

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. PEDRO DE LA TORRE, DEFENDANT AND APPELLANT.

G. R. No. 17165. August 15, 1921

Ponente: JOHNSON, J.

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JOHNSON, J.:

On the 13th day of January, 1920, the prosecuting attorney of the Province of Ambos Camarines, Mr. Basilio R. Mapa, presented a complaint, charging the defendant with a violation of the Election Law. The complaint alleged:

"That on one of the days, 25th and 26th of April, 2d and 3d of May, 1919, in the municipality of Nabua, Province of Ambos Camarines, Philippine Islands, the said accused Pedro de la Torre, knowing positively that he had none of the qualifications of a voter nor any right to vote, did, willfully, feloniously and unlawfully register and cause his name to be registered in the list of voters of precinct No. 2 of the aforesaid municipality of Nabua for the general election held on the 3d day of June, 1919. Contrary to law."

Upon said complaint the defendant was arrested, arraigned, tried, found guilty, and sentenced by the Honorable Maximino Mina, judge, to be imprisoned for a period of six months and to pay a fine of P300 and, in case of insolvency, to suffer subsidiary imprisonment in accordance with the provisions of the law, and to pay the costs.

From that sentence the defendant appealed to this court, and alleged that the lower court committed an error (a) in finding him guilty as charged, and (b) in condemning him to the penalty of imprisonment for six months and to pay a fine of P300.

The first assignment of error relates to the sufficiency of the proof adduced during the trial of the cause. From an examination of the record it appears from Exhibit A that the defendant, on the 25th day of April, 1919, took the "elector's oath," for the purpose of registering as a legal voter in the municipality of Nabua. Among other facts to which the defendant swore was, "that he had all of the qualifications of a voter and none of the disqualifications prescribed in sections 431 and 432 of the Election Law" (Act No. 2711).

Section 430 of Act No. 2711 specifies "who may be registered." Said section provides that all persons who have complied with the requirements of sections 428 and 429 of said Act may be registered as voters, provided they have the qualifications prescribed for voters in sections 431 and 432 of said Act.

Section 431 prescribes the qualifications for voters, which may be stated as follows:

(1) Every male person who is not a citizen or subject of a foreign power, twenty-one years of age or over, who shall have been a resident of the Philippine Islands for one year and of the municipality in which he shall offer to vote, for six months next preceding the day of voting;

(2) In addition to the qualifications required in No. (1) as above set forth, a voter must have at least one of the following qualifications:

(a) Those who under the laws in force in the Philippine Islands upon the 28th day of August, 1916, were legal

voters and had exercised the right of suffrage;

(b) Those who own real property to the value of P500, or who annually pay P30 or more of the established taxes; and

(c) Those who are able to read and write either Spanish, English, or a native language.

In the present case the defendant presented no proof whatever during the trial of the cause. He admitted, through his attorney, that he was not the owner of real property to the value of P500, nor paid taxes to the amount of P30; and that he had not occupied any of the municipal offices during the time of the Spanish government.

At the time he took the said oath for the purpose of registering, he represented to the inspectors that he based his right to vote upon the educational qualification, that is to say, upon his ability "to read and write either Spanish, English, or a native language." It was shown during the trial of the cause that the appellant signed the said oath, but with great difficulty. An examination of the signature shows that the name is so badly written that it is impossible to determine what name is written. The requirement that a voter must be able to write certainly means more than that he is able, with pen or pencil, to make marks upon paper.

Even admitting, however, that the appellant was able to write, that fact was not sufficient, under the educational qualification, to qualify him as a voter. In addition to his ability to write, he must be able to read either Spanish, English, or a native language. The record contains no proof, and the defendant refused to adduce any proof, showing his ability to read either Spanish, English, or a native language. The defendant admitted in open court that he had none of the other special qualifications as a voter.

Was it incumbent upon the prosecution to prove that the defendant could not read and write either Spanish, English, or a native language? That question was answered by this court in the case of the United States vs. Tria (17 Phil., 303). In discussing that very question this court said: "Where the subject-matter of a negative averment in an indictment (or complaint), or a fact relied upon by defendant as a justification or excuse, relates to him personally or otherwise lies peculiarly within his knowledge, the general rule is that the burden of proof as to such averment or fact is on him." (U. S. vs. Chan Toco, 12 Phil., 262; Greenleaf on Evidence, Vol. 1, sec. 74; People vs. Boo Doo Hong, 122 Cal., 606; State vs. Wilson, 62 Kan., 621.)

The doctrine seems to be: "Ei incumbit probatio qui dieit, p. on qui negat."

It is a well-settled principle that everyone is presumed to know the law of the land and that one's ignorance of it furnishes no exemption from criminal responsibility for his act. The appellant necessarily knew the law, which prohibits him from voting unless he had the qualifications required by the law. He also knew, and that fact far better than anyone else, whether or not he actually had those qualifications. When he voted, he voted knowingly that he was without the qualifications. He was fully aware of his lack of qualification when he voted, and will not now be heard to plead his ignorance. He will not be heard to plead ignorance of a fact which, from the very nature of things, he must have known better than anyone else.

The lower court found that the defendant, in his effort to sign the said oath, demonstrated beyond question that he could not write. If a voter claims a right to vote upon the educational qualification, he must not only be able to write but must also be able to read. The defendant demonstrated by his own act that he could not write, and by his oath he averred that he could do both. His justification or excuse for making the oath related to himself personally, and was within his peculiar knowledge. Therefore the burden of proof of such averment was on him, under the doctrine above announced.

Before closing this decision we cannot refrain from offering a criticism to the election inspectors who permitted

the defendant to vote without having it demonstrated by the defendant himself that he possessed the qualifications of a voter. The inspectors might have saved the defendant the trouble in which he now finds himself. The inspectors of an election should be more careful in looking out for the interest of the voters upon the particular questions which we have herein discussed.

After a careful examination of the evidence and the law applicable to the facts in the present case, we find no reason or justification for changing or modifying the sentence of the lower court. The same is, therefore, hereby affirmed, with costs. So ordered.

Araullo, Street, Avanceiia, and Villamor, JJ., concur.

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