

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. HILARIO BRAGANZA AND MARTIN SAMBIO, DEFENDANTS AND APPELLANTS.

G.R. No. 3971. February 03, 1908

Ponente: WILLARD, J.

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WILLARD, J.:

We take the same view of this case as to the guilt of the defendants as that taken by the Attorney-General. He says in his brief:

"Article 200 of the Penal Code reads:

" 'The public official who, unless it be by reason of a crime, should detain a person without being authorized to do so by a law, or by regulations of a general character in force in the Philippines, shall incur the penalty of a line of from 325 to 3,250 pesetas if the detention should not have exceeded three days; * * *.' "

"At the time when the crime herein was committed the accused were municipal officials, Hilario Braganza being then a councilor of the municipality of Sagay and Martin Salibio a lieutenant of the barrio of Vito in said municipality ; therefore, they were public officers * * *

"There is no doubt as to the accused having detained Father Feliciano Gomez, inasmuch as, according to the evidence, they themselves seized him within the church and took him out of it, telling him that he was under arrest; they made him pass through the door of the vestry and afterwards took him to the municipal building and there told him that he was under arrest * * *. The accused detained Father Gomez, not by reason of a crime but arbitrarily. He had committed no crime, rather on the contrary, he was the victim of coercion and other outrages. As a priest of the Roman Church, and the question herein referring also to a Roman church which he is alleged to be in possession of, he went there to say mass, but a group of Aglipayano women violently prevented him from carrying out his purpose. No law or regulation of a general character in force authorizes the accused to commit the act which they committed * * *."

The judgment of the court below is affirmed, without taking into consideration, however, article 11 of the Penal Code as an extenuating circumstance. So ordered.

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

DISSENTING

CARSON, J.,

I think this complaint should be dismissed.

The accused, the concejal and the teniente of the barrio of Vito, having been called to the village chapel to quell a disturbance, found the partisans of the Roman Catholic and Aglipayano Churches violently disputing with each other, asserting their respective rights of possession thereto. In this dispute a number of women took an active

part, and when the accused arrived blows were passing and feeling was running very high. The accused, who were the only officers of the law in the barrio, placed the Roman Catholic priest under arrest, and took him to the schoolhouse which served as a sort of village tribunal, and in less than half an hour after the arrest was made set him at liberty, upon the verbal recognizance of one of the villagers and his assurance that the priest would appear before the justice of the peace the next day.

It appears that, later, a number of the participants in the disturbance, including women of both the Catholic and Aglipayano faith, were brought before the justice of the peace and fined, but it does not appear that any further action was taken against the priest.

It does not appear from the record whose was the property of the chapel, or who had the right of possession, though both parties laid claim thereto. The priest testified that prior to the day in question he had never celebrated mass there, and there are indications in the record that the reason for his being there on that day was to assert his church's right of property in the chapel by holding a religious service therein. It is clear, however, from the record that the question as to the possession of this chapel, and the dispute arising therefrom, was but one incident in the long-drawn-out controversy between the Roman Catholic Church and the Aglipayano Church over questions of ownership and possession of church property in these Islands.

It does not appear that the accused maltreated the complaining witness in any way, other than by putting him under arrest, and requiring him to accompany them to the local tribunal.

There is nothing in the record to show whether the accused were adherents of the Roman Catholic or Aglipayano faith, though from the fact that the wife of the concejal was one of those who sided with the Aglipayano party it may be suspected that he himself was an adherent of that church.

Under these circumstances I can not obtain my own consent to join with the majority in declaring that these officers of the law were guilty of a crime in performing their duty as they saw it.

If the Aglipayano Church had a right to the possession of the chapel, or even if they were actually in possession thereof, I do not think it will be pretended that these accused did other than their sworn duty in removing from the scene of the disturbance the priest, who under such circumstances must be recognized as the chief cause of the disturbance; indeed their conduct, marked as it was by the utmost consideration for the dignity and sacred office of the offender, would be worthy of the highest commendation, and evidence of a proper and admirable appreciation of their duties and responsibilities as officers of the law.

There is, as I see it, absolutely nothing in the record upon which to base a finding that the Roman Catholic Church was in actual possession or had the right to possession of the chapel in question at the time when, against the resistance of the Aglipayanos at the door, the priest forced his way inside. Surely, in the absence of proof, the accused should have the benefit of the doubt on this point; especially when it is considered that at the time when the incident occurred (March, 1906) the rights of property and possession in churches, chapels, and cemeteries in these Islands was a subject of widespread litigation, and many cases pending in this court leave no room for doubt that de facto the Aglipayano Church had secured possession of more or less so-called church property in nearly every province in the Islands.

And even granting that the Roman Catholic Church had the right to possession, if it be remembered that this right as to this particular chapel was vehemently resisted and that its rights in similar cases were gravely questioned throughout the Islands, and that the record appears to disclose that the Roman Catholic priest went there on that day for the express purpose of asserting the disputed right, I do not think that these ignorant village officials should be held criminally responsible for making a mistake as to the rights of the parties, and found guilty of

"arbitrary detention" because they mistakenly believed that the priest, who was evidently the center of the disturbance, was the creator of that disturbance by his assertion of rights which the accused officials believed did not exist.

I might be inclined to scrutinize their technical responsibility more searchingly if their conduct evidenced any malicious tendency to abuse their authority, and to exercise extreme rigor toward the church dignitary whom they arrested, but, other than the mere act of making the arrest, there is nothing in their conduct to justify an imputation of improper motives to the accused officials, or to suggest that they were doing otherwise than honestly endeavoring to quiet the disturbance and perform their official duty to the best of their ability.

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