

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ESTANISLAO GASINGAN, DEFENDANT AND APPELLANT.*G. R. No. 3432. August 20, 1907*

Ponente: JOHNSON, J.

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This defendant was charged with the crime of falso testimonio (perjury); was tried by the Court of First Instance of the city of Manila, was found guilty and sentenced to be imprisoned for a period of two months and five days of arresto mayor, with the accessories of article 61 of the Penal Code, and to pay a fine of 325 pesetas, or to suffer, in case of insolvency, subsidiary imprisonment, and to pay the costs. From this sentence the defendant appealed to this court.

From an examination of the record it appears that, sometime prior to the 11th day of January, 1906, one Antonio Cabangis commenced an action in the Court of First Instance of the city of Manila against the defendant herein, for the purpose of recovering the possession of a certain tract of land and rent from the defendant, which land was alleged to be located in the barrio of Bancusay. The action was brought on for trial the Court of First Instance of the city of Manila, on or about the 11th day of January, 1906. In the trial of that cause the defendant herein appeared as a witness in his own behalf and after being duly sworn testified that the said Cabangis did not possess any land in the barrio of Bancusay; that he did not occupy land belonging to Cabangis; that he had made no contract of lease with Cabangis to occupy his land; that he paid no rent to Cabangis; that he was occupying the land of one Enrique Barretto; that he had made no declaration before the city assessor and collector with reference to the property which he occupied in the barrio of Bancusay.

During the trial of that cause, the plaintiff therein, Antonio Cabangis, his wife, and numerous other witnesses testified to the effect that the said Cabangis owned land in the said barrio of Bancusay and had many tenants thereon; that he lived upon a portion of said land himself; that the defendant herein was a tenant of the said Cabangis and had been for at least fifteen or seventeen years and that he had paid rent to the said Cabangis for the use of said parcel of land; that on the 226. day of December, 1903, the defendant herein made a sworn declaration before Guy Schlegel, a clerk in the office of the assessor and collector of the city of Manila, alleging that he was the owner of the parcel of land which he occupied in Bancusay.

The record fully demonstrates that the defendant could not have been honestly mistaken with reference to the facts to which he swore during the trial of the civil cause in which he was defendant and Antonio Cabangis was plaintiff. He certainly could not have been mistaken with reference to the payment of rent to the said Cabangis, after having paid the same for a period of fifteen to seventeen years; neither could he have been mistaken with reference to the fact of his declaration before a representative of the office of assessor and collector of the city of Manila. Therefore, we find from the evidence that during the trial of said civil cause the defendant herein did voluntarily, criminally, and corruptly swear and declare falsely before the Court of First Instance of the city of Manila in said civil cause; that the facts adduced during the trial of the criminal cause fully justify the finding of the court below; therefore the sentence of the lower court is hereby affirmed, with costs. So ordered.

Arellano, C. J., Torres, Willard, and Tracey, JJ., concur.

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