

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. RUFINO DELOSO, DEFENDANT AND APPELLANT.

G.R. No. 4411. August 31, 1908

Ponente: TORRES, J.

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TORRES, J.:

Rufino Deloso, in order to take part in the municipal elections that were to be held about the 1st of December, 1904, in the town of Jimenez, called at the municipal building and stated under oath, to the municipal secretary, that he was a resident of the said town, and that at the date of the next municipal election he would have resided therein for a period of six months; and that he was in every way entitled to vote.

At the municipal elections held in the town of Oroquieta, in the same province, on the 5th of December, 1905, the said Rufino Deloso was elected by a majority vote to the office of municipal president. The election was protested by several residents of the town on the ground that the successful candidate had no legal residence therein. In his defense Deloso stated under oath on the 4th of January, 1906, before Vicente Fortich, notary public of Oroquieta, that he had been, and was at the time, a resident of the said town, and that he had resided therein from the month of April, 1902, until the above-mentioned date. From documents marked "A" and "B," offered in evidence by the provincial fiscal, it appears from the first that Rufino Deloso, who signed both of them, had resided in Oroquieta since April, 1902, and continued to live there until the date of the document, January 4, 1906; that he was a candidate for the municipal presidency of Oroquieta at the elections of December, 1903, that, although he paid frequent visits to the pueblo of Jimenez, he always returned to Oroquieta, the place where he resided; that he never voted for municipal officers in the pueblo of Jimenez. The first document was signed under oath in the presence of Notary Vicente Fortich, and the second, marked "B," is a municipal form No. 10, wherein the accused stated under oath that he was a resident of Jimenez.

A complaint was filed by the provincial fiscal charging Rufino Deloso with the crime of falsification of official documents, and the court below, in view of the evidence adduced at the trial, found him guilty of the crime defined and punished by article 311, in connection with article 310, of the Penal Code, and sentenced him to the penalty of four months of arresto mayor, to suffer the accessory penalties and to pay costs. From this judgment the accused has appealed.

From the above stated facts, fully established in the case, it appears that the crime of falsifying a certificate issued by a public officer was committed by a private person, who used it, perverting the truth in the narration of facts, when exercising the right of suffrage at the municipal elections held in December, 1904, in the pueblo of Jimenez, Province of Misamis.

Article 310 of the Penal Code provides that—

"A public official who shall issue a false certificate of merit or service, of, good conduct, of property or of other similar circumstances, shall be punished with the penalties of suspension in its medium and maximum degrees and a fine of from 325 to 3,250 pesetas."

Article 311 of the said code prescribes that—

"An individual who shall falsify a certificate of the kinds mentioned in the preceding articles shall be punished with the penalty of *arresto mayor*.

"This provision is applicable to the person who shall knowingly make use of such false certificate."

The document offered in evidence as Exhibit B, issued by the municipal secretary of Jimenez, is not, strictly speaking, a public document, but it belongs to the class of documents the falsification of which is specially punished by articles 306 to 311 of the Penal Code; therefore, the provisions of articles 301 and 302, in connection with article 300 of said code, are not applicable to the present case.

The said document or certificate was used with a knowledge that its contents were false, in that Deloso was not a resident of Jimenez. The falsity of the statement, made by him to the municipal secretary of said pueblo, was proven by another notarial document executed by the same Deloso who also stated under oath, that he was a resident of Oroquieta both before and after the year 1904; it is therefore unquestionable that the accused has incurred the penalty imposed by article 311 of the Penal Code, above quoted.

The defendant pleaded not guilty and alleged that he signed the document marked Exhibit B, without having read it, and that he was not acquainted with the provisions of the Municipal Code as to the residence required of an elector. These allegations can not be sustained, nor do they constitute an exemption of the accused, inasmuch as, according to article 2 of the Civil Code, ignorance of the law does not excuse a person from compliance therewith. Furthermore, in view of the degree of education and intelligence of the accused who, as appears in the proceedings, assisted a resident of the pueblo of Jimenez in his complaint against the municipal president for violation of the Municipal Code, there can be no doubt but that he was acquainted with the said code, and that he maliciously and knowingly made use of the certificate issued by the municipal secretary of Jimenez, containing the false declarations made by himself, in order to exercise the right of suffrage at the elections in that town, although he was well aware that he was neither a resident of Jimenez nor entitled to participate in such elections.

No mitigating nor aggravating circumstance being present in the commission of the offense, the adequate penalty should be applied in the medium degree.

For the foregoing reasons, and accepting the findings of the court below in the judgment appealed from, it is our opinion that the same should be and is hereby affirmed, with the costs of this instance against the accused. So ordered.

Arellano, C. J., Mapa, Carson, Willard, and Tracey, JJ., concur.

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