

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. LUCIO CAPINLAC, DEFENDANT AND APPELLEE.

G. R. No. 44573. July 15, 1937

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DIAZ, J.:

This is an appeal taken from the order of the Court of First Instance of Tarlac, sustaining the defendant's demurrer to the information filed by the fiscal, which reads as follows:

"That on or about February 6, 1931, in the municipality of Tarlac, Province of Tarlac, Philippine Islands, and within the jurisdiction of this Honorable Court, the above-named defendant willfully, maliciously and feloniously, knowingly making untruthful statements, made and subscribed an affidavit before the register of deeds, Mr. Marcelo M. Sibal, who is authorized by law to receive and administer oaths, upon facts pertinent to the issuance of an order of the Court of First Instance of Tarlac for the purpose of causing the Register of Deeds of said province to issue to him a new copy of his homestead title No. 201 (Patent No. 3555), knowing such facts stated by him in the affidavit in question to be false.

"Contrary to law."

The defendant's demurrer was based principally upon the averment that the facts alleged in the information do not constitute a crime. The lower court, being of the opinion that the facts alleged in the information do not constitute either the crime of false testimony under article 183 of the Revised Penal Code or that of offering false testimony in evidence defined in article 184 of said Code, held that the demurrer was well founded and ordered the dismissal of the case. The provincial fiscal appealed from the order of dismissal.

While the Solicitor-General agrees to the conclusions arrived at by the lower court to the effect that the facts charged do not really constitute false testimony under any of the two above cited articles, he contends, for the first time in this instance, that the appealed order is not in accordance with law and that the defendant's demurrer should have been overruled on the ground that the facts alleged in the information constitute falsification of a public document. This court is of the opinion that the conclusion of the lower court is correct, but not precisely for the reason that the facts alleged in the information do not constitute any of the crimes defined in articles 183 and 184 of the Revised Penal Code, but because they do not constitute the crime of perjury denned and punished in section 3 of Act No. 1697. It should be taken into consideration that the acts imputed to the defendant took place on February 6, 1931, "according to the allegations of the information, and the law then in force in the matter of perjury was said Act No. 1697, because the Revised Penal Code, articles 184 et seq. of which punish false testimony, took effect only on January 1, 1932.

Even if this court were to consider the question under the provisions of said section 3 of Act No. 1697, the conclusion arrived at would be the same on the ground that the information do not allege facts constituting perjury. In order that this crime could exist, it was necessary that the false statements of the defendant referred to material matter and not merely to facts pertinent to the case in connection with which they were made. The allegation contained in the information in question is to the effect that the defendant's false statements referred only to facts pertinent to the case mentioned by him without stating, however, in what said facts consist. The

provisions of the Revised Penal Code are not applicable to the case at bar because they are more severe and strict than those of Act No. 1697. The rule is that penal laws have a retroactive effect only in so far as they favor the person guilty of a felony (article 22, Revised Penal Code).

Without making it understood that this court sanctions the practice of raising for the first time in this instance a question which could have very well been raised in the lower court, it is held that neither is the information sufficient to impute to the defendant the crime of falsification of a public document. It does not appear that it contains the least allegation to the effect that such is the charge against the defendant. On the contrary, he is clearly charged therein with having committed the crime of either false testimony or perjury. As stated in the case of *United States vs. Enriquez* (1 Phil, 179), one of the purposes of every information is to notify the defendant of the criminal acts imputed to him so that he can duly prepare his defense. The information should state the facts and the circumstances constituting the crime charged in such a way that a person of common understanding may easily comprehend and be informed of what it is about.

For the foregoing considerations, this court holds that the defendant's demurrer to the information filed against him was well founded and, consequently, the appealed order was in accordance, with law.

Let the costs be assessed de officio. So ordered.

Avancena, C. J., Villa-Real, Abad Santos, Imperial, Laurel, and Concepcion, JJ., concur.

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