

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. FELIX BOQUILON, DEFENDANT AND APPELLANT.

G.R. No. 3705. January 24, 1908

Ponente: JOHNSON, J.

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JOHNSON, J.:

This defendant was charged with a violation of section 28 of the Municipal Code (Act No. 82), which violation was committed as follows:

"In the months of May and June, 1905, in the municipality of Dapa, within the jurisdiction of this court, the accused was the municipal president of said municipality, and notwithstanding such fact he unlawfully sold to Agustin Plandano, a lieutenant of the barrio of Numancia, 50 boards at the rate of P2.25 each, for the purpose of erecting a tribunal or municipal building, all contrary to law."

To this complaint the defendant demurred, alleging that the facts stated therein did not constitute an infraction or violation of said section 28 of said Municipal Code (Act No. 82). The court overruled said demurrer.

The cause was duly brought on for trial and the defendant pleaded "not guilty" of the offense charged in said complaint.

At the beginning of the trial the attorney for the defendant made the following statement or admission in the presence of the court:

"In the name of the accused and after a consultation had with him it is admitted by the accused that he was the municipal president of Dapa, in the Province of Surigao, and that it was true that the accused sold to Agustin Plandano, a lieutenant of the barrio of Numancia, 50 property of Ambrosio Gimena. The accused was acting as agent of said Ambrosio."

To which statement or admission the fiscal made the following statement:

"In view of the admission by the accused regarding the facts set forth I decline to submit proofs; I am willing to have judgment rendered in accordance with the facts admitted."

After hearing the foregoing statements by the defendant and the fiscal, the trial of said cause was closed without further proof, either on the part of the fiscal or on the part of the defendant. Upon these facts the judge of the lower court found the defendant guilty of a violation of said section 28 of said Municipal Code as amended by Act No. 663 of the Philippine Commission, and condemned the said defendant to be imprisoned for a period of six months and to pay the costs. From this sentence of the lower court the defendant appealed to the Supreme Court.

Section 28 of said Act No. 82 provides that:

"(a) No municipal officer shall be directly or indirectly interested in any contract work, or business of the municipality or in the purchase of any real estate or any other property belonging to the corporation."

This section was amended by Act No. 663 of the Philippine Commission. Said section 28 as amended by said Act

No. 663 provides as follows:

"(a) No municipal officer shall be directly or indirectly interested in any contract work, or cockpits, or other permitted games and amusement, or business of the municipality, or in the purchase of any real estate or any other property belonging to the corporation.""

This last-quoted provision of Act No. 663 was the law in force at the time mentioned in the complaint; therefore we must look to its terms for the purpose of ascertaining whether the defendant did any act which was directly or indirectly contrary to the provisions of said law. The only facts which we have before us are the admissions made by the defendant in open court above indicated. These admissions were as follows:

First. That the defendant was the municipal president of the municipality of Dapa of the Province of Surigao.

Second. That he sold 50 boards at P2.25 each to a councilman of the barrio of Numancia, Agustin Plandano.

Third. That said boards were sold to build a tribunal.

Fourth. That said boards belonged to one Ambrosio Gimena.

Fifth. That the accused in selling the said boards acted as the agent of the said Ambrosio Gimena.

In order that a municipal officer shall be liable to punishment under the provisions of the above-quoted Act No. 663, the following facts must appear:

First, he must be a municipal officer;

Second, he must have, directly or indirectly, interested himself in some contract work or business of the municipality; or

Third, in the purchase of any real estate or any other property belonging to the corporation.

Of course no one will deny that such municipal officer must be an officer of the municipality in which he shall, directly or indirectly, be interested in such contracts or business, etc. Certainly no one will contend that said law absolutely prohibits a municipal officer of a certain municipality from engaging in business in which other separate and distinct municipalities are interested.

It will be noted that in the only facts presented to the lower court there is no intimation—

First, that the barrio of Numancia was a barrio of the said municipality of Dapa; or

Second, that the barrio of Numancia was a barrio of the said municipality of Dapa; or

Third, that the said tribunal to be erected was either the property of said barrio or of the said municipality; neither is there any fact or facts which show in any way, directly or indirectly, remotely or otherwise, that the sale of the said boards for the construction of the tribunal was in any way "contract work or business of the municipality," in which the said defendant was a municipal officer. In other words, there is not a scintilla of evidence in the only facts presented to the lower court which in the least degree shows that the defendant as a municipal officer, directly or indirectly, interested himself in any contract work or business of his municipality or in the purchase of any real estate or other property belonging to the said municipality.

Every presumption must be resolved in favor of one who is charged with the commission of a crime. When the law expressly mentions the conditions or facts under which a person shall be punished, these facts must be shown to have existed, beyond peradventure of doubt, before the courts will be justified in depriving men of their liberty.

Every defendant in criminal actions must be presumed to be innocent until the contrary is proved, and in case of a

reasonable doubt that his guilt is satisfactorily shown, he shall be entitled to an acquittal. (Sec. 57, G.O., No. 58; U.S. vs. Santos, 1 Phil. Rep., 222; U.S. vs. Asiao, 1 Phil. Rep., 304; U.S. vs. Vega, 2 Phil. Rep., 167; U.S. vs. Douglas, 2 Phil. Rep., 467; U.S. vs. Lozada, 2 Phil. Rep., 496; U.S. vs. Navarro, 3 Phil. Rep., 143; U.S. vs. Aliño, 4 Phil. Rep., 181; U.S. vs. Gutierrez, 4 Phil., Rep., 493; U.S. vs. De la Cruz, 5 Phil Rep., 24.)

Not only is every presumption in favor of the innocence of the defendant, but the burden of overcoming this presumption rests upon the prosecution. The burden of proof of guilt shall be upon the prosecution, and the best evidence must be produced of which the case is susceptible. (Sec. 59, G.O., No. 58.) And such evidence must be adduced which will overcome this presumption of innocence beyond a reasonable doubt. It is not sufficient for the proof to establish a probability, even though strong, that the fact charged in the complaint is more likely to be true than to be false; it must establish the truth of the fact to a reasonable, moral certainty—a certainty that convinces and satisfies the reason and conscience of those who are to act upon it. (U.S. vs. Reyes, 3 Phil. Rep., 3.)

In the present case there is not a scintilla of evidence in the record which shows that the defendant as a municipal officer of the municipality of Dapa was directly or indirectly interested in any contract work or business of any kind relating to said municipality, and therefore there is nothing in the record which shows that he violated said section 28 pf the Municipal Code, as amended by Act No. 663, and he must therefore be acquitted. So ordered.

Arellano, C.J., Mapa and Tracey, JJ., concur.

TORRES, J., dissenting:

In my opinion, the judgment should be affirmed.

Carson and Willard, JJ., dissent.

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