

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. AMADEO CORRAL, DEFENDANT AND APPELLANT.

G. R. No. 42300. January 31, 1936

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

Appellant was charged with having voted illegally at the general elections held on June 5, 1934. After due trial, he was convicted on the ground that he had voted while laboring under a legal disqualification. The judgment of conviction was based on section 2642, in connection with section 432, of the Revised Administrative Code.

Said section 432 reads as follows:

"The following persons shall be disqualified from voting:

"(a) Any person who, since the thirteenth day of August, eighteen hundred and ninety-eight, has been sentenced by final judgment to suffer not less than eighteen months of imprisonment, such disability not having been removed by plenary pardon.

"(b) Any person who has violated an oath of allegiance taken by him to the United States.

"(c) Insane or feeble-minded persons.

"(d) Deaf-mutes who cannot read and write.

"(e) Electors registered under subsection (c) of the next preceding section who, after failing to make a sworn statement to the satisfaction of the board of inspectors at any of its two meetings for registration and revision, that they are incapacitated for preparing their ballots due to permanent physical disability, present themselves at the hour of voting as incapacitated, irrespective of whether such incapacity be real or feigned."

And section 2642 provides:

"Whoever at any election votes or attempts to vote knowing that he is not entitled so to do, * * * shall be punished by imprisonment for not less than one month nor more than one year and by a fine of not less than one hundred pesos nor more than one thousand pesos, and in all cases by deprivation of the right of suffrage and disqualification from public office for a period of not more than four years."

It is undisputed that appellant was sentenced by final judgment of this court promulgated on March 3, 1910,[1] to suffer eight years and one day of presidio mayor. No evidence was presented to show that prior to June 5, 1934, he had been granted a plenary pardon. It is likewise undisputed that at the general elections held on June 5, 1934, he voted in election precinct No. 18 of the municipality of Davao, Province of Davao.

The modern conception of the suffrage is that voting is a function of government. The right to vote is not a natural right but it is a right created by law. Suffrage is a privilege granted by the State to such persons or classes as are most likely to exercise it for the public good; In the early stages of the evolution of the representative system of government, the exercise of the right of suffrage was limited to a small portion of the inhabitants. But with the spread of democratic ideas, the enjoyment of the franchise in the modern states has come to embrace the mass of the adult male population. For reasons of public policy, certain classes of persons are excluded from the franchise. Among the generally excluded classes are minors, idiots, paupers, and convicts.

The right of the State to deprive persons of the right of suffrage by reason of their having been convicted of crime, is beyond question. "The manifest purpose of such restrictions upon this right is to preserve the purity of elections. The presumption is that one rendered infamous by conviction of felony, or other base offense indicative of moral turpitude, is unfit to exercise the privilege of suffrage or to hold office. The exclusion must for this reason be adjudged a mere disqualification, imposed for protection and not for punishment, the withholding of a privilege and not the denial of a personal right.

Upon the facts established in this case, it seems dear that the appellant was not entitled to vote on June 5, 1934, because of section 432 of the Revised Administrative Code which disqualified from voting any person who, since the 13th day of August, 1898, has been sentenced by final judgment to suffer not less than eighteen months of imprisonment, such disability not having been removed by plenary pardon. As above stated, the appellant had been sentenced by final judgment to suffer eight years and one day of presidio mayor, and had not been granted a plenary pardon.

Counsel for the appellant contend that inasmuch as the latter voted in 1928 his offense had already prescribed, and he could no longer be prosecuted for illegal voting at the general election held on June 5, 1934. This contention is clearly without merit. The disqualification for crime imposed under section 432 of the Revised Administrative Code having once attached on the appellant and not having been subsequently removed by a plenary pardon, continued and rendered it illegal for the appellant to vote at the general elections of 1934.

Neither is there any merit in the contention advanced by counsel for the appellant that the disqualification imposed on the latter must be considered as having been removed at the expiration of his sentence. This claim is based upon an erroneous theory of the nature of the disqualification. It regards it as a punishment when, as already indicated, the correct view is that it is imposed "for protection and not for punishment, the withholding of a privilege and not the denial of a personal right." Judicial interpretation and long established administrative practice are against such a view.

The judgment appealed from is affirmed with costs against the appellant. So ordered.

Villa-Real, Vickers, Imperial, Butte, and Goddard, JJ., concur.

DISSENTING OPINION

AVANCEÑA, C. J., :

The appealed judgment affirmed by the majority members of this court sentences the appellant for having voted in the general election held on June 5, 1934, in the municipality of Davao, Province of Davao, being disqualified from voting. The appellant, in my opinion, was not disqualified from voting.

The appellant was sentenced to the penalty of eight years and one day of prison mayor in the year 1910. This penalty carried with it, as an accessory, disqualification from the right of suffrage during the term of the sentence. He began to serve his sentence on April 11, 1910. He was granted a conditional pardon on July 31, 1913. Inasmuch as the accessory penalty of disqualification from the right of suffrage was not expressly remitted in this pardon, it is understood that he complied with and extinguished this part of the sentence on April 12, 1918. Therefore, under the penalty imposed upon the appellant, he was not disqualified from voting in 1934.

The majority, however, bases its decision on section 432 of the Administrative Code which reads:

The following persons shall be disqualified from voting:

(a) Any person who, since the thirteenth day of August, eighteen hundred and ninety-eight, has been sentenced

by final judgment to suffer not less than eighteen months of imprisonment, such disability not having been removed by plenary pardon."

The language of the law is not clear whether the disqualification referred to therein is only for the term of the sentence or for the entire lifetime of the convict. The majority however, interprets this provision in the latter sense to which I do not agree, it being contrary to the spirit thereof.

If the interpretation of the majority were correct, section 432 of the Administrative Code would not harmonize with the latter provisions thereof (secs. 2636, 2637, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2649, 2652, 2654, 2656, 2657, 2658 and 2659) on offenses relative to elections and elective officers, imposing the penalties of imprisonment and disqualification from the right of suffrage for a period not exceeding five and fourteen years, respectively. Supposing that in one of said cases, for instance that of an election inspector who willfully signs a false statement of the result of a ballot (sec. 2639), the penalty of imprisonment for more than eighteen months is imposed, said inspector, only by reason of this penalty imposed upon him, would be disqualified from voting during his entire lifetime, in accordance with section 432, if the interpretation of the majority is correct, and it would be to no purpose still to sentence him to the penalty of disqualification from the right of suffrage for a period not exceeding fourteen years.

It cannot be said, to harmonize these provisions, that the disqualification from the right of suffrage should be imposed only when the penalty of imprisonment imposed therein is less than eighteen months because it is expressly required that both penalties be imposed in all cases. Neither can it be said that section 432 governs all cases, in general, and sections 2636 et seq. govern the specific cases referred to therein, because there would then be no justice in the law. One may be sentenced to more than eighteen months of imprisonment for having committed the crime of serious physical injuries, for instance, through reckless negligence or in self-defense, but without having used the means reasonably necessary therefor, and according to the majority opinion he will be disqualified from voting during his entire lifetime under section 432. However, an election inspector who, abusing his position, willfully commits a falsehood in connection with a ballot entrusted to him, after serving his sentence which does not exceed fourteen years, will again be qualified to vote. This cannot be the result countenanced by the law. If the law in more serious cases wherein an attempt is made directly against the cleanliness of the election, only disqualifies the guilty party from the right of suffrage for a period not exceeding fourteen years, it cannot be supposed that its intention is to forever disqualify therefrom the party guilty of a crime which bears no relation to the exercise of suffrage and which does not involve the degree of moral turpitude as in the other case.

I am of the opinion that this anomaly can be avoided only by interpreting section 432 in the sense that the disqualification referred to therein is merely during the term of the sentence.

RECTO, J.:

I concur in this dissenting opinion of Chief Justice Avanceña.

I hereby certify that Hon. George A. Malcolm, Associate Justice, participated in this decision and voted to affirm the judgment.—AVANCEÑA, C. J.

[1] (9 R. C. L., 1042.)

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