

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. PONCIANO LIMCANGCO, DEFENDANT AND APPELLANT.

G.R. No. 3766. October 18, 1907

Ponente: ARELLANO, C.J.

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ARELLANO, C.J.:

The following facts have been proven: (1) That the accused Ponciano Limcangco, had during a considerable time courted Urbana del Kosario, a young woman under 20 years of age; (2) that he had carnal intercourse with her; (3) that he had promised to marry her; (4) that about the month of September, 1906, she had been pregnant for some five months.

The entire defense consisted in that the promise of marriage was subsequent, and not prior to the carnal knowledge, and that therefore there was no deceit employed in the seduction of the girl.

One of the conclusions of the judgment appealed from is that—

"According to the letters offered in evidence, both from those written by the accused to Urbana del Rosario, and from such as the latter wrote to the accused, there can be no doubt whatever that the promise of marriage was made before any carnal communication between them had taken place."

Another conclusion is that—

"From the time when the accused became aware that Urbana del Rosario was pregnant he abandoned her and refused to fulfill his promise to marry her."

The lower court sentenced Ponciano Limcangco to four months of *arresto mayor* and to pay the costs, reserving "the plaintiff's right to recover for damages suffered by reason of the nonfulfillment of the promise of marriage, and for subsistence.⁷"

Both parties, the plaintiff and the defendant, appealed from the above judgment.

This court, upon appeal, does not find any proof of the alleged error in the judgment based upon the fact that the court considered that, in the commission of the crime, deceit had been employed; rather, on the contrary, the opinion of the trial court appears to have been correctly founded upon the statements made in the letters of the accused and of the injured party as well as from the testimony of the accused himself.

The defendant testified that his intimacy with Urbana del Rosario began in February, 1905, and that in July or August he had carnal communication with her. Although the latter be the true date, and not that of January, 1900, as stated by the young girl, Del Rosario, it appears to be proven, not that the promise of marriage was made after the seduction, as the accused claims, but previous thereto according to the result of the following question put to Urbana del Rosario by her attorney:

"Q. Is it not true that the first promise of marriage that he made you was, towards the end of February or the beginning of March 1905?—A. No, sir; it was made since January and February."

And as to the deceit, the accused has made it evident by his declarations :

"Q. Did you not tell her that you loved her before you had any carnal communication with her?—A. Yes, sir.

"Q. Did you expect her to believe that you loved her, and that you courted her with the idea of marrying her?—
A. Yes, sir."

The decision in cassation of October 2, 1888, is as follows :

"A promise of marriage, in order to constitute that deceit which leads to the consummation of the crime ,of seduction, requires no solemnity whatever nor any other formality except that of making it in such manner that it may reasonably be believed by the injured party, considering the antecedents of the case, the persistence and repetition of the offer, and other similar circumstances which give to the offer the appearance of sincerity."

The decision in cassation of April 26,1886, is as follows:

"In view of the personal circumstances of both the accused and the injured party, their uninterrupted love affair prior to the carnal communication, the progress of the affection they professed for each other, as inferred from the insinuating phrases and suggestions revealed in the letters written by the former to the latter for the purpose of obtaining her favor, as well as the fact that the intercourse was preceded by her belief in his assurance of a more or less proximate marriage, it can not be doubted that all of the said facts taken together constitute the deceit which led to the seduction."

Although the appeal of the plaintiff can not be the subject of consideration by this court, yet as the accused has appealed, it is the duty of this court to see that the final judgment is in accordance with the law. For this purpose the provisions of article 449 of the Penal Code should be applied.

Therefore, the judgment appealed from should be affirmed, although only three months of *arresto mayor* with the accessories thereof are imposed on the defendant; and we further sentence Ponciano Limcangco to indemnify Urbana del Rosario in the sum of P500, to recognize the offspring, and to pay the costs of both instances. So ordered.

Torres, Johnson, Willard, and Tracey, JJ., concur.

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