

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. JOSE QUEBENGCO, DEFENDANT AND APPELLANT.

G.R. No. 6324. February 25, 1911

Ponente: MORELAND, J.

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MORELAND, J.:

This is an appeal from a judgment of the Court of First Instance of the Province of Iloilo, Hon. J. S. Powell, presiding, convicting the accused of the crime of estupro and sentencing him to four months of arresto mayor, with the accessories incident to that penalty, and' to pay to the offended woman, by way of indemnification, the sum of P500, to suffer subsidiary imprisonment in case of insolvency, and to pay the costs.

The girl seduced in this case, Alejandra Lumanpao, testified that for about a year prior to the commission of the crime in question the accused had been trying to induce her to permit him to have sexual intercourse with her; that she opposed his purposes, insisting that, before such a thing could happen, they must be married; that the accused, finally understanding that his efforts were entirely useless, conducted her to the house of his brother, a notary public, who, on the 27th of October, 1909, performed a fictitious marriage ceremony between them in the presence of witnesses, and delivered to the girl a certificate of marriage ; that that night the two cohabited together as husband and wife; that under the pretext that there had been a mistake in making out the certificate of marriage he obtained possession thereof and thereafter destroyed it; that on the night of the following day the accused came to her and there occurred between them a dispute over the marriage certificate; that thereafter she went to the house of the accused and told him that she did not wish to be his querida but desired to be married to him; that on asking him why he had deceived her in the way that he had, the accused answered that it was because she had refused to accede to his desires.

The prosecution presented as a witness in corroboration of the testimony of Alejandra, one Eliseo Veneer, who was present during the said marriage ceremony and who signed the certificate as a witness.

The testimony of the accused consisted in a denial that said marriage ceremony had ever taken place and that he had ever had carnal intercourse with the denunciante. In corroboration, he presented as a witness his brother, the notary public who was alleged to have performed the marriage ceremony, who declared positively that he had never performed such marriage ceremony. He presented also another witness to the effect that he was in company with the notary public during the whole day on which the marriage ceremony is said to have taken place and that he, the said notary public, performed no such ceremony on said day.

It is thus seen that the only question presented is one of fact. The learned trial court, before whom the witnesses testified, accepted the testimony of the witnesses for the prosecution in preference to that of the defense. He gives his reasons for so doing very fully and clearly and presents an opinion in support of his conclusions which is extremely full and satisfactory. In that opinion he says:

"This girl, Alejandra, who is barely able to write her name, and of a lower stratum of society than this defendant and his family, could not possibly have made up the story that she told in this court in all of its

details. She could not have been taught this story in all its details and undergone the examination that she did and not have broken down."

The question being one of fact, involving primarily the relative credibility of witnesses, the doctrine laid down in the case of *The United States vs. Ambrosio* (17 Phil. Rep., 295) is applicable. In that case we said:

"The trial court in the opinion upon which its judgment of conviction is founded went into the facts in detail. He analyzed the testimony carefully and gave his reasons for believing the story told by the witnesses for the prosecution rather than that told by the witnesses for the defendants. He saw the witnesses in the act of testifying. He observed carefully their manner upon the witness stand. He studied every detail for the express purpose of determining where credibility lay. We do not feel like interfering with the intelligent conclusions of the court concerning the credibility of witnesses unless the record discloses that some fact or circumstance of weight or influence was overlooked by the court or was misapprehended or misinterpreted."

For these reasons the judgment is hereby affirmed, with costs against the appellant.

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

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