

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. JOSE DELGADO, DEFENDANT AND APPELLANT.

G.R. No. 12666. August 30, 1917

Ponente: JOHNSON, J.

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JOHNSON, J.:

This defendant was charged with a violation of article 28 of the Municipal Code.

From the record it appears that on the 29th day of September, 1916, the deputy prosecuting attorney of the Province of Albay presented a complaint in the court of justice of the peace, charging the defendant with a violation of article 28 of Act No. 82, Upon said complaint the defendant was arrested and a preliminary examination was duly held. On the 2d day of December, 1916, the said justice of the peace found that there was probable cause for believing that the defendant was guilty of the crime charged and ordered him to be held for trial in the Court of First Instance. On the 14th day of December, 1916, the deputy prosecuting attorney for said province renewed said complaint in the Court of First Instance. Upon said complaint the defendant was duly arrested, tried, found guilty of the crime charged in the complaint, and sentenced by the Honorable Isidro Paredes to be imprisoned for six months and to pay the costs. From that sentence the defendant appealed to this court.

At the time mentioned in the complaint the defendant was one of the councilmen of the municipality of Ligao, of the Province of Albay. Sometime in the month of April, 1916, the authorities of the municipality of Ligao authorized the construction of certain streets and entered into contracts therefor. Nominally said contracts were made with one Ramon Nieves. For the construction of one of said streets the municipality promised to pay the sum of P246.25. Later, contracts were made with certain laborers for the performance of the labor necessary upon said street. The proof shows that the contract with said laborers was made between them and the defendant herein; that the defendant paid them the amount agreed upon, which was the sum of P80 for said labor; that the defendant paid them the price for said services from time to time. The record further shows that the said Ramon Nieves was simply the nominal contractor with said municipality for the construction of said street,, while, as a matter of fact, the defendant was the real contractor; that Ramon Nieves received from the defendant the sum of P5 for allowing his name to be used as the contractor instead of that of the defendant.

The appellant complains that the lower court disregarded the declaration of Ramon Nieves during the trial of the cause. In view of the fact that Ramon Nieves had made a written confession before the trial of the cause (Exhibit A) that he was not the real contractor but that the defendant was, the court committed no error in disbelieving him when he declared to the contrary during the trial of the cause. Ramon Nieves discredited his own testimony by making the contrary statements. The evidence shows beyond a reasonable doubt that the defendant is guilty of a violation of said article of the Municipal Code.

The sentence being within the provisions of said Code, we find no reason for changing or modifying it. The sentence of the lower court is, therefore, hereby affirmed, with costs. So ordered.

Arellano, C. J., Carson, Araullo, Street, and Malcolm, JJ., concur.

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