

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. FELIPE QUINTANAR ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 5654. August 27, 1910

Ponente: TRENT, J.

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TRENT, J.:

These three defendants, Felipe Quintanar, Gorgonio Saniel, and Justo Modelo, were accused of having violated the provisions of section 32 of Act No. 1761, known as the "Opium Law." They were arraigned, tried, and sentenced by the Court of First Instance of the Province of Cebu, each to one year of imprisonment, to pay a fine of P500, to suffer the corresponding subsidiary imprisonment in case of insolvency, and to pay the costs pro rata. From this judgment and sentence they appealed.

The guilt of the appellants has been established beyond any question of doubt, inasmuch as they were caught in the very act of smoking opium on the night of March 1, 1908. The opium pipe and other paraphernalia used for smoking this drug were seized by the policemen at the time the appellants were arrested. These articles were exhibited in the court below and properly identified.

It is insisted that the appellants could not have been legally convicted under the provisions" of section 32 of said Act No. 1761 for the reason that, according to the proofs presented, they smoked opium on the night of March 1, 1908, and that as this section did not go into effect until after March 1 of that year, its provisions could not have been violated on that night. In support of this theory counsel for appellants relies upon the Spanish translation of the first part of this section (32) which provides that "despues del primero de Marzo" etc. This is not a correct translation. The English text, which provides that "on and after March 1, 1908," is the one which must govern, according to the provisions of section 1 of Act No. 63. The appellants can not escape the penalty imposed by the said section on account of its erroneous translation. (U. S. vs. Bacarrisas, 6 Phil. Rep., 539.)

The penalties imposed by the court below are within the limits provided in section 32 of Act No. 1761, but in view of the fact that the appellants committed this crime on the very day that this section went into effect, and taking into consideration the fact that this is the first offense, we are of the opinion that the said penalties are, in strict justice, too severe. The judgment is therefore reversed, and each of these appellants is sentenced to three months' imprisonment and to pay one-third of the costs of this cause.

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

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