

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. CRISANTO EVANGELISTA ET AL., DEFENDANTS AND APPELLANTS.

G. R. No. 36278. October 26, 1932

Ponente: OSTRAND, J.

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OSTRAND, J.:

Crisanto Evangelista, Jacinto G. Manahan, Guillermo Capadocia, Mariano P. Balgos, Enrique Torrente, Urbano Arcega, Catalino Monroy, Francisco Rafael, Sotero Senson, Remigio Tolentino, Dominador B. Reyes, Emilio S. Juan, Alberto Santos, Juan Lagman, Andres Santiago, Angel Mesina, Felipe Cruz, Maximo M. Gutierrez, Dominador J. Ambrosio, Cenon Lacanienta, Mateo del Castillo, Norberto Nabong, Sixto Estrada, Augusto David, Doroteo Cahumban, Jose Ilagan, and Liboro Natividad were accused in the Court of First Instance of the City of Manila of a crime against the fundamental laws of the State, it being alleged in the information as follows:

"That on or about the 30th day of May, 1931, and for some time prior thereto, the above named accused, conspiring and confederating together and helping one another, did then and there willfully, unlawfully and feloniously affiliate to, compose and become members of, the so-called Communist Party of the Philippines (Partido Komunista sa Pilipinas), an illegal association, whose principal purposes and objects are to bring about, by the use of force, the downfall of the present form of government and establish in place thereof another patterned after the Soviet Government of Russia and run by those affiliated to and in sympathy with said association; to incite a revolt of the laboring class, advocating and urging struggle between said laboring class and the so-called capitalists, and other similar objects tending to combat the fundamental basis of the present social order and alter the regularity of its functions and to the commission of violations of the existing laws, which above-mentioned association was formed and organized without the local authorities having been informed of its aforesaid objects and purposes as well as of the by-laws thereof; and that at the time and place hereinabove mentioned, in the furtherance of their conspiracy and in utter disregard of the notice or warning given by the authorities that they could not hold any meeting anywhere, the said accused assembled, gathered and congregated under the name and auspices of the Katipunan ng mga Anak pawis sa Pilipinas (Association of the Sons of the Sweat of the Philippine Islands), another association having the same illegal aims and purposes as the said Communist Party of the Philippines, at El Retono Building, in said City of Manila."

After trial the court below convicted the said accused, with the exception of Norberto Nabong, Sixto Estrada, Augusto David, Doroteo Cahumban, Jose Ilagan, Liboro Natividad, and Mateo del Castillo, who were acquitted.

Thereafter the convicted accused appealed to this court.

The accused were charged with the crime of illegal association in the Court of First Instance of the City of Manila in that on or about the 30th day of May, 1931, and for some time prior thereto, the said accused affiliated to, and became members of, the so-called Communist Party of the Philippines whose principal purposes and object were to bring about by force the downfall of the present form of government and establish in its place another patterned after the Soviet Government of Russia, and to incite a revolt of the laboring class.

After trial the court below convicted the said accused, with the exception of Norberto Nabong, Sixto Estrada, Augusto David, Doroteo Cahumban, Jose Ilagan, Liboro Natividad, and Mateo del Castillo, who were acquitted.

It appears that the appellants, Evangelista, Manahan, Capadocia, Torrente, Arcega, Monroy, Rafael, Senson, Tolentino, Reyes, San Juan, Santos, Lagman, Santiago, Mesina, Cruz, Gutierrez, and Ambrosio, presented themselves as candidates of the Communist Party for different offices- insular, provincial and municipal-in the last elections; that the accused Mariano P. Balgos, Cenon Lacanienta and some of those who campaigned for their candidacies as members of the Communist Party, delivered speeches at several meetings of the Communist Party, advocating the ideas and principles of the said Communist Party and urging the laborers to join it.

It also appears that the appellant Enrique Torrente appears in the newspaper known as Titis, an organ of the Communist Party, as the editor thereof.

The appellants have not denied being members of the Communist Party of the Philippines; on the contrary, Crisanto Evangelista admitted expressly at the trial that he was affiliated to the said party. As witness for the defense, he testified that the objects and purposes of the Communist Party of the Philippines are set out in its constitution and by-laws which purposes and objects, according to said constitution and by-laws, are to overthrow the present form of government by any means necessary, especially armed revolution.

The appellant, Catalino Monroy, admitted having gone to Russia as delegate of the Kapisanan nang mga Anah pawis to the Red International Labor Union Congress.

From, the foregoing it is clear that the twenty appellants herein are or were members of the Communist Party of the Philippines, for all of them, with the exception of Balgos' and Lacanienta, presented themselves as candidates in the last general elections as communists, and said Balgos and Lacanienta, as well as many of those mentioned, delivered speeches at several meetings held under the auspices of the said Communist Party, advocating communism and urging the laborers to affiliate to the said party. If any one of these appellants were not a member of the Communist Party, it would have been very easy for him to deny it, but no one has so done.

The principal defense set up by the appellants is that the Communist Party of the Philippines is not an illegal association in that it preaches only a social but not an armed revolution, but a mere reading of the constitution of the Communist Party will show that such a pretense is obviously useless. Neither is there any merit in the appellants' argument that communism is not prohibited in any part of the civilized world. And as to the validity of the law prohibiting communism, the Supreme Court of the United States upheld the law of California prohibiting the display of the communist red flag as a sign inciting sedition and disorderly opposition to the government. Under the law of the Philippine Islands, the association formed by the appellants is clearly illegal. Article 188 of the Penal Code, as substituted by article 24 of the Royal Decree of September 12, 1897 (Alcubilla, Diccionario de Administration, Apendice de 1897, p. 454), says that illegal associations are those the object of which is against public morals, to commit some crime, or to attack the fundamental basis of the social order or alter the regularity of its functions. Now, according to appellant Crisanto Evangelista and the constitution and by-laws of the Communist Party of the Philippines, the purpose of the party is to incite class struggle and to overthrow the present government by peaceful means or by armed revolution; therefore the purpose of the party is to alter the social order and to commit the crimes of rebellion and sedition. An association having such an object must necessarily be illegal (decision of Oct. 8, 1884, of the Supreme Court of Spain, 7 Hidalgo, Cod. Pen., 531-532.) The report submitted by Secretary-Hughes to the Senate of the United States, as well as that made by Hamilton Fish, after an investigation of communism, leads to the same conclusion, namely, that force and violence are inseparable from communist programs.

The last point made by the appellants is relative to the penalty imposed. The trial court imposed the penalty of

confinamiento for the period of eight years and one day, as provided by paragraph 5, article 190 of the old Penal Code, as substituted by article 26 of the Royal Decree of September 12, 1897, in connection with articles 28 and 114 of the same Code. The appellants contend that this is erroneous because the Revised Penal Code has eliminated this kind of penalty. But there is no merit in this argument, because the act took place under the sanction of the old Code, and the penalty of confinamiento, therein provided for, is lighter than that provided by the new Code in its article 147, which is prision correctional and arresto mayor and fine.

The judgment appealed from is affirmed, with the costs against the twenty defendants. So ordered.

Avanceña, C. J., Street, Malcolm, Villamor, Villa-Real, Hull, Vickers, and Imperial, JJ., concur.

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