

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. GABINA DE LA CRUZ, DEFENDANT AND APPELLANT.

G.R. No. 5849. September 27, 1910

Ponente: ARELLANO, C.J.

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ARELLANO, C.J.:

This cause was initiated by a complaint of the following tenor;

"The undersigned, the provincial fiscal of the Province of La Laguna, charges Gabina de la Cruz, the accused above-mentioned, with the crime of injurias graves, committed as follows:

"The said accused, on the 10th day of March, 1909, in the municipality of Calamba, of the Province of La Laguna, P. L, did, with violation of the Jaw, voluntarily, unlawfully and criminally, in a public place and in the presence of several persons, and with the intent to discredit, dishonor and expose to contempt Ramon Santos, the municipal president of the said municipality, utter the following words: 'Rayo de presidente, que quieres ser presidente para apoderarte de la propiedad de otros,' (You are a queer sort of president, for you wish to be president in order to grab other people's property), which words are notoriously injurious, considering the position, dignity and circumstances of the person aggrieved."

Other than this complaint, the record of the proceedings shows none to have been made by the alleged offended party.

The facts connected with the crime under prosecution are as follows: While Juan Flores was building a fence around the lot of Ramon Santos, the accused, who owned land adjoining the said lot, and a niece of hers, obstinately prevented him from continuing the work, and he then notified Ramon Santos of the trouble. The latter then went to the place, and as Gabina de la Cruz, instead of acquiescing in his plea that they should not molest his workman and the suggestion that, if they felt that they were aggrieved, they should apply to the courts, created a disturbance in the street, whereupon some policemen endeavored to take her to the presidencia, and it was then that Gabina de la Cruz uttered the alleged offensive words set forth in the complaint.

According to the principles underlying the Penal Code, there are two classes of insults: Those directed against private parties, which are purely private crimes and can not be prosecuted de oficio or on the initiative and through the public prosecutor, and those against the authorities, public officials or agents of the authorities, which are real public crimes that may be prosecuted de oficio and upon the initiative of the said public prosecutor.

This public crime of uttering insults against the authorities, public officials and agents of the authorities, in order to be such must have been committed while they were in the exercise of their functions or on the occasion thereof. (Arts. 256, 257, Penal Code.) Even though the insult was against the authorities, public official or agent of the authorities, if it was not committed while he was in the exercise or on the occasion of his official duties, it does not constitute a public crime.

The insult alleged in the complaint has nothing to do with the official duties of a municipal president. The

offended party was not at the time in the exercise of his functions as municipal president, nor was it on the occasion thereof that the accused uttered against him the words quoted in the complaint. It was on the occasion of the exercise of his apparent right of ownership with respect to what he understood to be the boundary line between his lot and that of his neighbor, Gabina de la Cruz, that the latter, vexed because they were forcing her away from the place of the dispute, gave rein to her tongue in that manner by making allusions to the office then held by the neighbor with whom she was disputing. But to allude to an office is not tantamount to showing disrespect to him who holds it while he is in the exercise of the same or on the occasion of the performance of his functions.

The present cause, then, has to do with an insult against a private party, although the offense may be considered as aggravated by the position of the offended person.

Act No. 1773 of the Philippine Commission has caused, since October 11, 1907, all crimes of injuria to be deemed public crimes, to be prosecuted in the same manner as all other public crimes (sec. 1); but the act contains a special proviso "that no prosecution for the crimes of * * * or injuria committed against persons other than public officials or employees shall be instituted except upon the complaint" (or denuncia, as interpreted by a majority of this court) "of the aggrieved person."

This cause not having been instituted at the instance or upon the complaint of the aggrieved person, the prosecution is deemed to be entirely without foundation, and the proceedings had, contrary to the express prohibition of the law, are null and void.

This court can not consider the question whether the judgment appealed from is or is not just, when the entire process is radically null.

Therefore, we declare all the proceedings had to be null and void, and the complaint filed is dismissed. No special finding is made as to the costs.

Torres, Johnson, Moreland, and Trent, JJ., concur.

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