

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. VIDAL ROLDAN, DEFENDANT AND APPELLANT.

G.R. No. 4885. March 31, 1909

Ponente: MAPA, J.

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MAPA, J.:

This defendant is charged with the violation of the Election Law, committed, according to the complaint, as follows:

"That on the 22d day of June, 1907, in the barrio of Banga, in said municipality (Calivo), at a regular session held in said barrio by the board of inspectors for the second precinct thereof, for the purpose of duly registering the qualified electors of the said precinct for the election of Delegates to the Philippine Assembly, the said Vidal Roldan appeared before the said board, and in the presence of one of the inspectors, willfully, intentionally, unlawfully, and maliciously took and subscribed an oath wherein the said Vidal Roldan stated that he was not in default for the payment of public taxes imposed since the 13th of August, 1898, when as a matter of fact he was delinquent in the payment of the land tax due to the Province of Capiz for the year 1905; all contrary to the provisions of section 30 of the Election Law."

The corresponding proceedings were instituted, and in view of the evidence adduced at the trial, the defendant was found guilty of the crime with which he was charged and sentenced to pay a fine of P200 and costs, or otherwise to suffer the corresponding subsidiary imprisonment at the rate of one day for each two pesos of the fine or costs that he failed to pay.

The evidence fully sustains the finding of the trial judge as to the culpability of the accused, and the penalty imposed upon him is in accordance with the law. The Attorney-General, however, asks that the subsidiary imprisonment be modified so that it shall be understood to be one day for each 2½ pesos that the accused fails to pay, in lieu of the 2 pesos provided in the sentence of the lower court.

The Attorney-General apparently relies upon Act No. 1732, which establishes the duration of subsidiary imprisonment for insolvency in the payment of fines imposed by Acts of the Commission, at the rate of one day for each 2½ pesos unpaid. But said Act was enacted on October 1, and went into effect on the 1st of November, 1907, and as the crime was committed on the 22d of June, 1907, four months before the said law went into effect, it can not be applied to this case. The legal provision applicable herein, taking into account the time when the crime was committed, is the Election Law which, in the last subdivision of section 30, provides that, whenever any person shall be convicted of an offense under said Act, the fine and costs imposed, if any, shall be extinguished by subsidiary imprisonment at the rate of one day's imprisonment for each two pesos of fine or costs remaining unpaid. Therefore, the trial judge acted correctly in fixing said equivalent in the judgment appealed from.

The said judgment is hereby affirmed in all of its parts with the costs of this instance against the accused.

Arellano, C. J., Torres, Johnson, and Carson, JJ., concur.

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