

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. BIBIANO BOUJA, DEFENDANT AND APPELLANT.*G.R. No. 3715. October 08, 1907*

Ponente: WILLARD, J.

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The defendant was prosecuted in the court below for a violation of the second paragraph of section 24 of the Internal Revenue Law of 1904 (Act No. 1189). He was convicted and sentenced to pay a fine of 500 pesos and to suffer imprisonment at hard labor for eight months. From this judgment he appealed to this court.

There is practically but one disputed question of fact in the case. Three Chinese went to the defendant, who was then municipal treasurer of the town of Pitogo, in the Province of Tayabas, for the purpose of procuring licenses to smoke opium. The defendant, as such treasurer, issued to each one of these Chinese a license and, as they testified, required them to pay for such licenses 6 pesos and 20 centavos each instead of 5 pesos, the price fixed by law. That each one of the Chinese then paid 6 pesos and 20 centavos is not disputed, but it is claimed by the appellant that he received only 5 pesos; that 20 centavos was paid to the municipal secretary for a revenue stamp, and that 1 peso was paid to the municipal secretary as a fee for writing the application for the license.

Act No. 1461, section 2, provides: "Upon the presentation by any Chinese person of a written application duly verified by his oath before an officer entitled to administer oaths," the municipal treasurer shall issue a certificate authorizing him to smoke opium.. The Internal Revenue Bureau had furnished to the defendant, as municipal treasurer, printed blanks. Each one of these blanks contained on the left-hand end a printed application. In the middle of the paper was the certificate of the officer administering the oath and on the right-hand side was the license itself. The defendant filled out not only the license but also the application at the other end of the paper, had the Chinese sign that, and he himself administered the oath, and so certified. It is very apparent that this is all that was required to be done by the law. The only application that was required to be presented was the application printed on the same piece of paper on which the license was printed. The defendant in his testimony, however, claimed that that is an improper construction of the law. He said that the law required the application to be in writing and that this application was printed, and, in the second place, that the law required the applicant to present his application to the treasurer and that, if the printed form was such application, it could not be presented to the treasurer because he already had it in his possession. Acting, as he says, upon this construction of the law, he required each one of these Chinese to procure some one to make a: formal written application for license, and the municipal secretary testified that he wrote out an application for each one of these Chinese, certified to it, and required each one to procure a revenue stamp of 20 centavos, and that he was paid by each one for his services 1 peso. The certificate which the municipal secretary attached to each one of the applications stated that the Chinese had appeared before' the secretary with a personal cedula and a certificate of residence such as is required of Chinese. Act No. 1461 requires no such certificate, nor does that or any other law, as far as we know, authorize the municipal secretary to make any such certificate. The treasurer, before he issued the license, could inform himself of these facts and he did not need the aid of the municipal secretary for that purpose. The latter's

certificate Avas entirely worthless.

The construction placed upon the law by the defendant is entirely inadmissible, and it is very evident that these Chinese were imposed upon by some one and were compelled to pay more than the law required.

The only question in the case is, whether they paid the 1 peso and 20 centavos to the municipal secretary or to the defendant. On this point the three Chinese testified positively that they paid the money to the treasurer. The judge so found and with this decision upon the question of fact we are entirely satisfied.

The principal argument of the defendant in this court is to the effect that he acted in good faith upon his construction of the law and that he, therefore, can not be convicted. The evidence convinces us that the treasurer, as well as the municipal secretary, knew that there was no necessity whatever for these applications which were presented. Being a man of ordinary intelligence, the defendant could not have believed that any application other than the printed one found upon the license itself was necessary. The judgment of the court below is modified by striking out the words "hard labor." In other respects it is affirmed, with the costs of this instance against the appellant. So ordered.

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

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