

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. SEKAPIO ARTACHO AND PASTOR MORAN, DEFENDANTS AND APPELLANTS.

G.R. No. 4970. October 09, 1909

Ponente: MORELAND, J.

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MORELAND, J.:

The defendants were charged with the crime of violating the Election Law by making a false count of the ballots cast at an election held in the pueblo of Lingayen, Province of Pangasinan, on the 5th day of November, 1907, and in making and signing a false declaration of the result of said election in said pueblo in relation to the office of municipal president.

From the proofs adduced at the trial before the Court of First Instance of the Province of Pangasinan on the 28th day of August, 1908, it appears that said defendants were members of the board of inspectors of the first district of Lingayen at an election for municipal president held in said pueblo; that several persons were candidates at said election for that office; that among them was Mauro Navarro; that after the polls were closed the board of inspectors proceeded to count the ballots cast for the various candidates for the office referred to; that the ballots were first taken by the defendant Serapio Artacho, who was president of the board of inspectors, and by him read aloud; that the other defendant, Pastor Moran, then took the ballots and verified the reading of Serapio Artacho; that the third inspector, Montano Casaclang, and the secretary of the board, Urbano de Guzman, made a record of the names of the candidates, with the number of votes received by each, in accordance with the reading of the defendant Artacho, as verified by the defendant Moran; that, at the termination of the count, the said board of inspectors made and signed the declaration of the result of the election, as required by law, in which they alleged that said Mauro Navarro had received 76 votes. It further appears from the proofs that the ballots were thereupon placed in the ballot box and the box sealed, as required by law, which said box was immediately thereafter deposited with the municipal secretary; that the box, after being so deposited, was kept by the municipal secretary in a place where it could easily have been tampered with by any person so desiring; that when the said ballot box was brought into court as evidence in this action, it was found that it had been tampered with; that some of the seals had been broken and one of the seals in particular, which consisted of a piece of white paper with the defendant Artacho's name upon it, tightly pasted upon said box so that it could not be opened without rupturing said seal, was a different piece of paper from the one with which the box was originally sealed, and that the name of the defendant Serapio Artacho, written across the said paper, was not his genuine signature, as was the signature written upon the paper with which the box was originally sealed. It further appears from the record that the defendant Artacho himself testified that the paper used as a seal had been changed after the deposit of the ballots and the subsequent sealing and that the signature upon the paper with which the box was sealed when produced in court was not his genuine signature, and was not the signature which he had written upon the original seal at the time the box was sealed at the close of the count. It appears also that, on opening the box containing the ballots, it was discovered that the original names on 17 of the ballots had been erased and in place of each thereof the name of Mauro Navarro written on each of said ballots; that the number of ballots received by Mauro Navarro, if the 17 mutilated ballots were counted for him, was 76; that, if the 17 ballots had not been counted for Mauro

Navarro, he would have been defeated as candidate for municipal president. It also appears from the record herein that the defendant Artacho testified that the 17 ballots in question were not so erased or mutilated at the time he counted them as inspector of election. It also appears further that none of the names erased upon the said 17 ballots was the name of Mauro Navarro; that the name of Mauro Navarro, placed upon the 17 ballots after the erasure of the original names, appears to have been written by the same hand upon each one of the 17 ballots; that 7 of the said 17 ballots appear to have been originally in favor of Casiano Jimenez and the other ten in favor of the other candidates, whose names are Jose Lopez, Antonio Ramos, and Fernando Castro.

These facts are clearly and conclusively established by the testimony.

The evidence conclusively shows that the ballots were changed after the count. Artacho himself testified that the ballots were not so erased or altered when he read them. The third member of the board of inspectors, Montano Casaclang, and the secretary of the board, Urbano de Guzman, were occupied in putting down in the forms provided for the purpose the names of the persons who received votes for each office and the number of votes cast for each one, according to the reading of the names by the defendant Artacho, as verified by the defendant Moran. The inspector who was writing down the names of the candidates and the number of ballots which they received was so engaged that he could not see or know whether the acts of the two defendants in reading the ballots were correct or not. It is apparent, however, that each of the defendants had ample opportunity to see and know what the other was doing. It was the particular duty assigned to Moran to know what Artacho did, so that if the ballots were wrongly read by Artacho, that fact would be instantly known to Moran.

It is evident that some one erased the names originally upon the ballots and inserted in place thereof the name of Mauro Navarro. It is also evident that this change was made after the ballots were counted. This is substantially admitted by all parties. If that is true, then the defendant Artacho must have read the 17 ballots, one after another, wrongly, with the intention of giving Mauro Navarro 17 ballots which did not belong to him. This conclusion is inevitable. Also, if he read them wrongly, then Moran, who Verified the reading of Artacho, also read them wrongly, and he too, therefore, had the same intention when he read and counted for Mauro Navarro 17 ballots which rightfully belonged to other candidates. It is a necessary conclusion, based upon the evidence and all the circumstances of the case, that the ballots so wrongly counted were placed with the other ballots in the ballot box without changes having been made to make them correspond to the fraudulent reading; and that, after Jimenez had begun a proceeding to contest the election of the said Mauro Navarro, as he did, as shown by the proofs, the defendants, knowing that the fraudulent counting of the 17 ballots would be immediately discovered, took favorable occasion thereafter to open the box which contained the 17 ballots in question and to substitute the name of Mauro Navarro for the names that originally appeared on the 17 ballots.

It is evident, therefore, that the defendants, having so intentionally miscounted said ballots and having knowingly and wilfully certified to an incorrect return, are guilty of the crime charged, and the judgment of the lower court, convicting and sentencing them, is hereby affirmed, with costs against the appellants.

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

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