

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. JUAN PANGANIBAN, DEFENDANT AND APPELLANT.*G.R. No. 5584. October 29, 1910*

Ponente: TRENT, J.

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The defendant in this case, Juan Panganiban, was convicted by the Court of First Instance of the Province of Rizal of having violated the provisions of Act No. 1696, and sentenced to pay a fine of P500 and the costs. He appealed.

The trial court found that the defendant did knowingly and wilfully expose, or cause to be exposed, to public view, by fastening on a post on the side of a public street in the town of Antipolo, Province of Rizal, and about 7 meters from his own house, from about the 7th of January, 1908, until about the 16th of March of the same year, the tablet or sign which forms the basis of this action. This finding of fact is fully sustained by the proofs presented and the only question to be determined is whether or not the exposing to public view in this manner of the sign or tablet constitutes a violation of law.

The tablet or sign was a little over a meter long and almost a half a meter wide and quadrangular in shape. On one end there was painted within a triangle the rising sun and three stars. Around its border and also around the triangle there was a red and blue stripe, with a white space between them. Nearly all of the part not taken up by the triangle and the red and blue border was covered by the following inscription:

"UNION NACIONALISTA PARTY.

"In commemoration of the mass meeting held, Sunday the 27th of January, 1907, at Antipolo by the people of the town for the purpose of expressing their views on the question of the capacity and ability of the Filipino people to maintain a free and independent government."

The flag used by the insurgents during the late insurrection in the Philippine Islands was quadrangular in shape. At the top end there was a triangle inclosing a rising sun and three stars. The whole background below the triangle was divided lengthwise into two equal parts, one painted or colored red and the other blue. The sun within the triangle represented a rising republic and the three stars the three great subdivisions of the Philippine Archipelago, viz, Luzon, Mindanao, and the Visayas.

As will be seen from the above description, the painting on the tablet or sign was not an exact reproduction of the insurgent flag, but it was an exact reproduction of the most prominent features; that is, the triangle with the representation of the sun and three stars. In the preparation of this tablet an exact reproduction of the insurgent flag was not made. This was done intentionally in order to avoid the consequences. But the sign as painted, including the inscription, would produce the same effect upon the minds of the people as it would had it been an exact reproduction of the flag used by the insurgents in the late rebellion. In the place where it was exposed it would have been difficult to distinguish the difference between it and the flag itself. The exposing to public view of such a sign or painting was for the express purpose of exciting the people and stirring up hatred in their minds

against the constituted authorities, and the tablet was so designed as to accomplish these purposes. To prohibit the display of such signs was one of the principal objects in the enactment of Act No. 1696. The legislative body knew the conditions existing in the country and wisely prohibited the further display of such signs, banners, or devices. The very first section of that Act (No. 1696) provides as follows:

"Any person who shall expose, or cause or permit to be exposed, to public view on his own premises, or who shall expose, or cause to be, exposed, to public view, either on his own premises, or elsewhere, any flag, banner, emblem,' or device used during the late insurrection in the Philippine Islands to designate or identify those in armed rebellion against the United States * * * shall be punished * * *."

In the case of the *United States vs. Go Chico* (14 Phil. Rep., 128) the defendant displayed in one of the windows of his store a number of medallions, in the form of small buttons, upon the faces of which were imprinted in miniature a picture of Emilio Aguinaldo and the flag or banner or device used during the late insurrection in the Philippine Islands. The court held that these acts constituted a violation of section 1 of Act No, 1696, supra. It is true that in this case an exact copy of the flag or banner or device was imprinted upon the faces of these buttons, whereas in the case at bar an exact copy of the flag or banner or device was not painted upon the sign, but this was not of sufficient importance to bring it without the statute. The intention to cause injury is manifest, and the painting is amply sufficient for this purpose.

The judgment appealed from is, therefore, affirmed; provided however, that in case of insolvency in the payment of the fine the defendant be condemned to suffer the corresponding subsidiary imprisonment. The defendant will pay the costs.

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

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