

THE UNITED STATES, PLAINTIFF AND APPELLANT, VS. VALENTIN FONSECA AND JOAQUIN MAGNO, DEFENDANTS AND APPELLEES.

G.R. No. 6395. September 08, 1911

Ponente: JOHNSON, J.

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JOHNSON, J.:

On the 18th day of June, 1910, the prosecuting attorney of the Province of Cebu presented the following complaint in the Court of First Instance of said province:

"That on or about the 30th day of May, 1910, in the municipality of Cebu, of this province and judicial district. the said Valentin Fonseca and Joaquin Magno, having sworn before the court to testify, declare, and certify truly, and having signed as true their testimony, declaration and certification, voluntarily, illegally, and criminally, and contrary to their oath, testified and subscribed to important facts which they did not believe to be true, as follows: That the witness, during the trial of the civil case entitled Priscila Ouano et al., vs. Valentin Fonseca, held before this said court on the 27th, 28th and 30th days of May, 1910, declared that Valentin Fonseca was the owner of the land involved in said cause and that he had in his houses situated in the barrio of Talamban, municipality of Cebu, deeds of gift, mortgage and purchase, the first two of which referred to the land in question and the last to that adjoining the land occupied by Joaquin Magno; that the said accused do not believe and did not believe this declaration to be true, a declaration which is absolutely false, and voluntarily sworn to contrary to their said oath, which is an infraction of the law."

Upon said complaint an order of arrest was issued, the defendants were duly arrested, and on the 21st day of June presented the following demurrer to said complaint, alleging that:

"1. The complaint is not drawn up in accordance with law.

"2. The facts alleged therein do not constitute a crime.

"Therefore, they ask that the complaint be dismissed and that the accused be discharged."

After hearing the arguments upon said demurrer, the Hon. Adolph Wislizenus rendered the following decision:

"The present complaint is evidently one drawn in accordance with the provisions of section 3 of Act No. 1697 of the Commission; this law is entitled as follows: 'An Act authorizing the appointment of commissioners to make official investigations and fixing their powers, for the payment of witness fees, and for the punishment of perjury in official investigations.' The most superficial reading of section 3 of said law shows that the said section provides for any false declaration whatsoever, made before the ordinary courts or before any tribunal or person having power to require the presentation of an oath and in no way limits it to false testimony given in investigations held by the said commissioners, as is indicated by the title of the aforesaid Act. We have then this condition, that under a title, definitely defined and limited, an attempt has been made to define crimes which in no manner can be brought within the title of the Act. The court therefore believes that section 3 of Act No. 1697 is invalid, because it is inconsistent with Act No. 6 of the aforesaid Commission. The present complaint drawn under the provisions of the said section 3, can not be held to be valid by the court unless it is amended in a manner to indicate that the prosecution is based on the provisions of article 321 of the Penal

Code. Act No. 1697 has in no way abrogated the provisions of the Penal Code as to false testimony, and the court, before deciding to sustain or overrule the demurrer interposed, required the prosecuting attorney to state whether or not he desired to amend the complaint in the manner indicated.

"The prosecuting attorney stated that he did not believe it either necessary or convenient to amend the complaint and preferred that the validity of section 3 of Act No. 1697 should be definitely decided by the Supreme Court. The judge, in view of this statement of the prosecuting attorney, sustains the demurrer and orders that the accused be set at liberty from their present confinement."

From this decision of the lower court, sustaining the demurrer, the prosecuting attorney of said province appealed to this court.

The lower court found difficulty in sustaining section 3 of Act No. 1697. The question of the validity of section 3 of said Act has already been passed upon by this court. Evidently the attention of the lower court was not called to the decisions in the cases of *U. S. vs. Concepcion* (13 Phil. Rep., 424); *U. S. vs. De Chaves* (14 Phil. Rep., 565); and *U. S. vs. Estrana* (16 Phil. Rep., 520). All the difficulties which the lower court presents in his decision to the validity of said section 3 seem to be conclusively answered in the decision in the case of *U. S. vs. Concepcion*, the objection as to the scope of said section, as well as to the contents and to the title of said law. It is true that section 1 of Act No. 6 of the Laws of the Commission provides that "All laws shall, before the enacting clause, be prefaced by a title stating the purpose and scope of the Act," but, as was said in the case of *U. S. vs. Concepcion*, "This provision being found only in an Act of the Commission, it was entirely within the power of the Commission to repeal it entirely or to disregard it in any particular case." Act No. 1697 of the Philippine Commission is a general law and there seems to be no provision of law which the Commission or Legislature are obliged to follow requiring it to state specifically in the title of each Act the purpose and scope of such Act. The only provision of law relating to this question is that found in section 5 of the Act of Congress of July 1, 1902, and is as follows:

"That no private or local bill which may be enacted into a law shall embrace more than one subject, and that subject shall be expressed in the title of the bill."

This provision is evidently mandatory and binding upon the legislature of the Philippine Islands, but it had no application to general laws. However advisable it may be for the legislature to follow said provision of section 1 of Act No. 6 for the information of the public, yet said provision (sec. 1, Act No. 6) is a mere rule for the guidance of the legislature and it may or may not follow it at its pleasure, it being a rule for the guidance of the legislature simply. In the cases above cited this court held that the articles of the Penal Code relating to perjury had been repealed by said Act No. 1697, and that that crime (perjury) is now defined and punished by section 3 of said Act

Therefore the judgment of the lower court sustaining the demurrer is hereby reversed and it is hereby ordered that the case be remanded to the lower court and that the defendants be duly arraigned under said complaint. Without any finding as to costs, it is so ordered.

Torres, Mapa, Carson, and Moreland, JJ., concur.

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