

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ENRIQUE LOPEZ SY QUINGCO AND AMBROSIA DE JESUS, DEFENDANTS AND APPELLANTS.

G.R. No. 5737. August 05, 1910

Ponente: TRENT, J.

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TRENT, J.:

These two accused, Enrique Lopez Sy Quingco and Ambrosia de Jesus, were charged with having violated the provisions of the Opium Law, tried, convicted, and sentenced by the Court of First Instance of the Province of Tayabas, Enrique Lopez Sy Quingco to three years' imprisonment, and Ambrosia de Jesus to one year's imprisonment, and each to pay one-half of the costs. From this sentence and judgment they appealed.

The Government presented only one witness, Burgess, an internal-revenue agent, who testified that he, in company with a Mr. Hoyer, another internal-revenue agent, having received information that the appellants had opium in their possession, obtained a search warrant from the justice of the peace of Lucena, Province of Tayabas, and proceeded on the 6th day of July, 1909, to search the house of the said appellants; that, when this search was made, both of the appellants were in the house during the entire time; that on entering the house Mr. Hoyer searched the bedroom and he, the witness, guarded the kitchen to prevent the appellants from disposing of the opium should they desire to do so; that while the search was being conducted the appellant, Ambrosia de Jesus, passed through the kitchen and stopped on the azotea, being followed by him, the witness; that while they were standing on the azotea the other internal-revenue agent appeared there with the other appellant, Enrique Lopez Sy Quingco; that while the four were standing there together the Chinaman said to his wife, "Ambrosia, turn over that package." Ambrosia, upon receiving this command from her husband, took from under her saya a small package of opium pills and gave it to Hoyer; that when the Chinaman was asked certain questions he admitted that on the 7th of June of the same year two other Chinamen were in his house smoking opium. The witness further testified that these pills were sent to Manila and analyzed by the Bureau of Science and found to contain opium. This is the material part of the testimony of Burgess and the only testimony presented by the prosecution.

The two appellants testifying in their own behalf, while admitting that their house was searched on the 6th of July, 1909, by Burgess and Hoyer, internal-revenue agents, positively deny any knowledge of the opium pills, stating that these two internal-revenue agents found nothing whatever in their house and that the package referred to was not turned over to Hoyer by the appellant Ambrosia de Jesus.

Two municipal policemen, who accompanied the two internal-revenue agents at the time this search was made, were called as witnesses for the defense. One of these policemen, Tiburcio Abril by name, testified that he and the other policeman remained downstairs during the search, and that he did not see any package or any other thing found by the two Americans. The other policeman only stated that he remained below while the search was being conducted.

While it is true that the testimony of one witness is sufficient to sustain a conviction, if such testimony establishes

the guilt of the accused beyond a reasonable doubt, we think that the testimony of the one witness in this case is not sufficient for this purpose.

The other internal-revenue agent was not called as a witness, and the only testimony which connects this Chinaman with the offense is that of the witness Burgess, wherein he stated that the Chinaman ordered his wife to turn over the package to Hoyo. This is specifically denied by the Chinaman and his wife. The two policemen, if they heard anything about opium being found at that time, failed to, state it in their testimony.

This search was made on the 6th of July, 1909, under a search warrant issued by the justice of the peace. The complaint was not filed until the 22d of September of the same year. The internal-revenue agents did not return the search warrant at the time search was made, but delayed over two months. While the witness Burgess attempts to explain this delay by stating that he sent the pills to the Bureau of Science for analysis, we think his explanation is not sufficient to justify this long delay.

The appellants have the presumption of innocence in their favor until the contrary is proven. The positive testimony of the two appellants is sufficient to raise a reasonable doubt as to their guilt. This doubt must be resolved in favor of the appellants.

The judgment is, therefore, reversed, and the appellants, Enrique Lopez Sy Quingco and Ambrosia de Jesus, are acquitted, with costs de oficio. It is so ordered.

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

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