

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. CORNELIO MANALO, DEFENDANT AND APPELLANT.

G.R. No. 5067. September 11, 1909

Ponente: MORELAND, J.

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MORELAND, J.:

The appellant in this case is accused of neglect of official duty.

He was given a hearing before the Court of First Instance of Leyte on the 20th day of November, 1908, pursuant to sections 232-240 of the Code of Procedure in Civil Actions. He was found guilty as charged and was sentenced to pay a fine of P100 and the costs of the proceedings and, in case of nonpayment of the fine within fifteen days, to be imprisoned within the provincial jail for a period of twenty-five days.

From that judgment and sentence the defendant appealed to this court, alleging that the court erred in finding that the appellant had failed completely to execute the order of arrest and in finding that the failure of the appellant to execute the order of arrest against one of the persons named therein constituted conduct subversive of the efficient administration of justice.

The facts are: The accused was deputy sheriff of the Province of Leyte. On the 4th day of November, 1908, an order of arrest was issued by the Court of First Instance of that province against Leona Cabras and Anastacia Cabras in a cause then pending in that court, entitled "The United States vs. Bonifacio Gerilla," and placed in the hands of the appellant for execution. The persons named were residents of the municipality of Burauen, Province of Leyte. Said order directed the accused to apprehend and bring before the court the two persons named therein, who had failed to appear after having been duly served with a sub-poena issued from that court in said action. The case mentioned was set for trial on the 4th day of November and was adjourned until the 9th day of November for the sole purpose of allowing the accused sufficient time within which to apprehend the persons named in the order and produce them in court on that day. This the accused knew. The appellant took into custody by virtue of said order one of the persons named therein, but neglected to execute it against the other person. When the case was again called on the 9th of November, the sheriff had made no return upon the order of arrest. The appellant did not at any time between the 4th and the 9th of November make any report or explanation to the court concerning the execution of the order of arrest. The excuse offered by the appellant for not executing the order of arrest against the other person mentioned therein is that he was informed by the municipal president and deputy sheriff of the municipality of Burauen that the person named in the order, against whom the same had not been executed, was sick and unable to attend court. A doctor's certificate to that effect was sent by them to the accused. The appellant did not go to the pueblo of Burauen for the purpose of investigating whether or not the person mentioned was ill, but relied entirely upon the statements of other persons.

Section 232 of the Code of Procedure in Civil Actions provides that an officer of the court who misbehaves in the performance of his official duties or in his official transactions may be punished as for a contempt.

It is absolutely essential to the proper administration of justice that courts have full control over the official

actions of those through whom the administration of the affairs of the court proceeds. To that end, section 11 of the Code of Procedure in Civil Actions provides:

"Every court shall have power:

* * * * *

"4. To control, in furtherance of justice, the conduct of its ministerial officers, and of all other persons in any manner connected with a judicial proceeding before it, in every matter appertaining thereto."

In the case at bar the appellant failed to perform his full duty in two particulars. In the first place, it was his duty to investigate with great care the alleged illness of Anastacia Cabras and determine to his own satisfaction whether or not she could be arrested and produced in court on the date specified. This the appellant did not do. Without a careful investigation into the claim of illness made, imposition upon him, and thereby upon the court, was easy, and any designing person, desiring to escape arrest, could easily defy the process of the court and bring the administration of justice into contempt. In the second place, it was his duty, having satisfied himself, if such were the case, that such person could not be brought into court on that day, to lay that fact before the court for the court's information and guidance and then take such advice as to the course of action to be thereupon adopted as the court might see fit to give. The appellant failed and neglected to do either of these things, and, consequently, left the court ignorant of the fact that Anastacia Cabras would not be in court on the 9th, and thereby contributed to, if he did not cause, the miscarriage of justice which resulted from the necessity thus laid upon the court of dismissing the action in which the order was issued.

From all the facts in this case this court determines that the defendant was guilty of contempt and punishable accordingly, and affirms the judgment and sentence of the court below.

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

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