

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. FRANCISCO MARAVILLA, DEFENDANT AND APPELLANT.

G.R.No. 4298. February 28, 1908

Ponente: JOHNSON, J.

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JOHNSON, J.:

This defendant was accused of the violation of the Election Law in a complaint in the words and figures following:

"On the 29th day of June last the accused, in order to qualify as an elector in the elections held to fill the office of Delegate to the Philippine Assembly, maliciously and feloniously swore, among other things, to the fact that he was not delinquent in the payment of any taxes, though in truth he had not paid the road tax for the ensuing year, as provided for by section 19 of Act No, 1396, the term for payment having already expired. This act was committed at Calapan, Mindoro, within the jurisdiction of this Court of First Instance, and contrary to the Election Law."

At the close of the trial the court below, after having heard the evidence, found the defendant guilty of the crime charged in said complaint and sentenced him with the alternative penalties of six months' imprisonment at hard labor or to pay a fine of P500 and to pay the costs. From that sentence the defendant appealed to this court, and made the following assignments of error:

First. The Court of First Instance of the Province of Mindoro committed an error in declaring that the accused knowingly violated the law or that he violated it voluntarily.

Second. Said court committed an error in imposing a penalty not provided for by law, or, in other words, the court committed an error in imposing imprisonment for six months at hard labor.

Under the above first-noted assignment of error it will appear that the appellant does not contend that he did not violate the law, but his contention is that he did not violate it knowingly.

Paragraph (a) of section 10 of Act No. 1396 of the Philippine Commission provides for an annual tax for road construction and improvement of P2 on every male inhabitant in the province over 18 and under 60 years of age, except soldiers and sailors, etc., and also provides that persons upon whom this tax is imposed shall be deemed to be delinquent after the 1st day of February of each year. Paragraph (a) of said section 19 is as follows :

"SEC. 19. (a) There is hereby imposed, for the purpose of protecting, improving, and extending the roads and trails of the province and of constructing public works, an annual tax of two pesos on every male inhabitant of the province over eighteen years and under sixty years of age, except soldiers and sailors of the United States Army and Navy, civilian employees of the military branch of the United States Government in the Philippine Islands, consular and diplomatic representatives and of officials of foreign powers in the Philippine Islands, paupers, insane persons, and persons serving a sentence of more than one year in a public prison. This tax shall be collected by the provincial treasurer and his deputies. It shall be deemed to be delinquent after the first day of February of each year: Provided, That the amount of taxes due and payable for the period from the date of

this Act to the first day of January, nineteen hundred and seven, shall be two pesos: And provided further, That this amount shall be due and payable on the first day of December, nineteen hundred and five, and shall become delinquent on the first day of January, nineteen hundred and six: And provided further, That persons liable to pay this tax not residents of the province prior to February first of any year, but who enter and reside in the province after that date, may pay the tax within thirty days after their arrival in the province."

This law became operative in the Philippine Islands on the 14th day of September, 1905.

Paragraph (b) of said section 19 provides the following penalties for those who become delinquent in the payment of the taxes provided for in paragraph (a):

First. Persons who become delinquent in the payment of this tax (P2) shall in lieu of such payment work for ten days on the roads, trails, or public works in the province, under the direction of the provincial supervisor, either performing such work in person or providing a substitute to perform it.

Second. Any person delinquent in the payment of this tax, who shall refuse or fail either in person or by a substitute furnished by him to work it out within the period fixed [by the provincial board] shall be deemed guilty of a misdemeanor and shall, upon conviction, be punished by a fine not exceeding P10 or by imprisonment not exceeding twenty days, or by both such fine and imprisonment in the discretion of the court.

It is admitted in the present case that the defendant did not pay said tax nor perform said labor in the year 1907, until after the 29th day of June, 1907.

On the 9th day of January, 1907, the Philippine Commission enacted a law providing for the holding of elections for the organization of the Philippine Assembly and for other purposes. Section 13 of said law (No. 1582) provides for the general qualifications of voters. Section 14 mentions the conditions under which persons are not qualified to vote. Paragraph (a) of said section 14 provides that any person who is delinquent in the payment of public taxes assessed since August 13, 1898, shall be disqualified from voting.

Section 17 of said act provides for the registration of voters and also provides that the following oath shall be administered and subscribed by each applicant before entering his name upon the list of voters:

"I, ..., do solemnly swear (or affirm) that I am a male resident of the municipality of, in the Province of....., residing at....., and on the date of the forth- coming election I will be.....years of age, and should I present myself to vote I will have resided in said municipality continuously for the period of six months immediately preceding the said election; that I am not a citizen or subject of any foreign power; that I have read (or heard read) sections thirteen and fourteen of the Election Law, and that I have the qualifications of a voter, and none of the disqualifications prescribed in said sections; that I am not delinquent in the payment of any public taxes assessed against or due from me since August thirteenth, eighteen hundred and ninety-eight, in any part of the Philippine Islands; furthermore, that I recognize and accept the supreme authority of the United States of America in the Philippine Islands, and that I will maintain true faith and allegiance thereto; that I will obey the laws, legal orders, and decrees duly promulgated by its authority; and that I impose upon myself this obligation voluntarily and without mental reservation or purpose of evasion. So help me God.

"(In case of affirmation the words 'So help me God' should be stricken out.)

"

"(Signature of elector.)"

Paragraph 4 of section 30 of said law (No. 1582) provides :

"Any person who knowingly takes or subscribes any false oath, affidavit, or affirmation before any election

officer, or before any court or other officer in relation to any material fact in any registration or election proceeding, shall be punished by imprisonment for not less than three months nor more than five years, or by a fine of not less than two hundred pesos nor more than two thousand pesos, or both, in the discretion of the court."

On the 29th day of June, 1907, for the purpose of being registered as a voter, the defendant subscribed to the following oath:

"[Election Form No. 2.]

"ELECTOR'S OATH.

"PHILIPPINE ISLANDS, Municipality of Calapan:

"I, Francisco Maravilla, do solemnly swear (or affirm) that I am a male resident of the municipality of Calapan, in the Province of Mindoro, residing at Baco, and on the date of the forthcoming election I will be 42 years of age, and should I present myself to vote I will have resided in said municipality continuously for the period of six months immediately preceding the said election; that I am not a citizen or subject of any foreign power; that I have read (or heard read) sections thirteen and fourteen of the Election Law, and that I have the qualifications of a voter, and none of the disqualifications, prescribed in said sections; that I am not delinquent in the payment of any public taxes assessed against or due from me since August thirteenth, eighteen hundred and ninety-eight, in any part of the Philippine Islands; furthermore, that I recognize and accept the supreme authority of the United States of America in the Philippine Islands, and that I will maintain true faith and allegiance thereto; that I will obey the laws, legal orders, and decrees duly promulgated by its authority; and that I impose upon myself this obligation voluntarily; and without mental reservation or purpose of evasion. So help me God. (In case of affirmation the words 'So help me God' should be stricken out.)

" FRANCISCO MARAVILLA.

"(Signature of elector.)

"Subscribed and sworn to (or affirmed) before me this 29th day of June, 1907.

(Signed) "MANUEL RAMIREZ,

"Inspector of Election, Only Election Precinct, "

"Municipality of Calapan."

The following facts seem to be clearly established from the record:

First. That the defendant paid the tax provided for in said section 19 of Act No. 1306, for the year 1906, in the month of January of that year.

Second. That said tax, as provided for by said section, had not been paid for the year 1907 at the time the defendant made the above affidavit (elector's oath) on the 29th day of June, 1907.

Third. That some time prior to the said 29th day of June, 1907, the name of the defendant appeared upon a list of persons delinquent in the payment of the cedula and road taxes, posted in the office of the provincial treasurer of the Province of Mindoro.

Fourth. That some days before the defendant made the said affidavit on the 29th day of June, 1907, he inquired of one Manuel Ramirez whether or not he, not having paid the tax provided for in said section 19 until after the 1st day of February, was delinquent in the payment of said tax, and was informed by the said Ramirez that in his (Ramirez') opinion he was not.

Fifth. That the defendant lived in the pueblo of Calapan, the capital of the Province of Mindoro, where was also

located the office of the provincial treasurer of said province.

Sixth. That on the 29th day of June, 1907, before the defendant took the said oath, the law relating to the qualifications of voters was read and explained to him in his own dialect by the inspector of elections, the said Manuel Ramirez.

Seventh. The law did not require the provincial treasurer to notify those who were obligated to pay the tax provided for in said section 19 that they were delinquent. Said Act No. 1396 had been in force in the Philippine Islands for nearly two years prior to the time when the defendant made said affidavit or elector's oath and he had already once paid the tax in accordance with the provisions of said law.

The only question presented by the appellant is whether or not he knowingly violated the provisions of said law; that is, whether he knew at the time he took the said oath that he was delinquent in the payment of said road tax. He admits that the law was read to him just before he took the oath. The law is plain. It simply provides that those who do not pay the tax "shall be deemed to be delinquent after the first day of February of each year." It seems to be difficult to understand the contention of the defendant. During the trial he admitted that the reason for not paying the tax for the year 1907, as he had done in the year 1906, was that he did not have the money.

Suppose, for instance, that the defendant had been prosecuted for a failure to pay said tax or to perform the work in lieu thereof, and had made as his defense in that action that he did not know that he was delinquent. Could he thereby have defeated the imposition of the penalties provided for in paragraph (b) of said section 19 above quoted? In other words, could he have plead his ignorance of the law as his defense? Under the penal clause of paragraph (b) of said section 19 he could only be punished upon the theory that he was delinquent. We are not of the opinion that his ignorance of the provisions of the law would have constituted a defense in that action. And, moreover, the defendant resided in the capital of the province. The provincial treasurer, long prior to the 29th day of June, 1907, had prepared a list of the persons of the province who were delinquent in the payment of the said tax. Had the defendant been anxious to know, as a matter of fact, whether he was a delinquent or not, he might easily have ascertained this fact upon inquiry of the provincial treasurer. But, as was said above, the mere reading of the law was sufficient to give him the information that the said tax was due and payable prior to the 1st day of February of each year, and those who had not paid said tax prior to said date were delinquent.

From all of the facts disclosed by the record, we are of the opinion that the defendant did make the said affidavit knowing that he had not paid said tax in accordance with the law, and was therefore delinquent, and that, therefore, he knowingly took and subscribed to a false oath before the election officer. Those who desire to participate in the affairs of the Government must be willing to comply with its laws made to support the same.

In view of all the facts, however, we are of the opinion that the sentence of the lower court should be modified, and that the defendant should be sentenced to pay a fine of 200 with costs. So ordered.

Torres, Carson, and Tracey, JJ., concur.

ARELLANO, C.J., MAPA AND WILLARD, JJ., dissenting;

We agree with the conclusions contained in the brief of the Attorney-General and are of the opinion that the defendant should be acquitted.

[1] The following cases, involving the same point, were considered and decided at the same time with the same result: No. 4294, U. S. vs. Antonio Alcázar; No. 4295, U. S. vs. Andres Asturias; No. 4296, U. S. vs. Baldomero Aceveda; No. 4297, U. S. vs. Feliciano Alveira; No. 4299, U. S. vs. Gregorio Maliwanag; No. 4301,

U. S. vs. Lorenzo Alcafiices; No. 4302, U. S. vs. Pedro Morales; No. 4303, U. S. vs. Braulio Robles; No. 4304, U. S. vs. Vicente Espiritu.

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