

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. GREGORIO ADYUBA, DEFENDANT AND APPELLANT.

G. R. No. 17167. July 22, 1921

Ponente: VILLAMOR, J.

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VILLAMOR, J.:

The appellant was convicted in the Court of First Instance of Ambos Camarines of the offense of having inscribed himself as elector in precinct No. 2 of the municipality of Nabua, Ambos Camarines, for the general elections held on June 3, 1919, knowing that he had none of the qualifications required of voters and had no right whatever to be a voter; and in accordance with section 2647 of the Administrative Code, he was sentenced to suffer imprisonment for six months and pay a fine of P300 and costs.

The information in this cause reads as follows:

"The undersigned charges Gregorio Adyuba of a violation of the Election Law committed as follows:

"That on either the 25th, or 26th of April, or the 2d or 3d of May, 1919, in the municipality of Nabua, Ambos Camarines, Philippine Islands, said accused, Gregorio Adyuba, positively knowing that, he had none of the qualifications required to become a voter nor any right whatever to be a voter, voluntarily, criminally and illegally inscribed himself and caused his name to be registered in the election list of precinct No. 4 of said municipality of Nabua for the general elections held on June 3, 1919.

"Acts committed in violation of law."

It appears from the evidence before us that the accused does not possess property worth P500, or pay public taxes of P30 or more, or reads or writes English, Spanish, or a local dialect. According to section 15 of the Organic Law of the Philippine Islands (Act of Congress of the United States dated August 29, 1916), which is reproduced in section 431 of the Administrative Code "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 Philippines for one year and of the municipality in which he shall offer to vote for six months next preceding the day of voting, is entitled to vote in all elections if comprised within either of the following three classes: (a) Those who under the laws in force in the Philippine Islands upon the twenty-eighth day of August, nineteen hundred and sixteen, were legal voters and had exercised the right of suffrage; (b) Those who own real property to the value of five hundred pesos, or who annually pay thirty pesos or more of the established taxes; (c) Those who are able to read and write either Spanish, English, or a native language."

As the accused admits the fact that he does not possess the qualifications prescribed in letters (b) and (c) of said section, it remains to determine only whether he possesses the qualifications required in letter (a). This qualification refers to those who have held some public position and were qualified voters, in accordance with the Election Law in force in these Islands on the 29th day of August, 1916.

The witness for the prosecution, Pedro Regalado, 52 years old, resident of Nabua, Ambos Camarines, declared

that he had known the accused for about thirty years, that is, since 1890, stating that said accused has neither been a capitan municipal, gobernadorcillo, teniente alcalde or cabeza de barangay, and adding that although his knowledge of the accused dates back only to that year, nevertheless, in the municipal building of Nabua there exists a chronological list of those who have been capitanes municipales and cabezas de barangay of said municipality and that he never saw that of the accused among the names in said list.

The attorney for the accused claims in this court that the latter should be acquitted on the ground of insufficiency of the evidence for the prosecution. As is seen by the terms of the information above quoted, the allegation of the provincial fiscal is that the accused took oath as a voter and registered as such in the Election List, without having any of the qualifications required by law to be a voter. The allegation of the fiscal in this case is similar to that in the information filed in the case of *United States vs. Tria* (17 Phil., 303). In said case Tria and others were charged with having voted in the general elections held on November 2, 1909, without possessing the necessary qualifications of a voter. Some witnesses presented for the prosecution declared in effect that the accused did not possess property worth more than P500 or paid taxes to the amount of P30 or occupied the office of capitan municipal, gobernadorcillo, alcalde, teniente, cabeza de barangay or member of any ayuntamiento. In affirming the judgment appealed from in said case the Supreme Court said:

"It thus appears proved by the best evidence procurable that not one of the appellants in this case possessed, on the 2d day of November, 1909, any of the qualifications required by the section of the Election Law above referred to. The prosecution had the difficult office of proving a negative. In making proof under such circumstances it has, perhaps, not presented either the best evidence or the completest evidence. This, however, is due to the fact that what may be considered, technically speaking, the best or the completest evidence is entirely within the control of the appellants themselves, who refused to produce, or, at least, refrained from producing, it. Under such circumstances, there rests upon the prosecution the necessity of producing simply the best evidence obtainable under the circumstances. That such evidence may not be the best evidence, legally speaking, is no fault of the prosecution. That inability is the result of the attitude of the appellants themselves. Under such circumstances the prosecution need do no more primarily than make a prima facie case from the best evidence obtainable under the circumstances. Justice and the law require of the people only that they establish, prima facie, the guilt of the accused by producing for that purpose the best evidence within their power. If that evidence is otherwise free from legal objection or exception, it may properly serve as the basis of a conviction.

"An accused person sometimes owes a duty to himself if not to the State. If he does not perform that duty he may not always expect the State to perform it for him. If he fails to meet the obligation which he owes to himself, when to meet it is the easiest of easy things, he is hardy indeed if he demand and expect that same full and wide consideration which the State voluntarily gives to those who by reasonable effort seek to help themselves. This is particularly so when he not only declines to help himself but actively conceals from the State the very means by which it may assist him."

The same thing may be said in the case at bar. It is not an easy task to prove a negative allegation as that made by the fiscal in the information. But he has done all that he could do to establish prima facie the facts by him alleged, adducing for the purpose the best evidence in his possession.

In the case of *United States vs. Tria*, supra, the court said:

"Under the Election Law of these Islands, there is no presumption that anybody is entitled to vote. In fact, the contrary presumption prevails. This presumption, taken in connection with the evidence of the prosecution, clearly and effectively establishes a prima facie case against the appellants. Their conviction naturally and necessarily follows, unless they overcome the effect of the case made against them. In order to meet a prima facie case, that is, in order to destroy its effect and shift the burden of producing further evidence, the party denying it must produce evidence tending to negative the claim asserted to a point where, if no more evidence

be given, his adversary can not win by a preponderance of evidence in a civil case, and beyond a reasonable doubt in a criminal case. In this case it was only necessary for the accused for a complete destruction of the complainants prima facie case to take the stand and, by a few words, bring themselves within the provisions of the law. No hardship was imposed upon them. No advantage was taken of them. (U. S. vs. Chan Toco, 12 Phil., 262.)"

The appellant abstained from all attempt to contradict the prima facie evidence of his criminal responsibility. Adhering therefore to the doctrine laid down in the case cited of United States vs. Tria, supra, we are of the opinion that the judgment appealed from should be, as it is hereby, affirmed with costs. So ordered.

Mapa, C. J., Johnson, Araullo, Street, and Avancena, JJ., concur.

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