contractor and common carrier by land or water, and so forth, subject to the tax imposed by sections 42, 43, and 44 of Act No. 2339, shall keep a day book in which he shall enter in detail, in English or Spanish, each amount of money received in the conduct of his business. Before being used for said purpose, the pages of the book must be numbered serially in a permanent and legible manner, and the book itself presented to an internal revenue agent or officer for approval. In this book the cash receipts of the owner thereof shall be entered under the corresponding date within the twenty-four hours next following the date the money was received. If no money is received on any day, then that fact shall be noted in the book within the said twenty-four hours under the corresponding date."

The appellant is the owner of a printing establishment called "The Excelsior" and as such was required by law to keep a book in which he should make the entries required by the above quoted regulation. It is charged in the information that he violated the provisions of said regulation in that he failed to make any entry for the 5th day of January, 1915, indicating whether any business was done on that day or not.

We are of the opinion that the accused must be acquitted. It appears undisputed that he regularly employed a bookkeeper who was in complete charge of the book in which the entries referred to should have been made and that the failure to make the entry required by law was due to the omission of the bookkeeper of which appellant knew nothing.

We do not believe that a person should be held criminally liable for the acts of another done without his knowledge or consent, unless the law clearly so provides. In the case before us the accused employed a bookkeeper, with the expectation that he would perform all the duties pertaining to his position including the

entries required to be made by the Collector of Internal Revenue. It is undisputed that the accused took no part in the keeping of the book in question in this case and that he personally never made an entry in it. He left everything to his bookkeeper. Under such circumstances we do not believe that the mere proof of the fact that the bookkeeper omitted to make the entries required by the Internal Revenue Circular for the 5th day of January, 1915, is an act upon which the conviction of the accused can be based. No knowledge on his part was shown with regard to the bookkeeper's omission and the Government does not contend that he had any knowledge. Nor is it contended that the bookkeeper omitted the entry under the direction of the accused or with his connivance. No connection between the accused and the omission of the bookkeeper is shown or claimed. On the contrary the broad contention is that the accused is responsible for the acts and omissions of his bookkeeper, and that, if any act or omission of the bookkeeper violates the criminal law, the principal is responsible criminally.

With this we cannot agree. Neither the statute nor the circular of the Collector of Internal Revenue, nor both together, expressly require such a result nor can we say from the circular or the law that the intention to do so was so clear as to leave no room for doubt. Courts will not hold one person criminally responsible for the acts of another, committed without his knowledge or consent, unless there is a statute requiring it so plain in its terms that there is no doubt of the intention of the Legislature. Criminal statutes are to be strictly construed. No person should be brought within their terms who is not clearly within them, nor should any act be pronounced criminal which is not clearly made so by the statute. (S. U. vs. Madrigal, 27 Phil. Rep., 347.)

The judgment of conviction is reversed and the accused acquitted. Costs de officio. So ordered.

Arellano, C. J., Torres and Araullo, JJ., concur.

Carson and Trent, JJ., dissent.

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