

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. SANTIAGO NARVAS, DEFENDANT AND APPELLANT.

G.R. No. 4975. November 09, 1909

Ponente: MORELAND, J.

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MORELAND, J.:

The Code of Criminal Procedure[1] contains the following:

"SEC. 2. All prosecutions for public offenses shall be in the name of the United States against the persons charged with the offenses.

"SEC. 3. All public offenses triable in Courts of First Instance or in courts of similar jurisdiction, now established or that hereafter may be established, must be prosecuted by complaint or information.

"SEC. 4. A complaint is a sworn written statement made to a court or magistrate that a person has been guilty of a designated offense.

"SEC. 5. An information is an accusation in writing charging a person with a public offense, presented and signed by the promotor fiscal or his deputy and filed with the clerk of the court."

Under the provisions of these sections a criminal action or prosecution may be instituted in the courts specified therein in either one of two ways. In the first place it may be commenced by any person presenting to a court or to a magistrate the complaint above defined. Such complaint is the process which begins the action and gives the court or magistrate jurisdiction of the person of the defendant and the subject-matter of the action. Where such complaint has been presented no other or further pleading on the part of the government is necessary. The prosecution proceeds upon the complaint alone. In the second place the action may be commenced by the promotor fiscal by presenting to the court and filing with the clerk thereof the information defined and set forth in the section above quoted. In that case such information is the process which institutes the action and the prosecution proceeds upon it as the people's pleading. It is the duty of the fiscal to prosecute the action, whether commenced by complaint or information. This enables him to prevent malicious or unfounded prosecutions by private persons.

There are some cases, however, in which it is required that the action must be instituted by the party injured by the act complained of. Section 1 of Act No. 1773 provides:

"SECTION 1. Hereafter the crimes of adulterio, estupro, rapto, violacion, calumnia, and injuria, as defined by the Penal Code of the Philippine Islands, shall be deemed to be public crimes and shall be prosecuted in the same manner as are all other crimes defined by said Penal Code or by the Acts of the Philippine Commission: Provided, however, That no prosecution for the crimes of adulterio, estupro or injuria committed against persons other than public officials or employees shall be instituted except upon the complaint of the aggrieved person or of the parents, grandparents, or guardian of such person."

In the cases enumerated in this section the action can not be prosecuted upon the information of the fiscal. In

order to give the court jurisdiction over the person of the defendant and the subject-matter of the action it is necessary in these cases that the complaint defined by the sections of the Code of Criminal Procedure herein quoted be made and executed in writing by the offended party personally, if that person be competent to do so, and, if not, then by one of the persons named in the section last above quoted in the order in which they are named therein.

In the case at bar the defendant, who was neither a public official nor employee, was charged with the crime of seduction (estupro) in an information made by the fiscal. The prosecution of the defendant proceeded upon that information, terminating in his conviction. From what has been said it is apparent that, no complaint having been made by the aggrieved person, the court acquired no jurisdiction over the person of the defendant or the subject-matter of the action.

The judgment of the lower court convicting the defendant is, therefore, reversed, the information dismissed, and the defendant ordered discharged from custody.

Let judgment be entered in accordance herewith and the case be returned to the court whence it came for proper procedure.

So ordered.

Torres, Johnson, Carson, and Elliott, JJ., concur.

[1] General Orders, No. 58.

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