

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. SILVESTRE ARZADON, DEFENDANT AND APPELLANT.*G.R. No. 6128. March 23, 1911*

Ponente: MAPA, J.

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The accused was tried in the Court of First Instance and sentenced to pay a fine of P200 for a violation of the Election Law, because, on his registering as an elector of the municipality of Badoc, Province of Ilocos Norte, for the general elections held in November, 1909, he took an oath before a member of the electoral board of the said municipality that he was not delinquent in the payment of the land tax on his properties, while in fact he was.

The defendant does not deny the charge made in the complaint, but on the contrary confessed in his answer that he had taken the oath aforementioned and that when he took it he had not yet paid the land tax on his real properties. He alleged, however, in his defense that he registered as an elector, notwithstanding his delinquency in the payment of the said tax, because he was told by the election inspectors that there was nothing to prevent him from registering as such elector provided that he paid the tax before the day of the election. This allegation was fully proved at the trial. The evidence shows in, an indubitable manner that, by a formal resolution passed in the matter of a protest filed by the accused himself, against the registration in the registry as voters of persons who were delinquent in the payment of their taxes, the board of election inspectors resolved and expressly declared that such delinquent parties could register as electors, though they could not vote if they had not paid their respective taxes before the day of the election. This resolution was published and notified to all who were interested in the matter, and the defendant relying thereon, or, better said, being induced thereby, decided to register as an elector, first having subscribed the oath aforementioned.

We do not doubt that, in view of the said resolution of the board of inspectors, the accused believed in good faith that he could register as an elector even though he was delinquent in the payment of his taxes. But this is not the Question. The point here at issue is the fact of his having sworn that he was not delinquent in the payment of his taxes when in fact he was. With respect to this point, which concretely and specifically forms the charge of the complaint, he can not allege, and in fact he does not allege, any good faith whatever, and good faith he can not allege because his own confession shows that he well knew that he was delinquent at the time that he averred and affirmed under oath that he was not. With respect to this fact, inducement by another may not be alleged. No one could induce him to believe in good faith that he had paid all his taxes, when the contrary was evident to him, when he was certain, according to his own testimony, that he actually had not paid them. He swore falsely that he was not delinquent, being fully conscious and aware that he was, and knowing that he was swearing falsely in the matter - facts which fall fully within the sanction of paragraph 4 of section 30 of the Election Law.

The judgment appealed from is affirmed in so far as it sentences the accused to the payment of the fine of P200, and is modified with respect to the part thereof which imposes upon him subsidiary imprisonment in default of payment of the said fine and of the costs at the rate of one day for each P2 of the same he should fail to pay, in the sense that there shall be no subsidiary imprisonment imposed for insolvency in the payment of the costs, and only

for that of the fine at the rate of one day for each P2.60 thereof which may remain unpaid. The costs of this instance shall be borne by the appellant. So ordered.

Arellano, C. J, Carson, Moreland, and Trent, JJ., concur.

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