

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

G.R. No. 6013. November 15, 1910

Ponente: MORELAND, J.

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MORELAND, J.:

The defendants in this case were charged with a criminal violation of the Election Law, in that they voted at the general election held on the 2d day of November, 1909, without having the qualifications required by law so to do. Seventy-eight persons were charged in the information. Fourteen of them were not tried. The complaint was dismissed as to eight of the others. Three were acquitted. Fifty-three were convicted and sentenced. They all appealed. Section 13 of the Election Law provides as follows:

"Qualification of voters. - Every male person twenty-three years of age or over who has had a legal residence for a period of six months immediately preceding the election in the municipality in which he exercises the suffrage, and who is not a citizen or subject of any foreign power, and who is comprised within one of the following three classes -

"(a) Those who, prior to the thirteenth of August, eighteen hundred and ninety-eight, held the office of municipal captain, gobernadorcillo, alcalde, lieutenant, cabeza de barangay, or member of any ayuntamiento;

"(b) Those who own real property to the value of five hundred pesos or who annually pay thirty pesos or more of the established taxes;

"(c) Those who speak, read, and write English or Spanish - shall be entitled to vote at all elections: Provided, That officers, soldiers, sailors, or marines of the Army or Navy of the United States shall not be considered as having acquired legal residence within the meaning of this section by reason of their having been stationed in the municipalities for the required six months."

The following is an outline of the proofs adduced by the prosecution against the defendants:

The prosecution introduced Exhibit A, which is the official registry of all persons who were registered and voted in the election held on the 2d day of November, 1909. An examination of this record discloses that each one of the appellants voted at the election, except the defendant Benito Concepcion, who attempted to vote but did not.

Hermenegildo Borjal, 52 years of age, a member of the municipal council of Sagnay, testified that he had resided in said municipality for about thirty years, and knew each one of the appellants; that none of them had ever at any time held the office of municipal captain, gobernadorcillo, alcalde, lieutenant, cabeza de barangay, or member of any ayuntamiento, as required by paragraph (a) of the law just quoted; that only one of the persons accused in the information was able to speak, read, and write English or Spanish, as required by paragraph (c) of said section. The one referred to is not one of the appellants. He further testified that none of the appellants had resided in any other place except the municipality aforesaid during the thirty or thirty- two years that the witness had lived in Sagnay.

Baldomero Claudio, 58 years of age, testified that he had lived in Sagnay ever since the year 1862; that he had held the office of cabeza de barangay in the year 1870 and again in the year 1889, He testified that he knew thirty of the appellants and that none of them had held the office of municipal captain, gobernadorcillo, alcalde, lieutenant, cabeza de barangay, or member of any ayuntamiento.

Francisco Algarate, 38 years of age, justice of the peace of Sagnay, testified that he had lived in that municipality since the year 1891; that he knew personally each one of the appellants except six; that those six he knew by sight; that none of the appellants had ever held the office of municipal captain, gobernadorcillo, alcalde, lieutenant, cabeza de barangay, or member of any ayuntamiento. He testified further that he knew of his own knowledge that none of the appellants speak, read, and write English or Spanish correctly. The witness was specific and certain in his testimony, inasmuch as he had for a long time been employed by the municipality as a clerk or in some other capacity and had thereby had full and frequent opportunity to acquire information on that subject.

Jose Flores, deputy treasurer of the Province of Ambos Camarines, testified that the tax books of the province showed that none of thirty-five of the appellants whom he named owned property assessed in his name upon said books as required by said law; that said books showed that each one of twenty-six of the appellants whom he named owned or possessed real estate assessed upon said books in his name, but less in value than P500. There was presented in evidence a certified copy of the tax book of the municipal treasurer which discloses the value of the real estate possessed by those of the appellants who own property.

Gregorio Almazan, deputy municipal treasurer of the municipality of Sagnay, charged with the collection of the established taxes for the province, testified that none of the appellants had paid internal-revenue taxes amounting to the sum of P30. A certified copy of the books showing this fact was introduced in evidence.

Nicomedes Chavez, municipal treasurer of Sagnay, corroborated the testimony of the last witness in regard to the fact that none of the accused paid the established taxes in the municipality of Sagnay in an amount equal to P30.

It thus appears proved by the best evidence procurable that not one of the appellants in this case possessed, on the 2d day of November, 1909, any of the qualifications required by the section of the Election Law above referred to. The prosecution had the difficult office of proving a negative. In making proof under such circumstances it has, perhaps, not presented either the best evidence or the completest evidence. This, however, is due to the fact that what may be considered, technically speaking, the best or the completest evidence is entirely within the control of the appellants themselves, who refused to produce, or, at least, refrained from producing, it. Under such circumstances, there rests upon the prosecution the necessity of producing simply the best evidence obtainable under the circumstances. That such evidence may not be the best evidence, legally speaking, is no fault of the prosecution. That inability is the result of the attitude of the appellants themselves. Under such circumstances the prosecution need do no more primarily than make a prima facie case from the best evidence obtainable under the circumstances. Justice and the law require of the people only that they establish, prima facie, the guilt of the accused by producing for that purpose the best evidence within their power. If that evidence is otherwise free from legal objection or exception, it may properly serve as the basis of a conviction.

An accused person sometimes owes a duty to himself if not to the State. If he does not perform that duty he may not always expect the State to perform it for him. If he fails to meet the obligation which he owes to himself, when to meet it is the easiest of easy things, he is hardy indeed if he demand and expect that same full and wide consideration which the State voluntarily gives to those who by reasonable effort seek to help themselves. This is particularly so when , he not only declines to help himself but actively conceals from the State the very means by which it may assist him.

Under the Election Law of these Islands, there is no presumption that anybody is entitled to vote. In fact, the contrary presumption prevails. This presumption, taken in connection with the evidence of the prosecution, clearly and effectively establishes a prima facie case against the appellants. Their conviction naturally and necessarily follows, unless they overcome the effect of the case made against them. In order to meet a prima facie case, that is, in order to destroy its effect and shift the burden of producing further evidence, the party denying it must produce evidence tending to negative the claim asserted to a point where, if no more evidence be given, his adversary can not win by a preponderance of evidence in a civil case, and beyond a reasonable doubt in a criminal case. In this case it was only necessary for the accused for a complete destruction of the complainant's prima facie case to take the stand and, by a few words, bring themselves within the provisions of the law. No hardship was imposed upon them. No advantage was taken of them. (U. S. vs. Chan Toco, 12 Phil. Rep., 262.)

Where the subject-matter of a negative averment in an indictment, or a fact relied upon by defendant as a justification or excuse, relates to him personally or otherwise lies peculiarly within his knowledge, the general rule is that the burden of proof as to such averment or fact is on him. (The People vs. Boo Doo Hong, 122 Cal., 606; Com. vs. Thurlow, 24 Pick., 374; State vs. Wilson, 62 Kan., 621; United States vs. Chan Toco, supra.)

None of the appellants took the stand as a witness in his own behalf. The case made out by the prosecution remains entirely unmet.

The appellants call attention to the fact that the trial court, after the proofs had been closed and the arguments made, reopened the case for the purpose of recalling Francisco Algarate, a witness for the prosecution. The testimony given by this witness on recall does nothing more than corroborate that given by him upon his first examination. This court has already held that the trial court, exercising his discretion within reasonable limits, may reopen the case for the purpose of hearing further proofs upon either side, (U. S. vs. Cinco, 8 Phil. Rep., 388.) The appellants have not shown that they were prejudiced in any way by the act complained of. In fact, the exact contrary appears from the record.

Counsel for the appellants asserts that even though it has been shown by the prosecution that the appellants voted illegally, nevertheless, the record fails to demonstrate that they did so knowing that they were not qualified voters. He asserts, in other words, that, to sustain a conviction, it is necessary to prove not only that the appellants voted illegally but, in addition, that they voted knowing their lack of qualification. It is well known that a presumption of criminal intention may arise from proof of the commission of an unlawful act, it being the general rule that, if it is proved that the accused committed the unlawful act charged, it will be presumed that the act was done with a criminal intention, and that it is for the accused to rebut this presumption. While there are certain crimes of which a specific intent to accomplish a particular purpose is an essential element and for which there can be no conviction upon proof of mere general malice or criminal intent, the case at bar does not fall within that class. It is a wellsettled principle that everyone is presumed to know the law of the land, and that one's ignorance of it furnishes no exemption from criminal responsibility for his acts. The appellants, therefore, necessarily knew the law which prohibited them from voting unless they had the qualifications expressed in the law. They knew also, and that far better than anyone else, whether or not they actually had those qualifications. The necessary consequence is that when they voted they voted knowingly. They, being fully aware of their lack of qualifications when they voted, may not now be heard to plead their ignorance. No one may be heard to plead ignorance of a fact which from the nature of things he must necessarily know better than anyone else.

In the case of the United States vs. Concepcion (13 Phil. Rep., 21) it appeared -

"That on the 28th day of June, 1907, said accused were holding the office of election inspectors for the first precinct of the municipality of Calibo, Province of Capiz, the three persons above named constituting the board of inspectors of said precinct, and as such board of inspectors they held on the aforesaid day an ordinary

meeting in the precinct of the municipality of Calibo, for the purpose of registering the voters duly qualified in said precinct for the election of a Delegate to the first Philippine Assembly; that Juan Policarpio, being a duly qualified voter of said precinct, appeared before the said inspectors and asked that he be registered as a voter; but that the said inspectors willfully, intentionally, illegally, and feloniously refused and prevented the registration of the name of Juan Policarpio in the registry, and refused to administer to him the elector's oath prescribed by section 17 of the Election Law, thereby violating the provisions of section 29 of the said law."

Upon an appeal to this court from a judgment of conviction, this court, after quoting the provision of the law applicable to the case, said (pp. 25-26):

"It will be noted that this paragraph provides that if any inspector knowingly enters, etc., the name of any person as a voter, etc, who is not a voter, or who refuses or willfully votes to refuse or willfully neglects to enter the name of any qualified applicant, etc., shall be punished.

"It will be noted that in said section 17, above quoted, the board of inspectors were given the right to decide in the first instance whether or not a particular applicant for registration was legally entitled to be registered or not. This authority is in the nature of a judicial capacity conferred upon the inspectors. Having thus been given judicial capacity or quasi-judicial capacity to decide the question whether or not a particular applicant is entitled to register, we are of the opinion, and so hold, that such inspectors of election can not be punished under the provisions of section 29 until it is shown, beyond question, that such inspectors knowingly, willfully, and maliciously entered upon the poll list or knowingly, willfully, and maliciously refused to permit the entry upon such list of the name of any applicant for registration.

"Under the provisions of the law evidently the inspectors of election have a right not only to call witnesses for the purpose of ascertaining whether or not a particular applicant is entitled to be registered, but they may act upon their own knowledge with reference to the qualifications of such applicant, and if they act honestly and without willfulness or maliciousness they can not be held to be criminally responsible. It is only when they knowingly, willfully, and maliciously register or refuse or vote to refuse to register one who is not entitled to be registered or one who is entitled to be registered that they can be punished criminally. The mere fact that they have registered or refused or voted to refuse to register one who is entitled to be registered or one who is not entitled to be registered is not sufficient, under the law, to make the inspectors of election criminally responsible. It must be shown, beyond peradventure of doubt, that the acts of said inspectors in such a case were done knowingly, willfully, and maliciously."

It will be seen at a glance that that case is no authority for the position taken by counsel for the appellants. There the appellants voted upon the facts presented to them. They had no knowledge outside of those facts. They acted, in a sense, judicially. Mere proof that they made a mistake in judgment as to the legal significance of those facts is no proof whatever of willfulness, or of a specific intention to commit a wrong. Men's judgments may differ upon the probative value of facts. Two men, equally honest, may draw different legal conclusions from the same facts. Proof that the appellants decided one way and not another is no evidence that they decided wrongly. Proof that they were actually wrong in their judgment upon the facts is no proof of intention to commit a crime. But, even if it were, the knowledge or the intent to commit a crime need not be proved specifically. It may be inferred from circumstances. The case at bar is quite different in its essential nature from the one cited. In the case at bar there is no requirement that the appellants' judgment be exercised. There is no necessity for the drawing of inferences or the use of discretion upon facts presented. As we have already stated, the appellants knew the law and knew the facts. The act of voting was, therefore, done knowingly and willfully.

Neither can the case of the United States vs. Lopez (14 Phil. Rep., 155) be successfully cited in favor of the contention of the appellants. The court in that case said (pp. 156-158);

"Paragraph 7 of section 29 of the Election Law reads:

" 'Any person who knowing that he is disqualified assumes any office shall be punished by a fine of not less than five hundred pesos nor more than one thousand pesos.'

"It is an undoubted fact that the accused, according to an official letter signed by a deputy of the provincial treasurer of Occidental Negros (folio 14), was required to pay the land tax due for the year 1905 on the 19th of July, 1907, and for that purpose delivered on the same day, a Friday, to Pedro Puentebella, who was in charge of his estate, the sum of P110.52, which was the amount of the tax owed by him, to be paid by the latter to the municipal treasurer. On the following day, Saturday, the 20th of July, as the accused was going by the house of his manager, on his hacienda, he asked him if the said tax had been paid to the aforesaid treasurer, to which Puentebella replied in the affirmative, whereupon Lopez went on his way in the direction of Silay. This appears from the testimony of the defendant, confirmed by his manager Puentebella, although it is also a fact that the aforesaid amount was not paid into the municipal treasury, nor did the treasurer receive it on the said date for the reason that Puentebella failed to find the said official when he called at his office and the money was delivered to Simplicio Adeva, a clerk in said treasury, and believing that the latter had turned it over to the said treasurer, Puentebella, when questioned on the following day, the 20th of July, by the accused, Marciano Lopez, replied that the tax had been paid as ordered by him.

"From the foregoing facts which have been duly proven it would appear that when the accused took the oath on the morning of Monday, the 22d of July, and took possession of the office of acting municipal president of Silay, he did so believing that he was not a delinquent taxpayer, and that he had paid his indebtedness three days before, basing his belief on the affirmative answer given him by his manager when he asked the latter on the following day if the sum handed him on the day before had been paid into the municipal treasury.

"In order to establish the fact that the defendant, Marciano Lopez, knowing that he was a delinquent taxpayer and as such ineligible to hold the office of municipal president, nevertheless took the oath, stating that he possessed the necessary qualifications therefor, and actually entered upon his duties as municipal president of Silay, it is indispensable to prove that the accused performed said official acts in bad faith and with certain knowledge that, on the 22d day of July, he was still delinquent in the payment of the tax, which, according to his manager, had been paid on the 19th of the said month. The honest belief and firm conviction that his indebtedness to the Government had been paid on the 19th or 20th of July are incompatible with the charge preferred against him of having taken possession of the presidency with malicious intent to violate the Election Law."

The distinction between the case just cited and the one at bar is evident. No words are needed to distinguish them. We might add, however, that in the case cited the court, when it said "it is indispensable to prove that the accused performed said official acts in bad faith and with certain knowledge that, on the 22d day of July, he was still delinquent in the payment of the tax," did not mean that, in order to establish his guilt, it was necessary that a specific criminal intent, a guilty knowledge, apart from the general criminal intent which is presumed by the law from the act performed, be proved. On the contrary, it was held in that very case that the proof by the prosecution of the fact that the appellant was disqualified, without proving any knowledge upon his part of such disqualification, was sufficient to establish a prima facie case against him, and he was, for that reason, obliged, in order to meet the prima facie case thus made, to present facts which demonstrated that he had made a reasonable effort to pay the tax required by the law to make him eligible to the office, and honestly believed that that effort had been successful, and that he entered upon the discharge of the duties of the office under an honest mistake of fact induced by no fault of his own, but, rather, by the deception of a servant. What was held and decided in that case was that, the accused having been proved guilty, prima facie, by evidence showing his disqualification merely, and having then produced evidence in his own behalf demonstrating clearly that his act was a perfectly honest one, it was then incumbent upon the prosecution, before the accused could be convicted, to rebut and overcome such proof by showing "that the accused performed said official acts in bad faith and with certain knowledge that, on the 22d day of July, he was still delinquent in the payment of the tax." That case did not hold

that it was necessary for a conviction to show specifically in the first instance the guilty knowledge of the accused apart from the general criminal intent and guilty knowledge presumed by law from the act performed.

A case more nearly in point is that of *United States vs. Maravilla* (10 Phil. Rep., 233). In that case it was charged that -

"On the 29th day of June last the accused, in order to qualify as an elector in the elections held to fill the office of Delegate to the Philippine Assembly, maliciously and feloniously swore, among other things to the fact that he was not delinquent in the payment of any taxes, though in truth he had not paid the road tax for the ensuing year, as provided for by section 19 of Act No. 1396, the term for payment having already expired. This act was committed at Calapan, Mindoro, within the jurisdiction of this Court of First Instance, and contrary to the Election Law." The court quoted in its decision paragraph 4 of section 30 of the Election Law, which says:

"Any person who knowingly takes or subscribes any false oath, affidavit, or affirmation before any election officer, or before any court or other officer in relation to any material fact in any registration or election proceeding, shall be punished by imprisonment for not less than three months nor more than five years, or by a fine of not less than two hundred pesos nor more than two thousand pesos, or both, in the discretion of the court."

The court then said (pp. 239-240) :

"The only question presented by the appellant is whether or not he knowingly violated the provisions of said law; that is, whether he knew at the time he took the said oath that he was delinquent in the payment of said road tax. He admits that the law was read to him just before he took the oath. The law is plain. It simply provides that those who do not pay the tax 'shall be deemed to be delinquent after the first day of February of each year.' It seems to be difficult to understand the contention of the defendant. During the trial he admitted that the reason for not paying the tax for the year 1907, as he had done in the year 1906, was that he did not have the money.

"Suppose, for instance, that the defendant had been prosecuted for a failure to pay said tax or to perform the work in lieu thereof, and had made as his defense in that action that he did not know that he was delinquent. Could he thereby have defeated the imposition of the penalties provided for in paragraph (b) of said section 19 above quoted? In other words, could he have plead his ignorance of the law as his defense? Under the penal clause of paragraph (b) of said section 19 he could only be punished upon the theory that he was delinquent. We are not of the opinion that his ignorance of the provisions of the law would have constituted a defense in that action. And, moreover, the defendant resided in the capital of the province. The provincial treasurer, long prior to the 29th day of June, 1907, had prepared a list of the persons of the province who were delinquent in the payment of the said tax. Had the defendant been anxious to know, as a matter of fact, whether he was a delinquent or not, he might easily have ascertained this fact upon inquiry of the provincial treasurer. But, as was said above, the mere reading of the law was sufficient to give him the information that the said tax was due and payable prior to the 1st day of February of each year, and those who had not paid said tax prior to said date were delinquent.

"From all of the facts disclosed by the record, we are of the opinion that the defendant did make the said affidavit knowing that he had not paid said tax in accordance with the law, and was therefore delinquent, and that, therefore, he knowingly took and subscribed to a false oath before the election officer. Those who desire to participate in the affairs of the Government must be willing to comply with its laws and to support the same."

In conclusion, we again assert the proposition that when it was proved that the appellants committed the unlawful acts charged it was properly presumed that they were done with full knowledge and with criminal intention, and it was for the appellants to rebut that presumption. Not having done so, their conviction stands.

The judgment of the court below is, therefore, affirmed, with costs.

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

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