

ALFREDO VALENZUELA, PETITIONER, VS. THE PEOPLE OF THE PHILIPPINES, RESPONDENT.*G.R. No. 45666. April 24, 1939*

Ponente: IMPERIAL, J.

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This is a petition for certiorari filed by the accused to review the decision of the Court of Appeals affirming the judgment of the Court of First Instance of Pangasinan, which found him guilty of a violation of section 309 of the Act of Congress of the United States of America, entitled "World War Adjusted Compensation Act", and sentenced him to one month and one day of imprisonment, to indemnify Silvestre Parido in the sum of P300 and to pay the costs.

Silvestre Parido, the offended party, had been during the world war a member of the infantry regiment of the United States Army and as such had obtained the right to compensation under the aforesaid law. Sometime in September, 1932, in the municipality of Lingayen, province of Pangasinan, he availed of the services of the accused to help him obtain said compensation. The accused prepared an application for a loan of \$358.50, equivalent to P717, which was filed with the Veterans Administration after it was signed by the offended party. Subsequently there was issued in his favor warrant No. 19869 of the United States Treasury. This warrant was sent by mail to the offended party, addressed to Post Office Box No. 10 of Lingayen, Pangasinan, which had been rented by the accused. On the 13th of the same month the accused and the offended party went together to the office of the postmaster of Lingayen and after the offended party had signed the warrant, the accused turned it over to the said official. The latter cashed the warrant and handed the money to the accused, the offended party not then knowing the exact amount which the accused had received. The accused thereafter delivered to the offended party P417 only, keeping the balance of F300. Four days later the accused obtained from the offended party a loan for P10. Some days afterwards a relative of the offended party saw the loan application which the latter had signed and informed him that he had obtained a greater amount. It was then that the offended party learned that the accused had appropriated for himself the sum of P300. The offended party demanded of the accused to return the latter amount, but the accused refused alleging that the amount was his for services which he had rendered to the offended party. Thereupon the offended party filed a claim against the accused in the office of the Veterans Administration. On February 13, 1934, the manager of the latter office wrote the offended party to the effect that, in the opinion of the attorney of said office, no action could be taken against the accused for having appropriated the sum of \$158.50 from the loan granted to the offended party, because the penal provisions of the "World War Adjusted Compensation Act" were not applicable to the Philippine Islands. Thereupon the offended party went to the provincial fiscal who filed an information against the accused charging him with the commission of the crime of estafa for having illegally appropriated the sum of P300 without the knowledge and consent of the offended party and to the latter's prejudice. The information thus lodged was later dismissed upon petition of the fiscal and without the consent of the accused. It does not appear at what stage of the case the court issued the order of dismissal, hence, it is not known whether the accused had already been arraigned and had already pleaded thereto. Thereafter the fiscal filed another information against the accused for a violation of section 309 of the Act

of Congress of the United States of America, entitled "World War Adjusted Compensation Act." In this second information it was simply alleged that the accused violated the said law by illegally collecting from the offended party the sum of P300, which was a part of the P717 obtained by way of loan under the aforesaid law. The accused interposed a demurrer to the information on the ground: (1) that the court had no jurisdiction to take cognizance of the alleged violation, and (2) that the facts alleged in the information do not constitute a public offense in the Philippine Islands. Upon the submission of the demurrer, the court overruled the same and after trial the accused was found guilty of the violation alleged in the information and was sentenced to one month and one day of imprisonment, to indemnify the offended party in the sum of P300 and to pay the costs. On appeal to the Court of Appeals, the latter affirmed in the manner already mentioned.

The accused contends that the Court of Appeals erred: (1) In holding that the "World War Adjusted Compensation Act" of the United States Congress is applicable to the Philippines, and in holding that under the facts alleged in the information and established by the prosecution, he is guilty of a violation of section 309 of the said law; and (2) in not sustaining his defense of double jeopardy under section 1 (20), Article III, of the Constitution, and in holding that the Jones Law is the one applicable.

Section 309 of the "World War Adjusted Compensation Act", which is in turn section 619, Title 38, of the United States Code, under which the second information was filed, reads as follows:

"Any person who charges or collects, or attempts to charge or collect, either directly or indirectly, any fee or other compensation for assisting in any manner a veteran or his dependents in obtaining any of the benefits, privileges, or loans to which he is entitled under the provisions of this chapter shall, upon conviction thereof be subject to a fine of not more than \$500, or imprisonment for more than one year, or both. (May 19, 1924, c. 157, par. 309, 43 Stat. 125.)"

Under this legal provision there is no doubt that the accused is guilty of the violation with which he is charged because it has been established by the prosecution that he collected from the offended party the sum of P300, which was a part of the P717 which the latter had obtained by way of loan from the Veterans Administration, as compensation for services which he rendered to the offended party for helping the latter obtain said loan.

But counsel for the accused contends that section 309 is neither in force nor applicable in the Philippines under the provision of section 1003, Title 48, of the United States Code to the effect that "The statutory laws of the United States enacted subsequent to August 23, 1916, shall not apply to the Philippine Islands, except when they specifically so provide, or it is so provided in this chapter." We are of the opinion that the contention is unsound. While it is true that the "World War Adjusted Compensation Act" does not contain any provision extending its language to the Philippines, nevertheless, being a law enacted for the benefit of all the veterans who have taken part in the world war and there being in this country American and Filipino veterans who are entitled to the privileges and benefits granted therein, it is obvious that the law should be understood as extended to the Philippines, otherwise these beneficiaries would be outside its scope and would be without any protection.

In *People vs. Tan* (51 Phil., 71), and *People vs. Peralta* (G. R. No. 34012 [58 Phil., 800]), this court applied to the Philippine Islands the penal provisions of the Act of Congress of July 16, 1918, entitled "An Act to Pension Widows and Minor Children of Officers and Enlisted Men Who Served in the War with Spain, Philippine Insurrection, or in China" and of the Act of Congress of June 7, 1924, entitled "World War Veterans' Act" and we held that the penal provisions of said laws were applicable to the Philippine Islands notwithstanding the provision of section 5 of the Jones Law "That the statutory laws of the United States hereafter enacted shall not apply to the Philippine Islands, except when they specifically so provide, or it is so provided in this Act." In the first of the cited cases, in interpreting the purposes of the Act of Congress of July 16, 1918, it was said:

"The pension granted by the above quoted enactment is in consideration of services rendered by officers and soldiers of the United States Army and Navy in the war with Spain, in the Philippine insurrection, or in China. Such services are therefore military in character. This being so, the pension granted in consideration of military service is likewise military.

"The object of the pension is the protection of the widows and minor children of such officers and soldiers as come under the conditions specified by the law. This act of humanity and justice on the part of the Federal Government cannot but redound to the benefit of the United States Army and Navy, by encouraging their officers and soldiers to continue in the service, and those who feel a vocational leaning towards the militia, to enter it, since the future of their wives and children is assured in case of death.

"From this it follows that while the prime object of the Pension Act in question is the protection of the widows and minor children of the officers and soldiers of the United States Army and Navy who served actively during the war with Spain, in the Philippine insurrection, or in China, said enactment also tends to maintain and preserve said Army and Navy, and it may properly be said that it is an Act for the maintenance of these military institutions.

"In the case of *Tan Te vs. Franklin Bell* (27 Phil., 354), the following doctrine, as expressed in the, syllabus, was laid down:

" 'Laws Relating to the Army.—Laws for the creation, regulation, and maintenance of the Army, not specifically limited to certain districts, are of nation-wide application and. extend to all territory under the jurisdiction of the United States. Subsequent laws of Congress organizing territorial governments do not repeal such laws by implication. ' "

"This doctrine is applicable to the present case, since, as we said, the indirect object of the law in question is the maintenance of the Army and Navy.

"While it is true that this Pension Act was promulgated subsequent to the Jones Law, yet its caption, title, and first section which speaks of widows and minor children of officers and soldiers who served during the war with Spain, in the Philippine insurrection, or in China, refers to Americans as well as to Filipinos and is an adequate expression of the applicability of said law to these Islands."

On the authority of the doctrines laid down in the aforesaid cases and in that of *Tan Te vs. Bell*, supra, we hold that the penal provisions contained in section 309 of the "World War Adjusted Compensation Act", which is section 619, Title 38, of the United States Code, are applicable to the Philippine Islands, because otherwise the American and Filipino veterans found in this territory would not find protection and receive the privileges conferred upon them by law in cases where, as in the one before us, other persons appropriate for themselves the loan or compensation to which the former are by law entitled.

We are likewise of the opinion that the defense of double jeopardy interposed by the accused is devoid of merit. Section 28 of General Orders, No. 58, provides that the dismissal of a criminal case without the consent of the accused, after he has been prosecuted upon a valid complaint or information sufficient in form and substance and after he has been informed thereof and made his plea thereto, is a bar to his prosecution anew for the same offense, whether attempted or frustrated. The accused, however, cannot invoke the defense established in this section because it does not appear that he had pleaded to the information and because the same offense or violation of law is not involved, the first information having charged him with estafa, whereas in the second he was charged with a violation of the "World War Adjusted Compensation Act."

In view of the foregoing, the petition for certiorari is denied, with the costs to the accused-petitioner. So ordered.

Avanceña, C. J., Villa-Real, Diaz, Laurel, Concepcion, and Moran, JJ., concur.

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