

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. GERVASIA GO CHANCO, DEFENDANT AND APPELLANT.

G.R. No. 6861. December 28, 1912

Ponente: JOHNSON, J.

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JOHNSON, J.:

On the 8th day of December, 1910, the prosecuting attorney of the city Manila, Mr. W. H. Bishop; presented a separate complaint in the Court of First Instance against each of the said defendants, charging each of them with the crime of perjury. By agreement between the respective attorneys in the court below, the five cases were consolidated and tried together, the Honorable Charles S. Lobingier, judge.

After hearing the evidence, each of the defendants was found guilty of the crime charged in the complaint, and sentenced to be imprisoned period of six months and to pay a fine of P500, and each was disqualified from holding any public office or giving testimony in any court in the Philippine Islands, until said sentence should be reversed.

From that sentence each of the defendants appealed and made the following assignments of error in this court:

"I. The lower court erred in overruling the demurrer to each of the comp presented by the prosecuting attorney for the city of Manila.

"II. The court erred in holding that the board of special inquiry before the oath was taken was a competent tribunal to hear and determine the case before it.

"III. The court erred in holding that the accused were guilty beyond reasonable doubt."

The complaints filed in each of the respective causes were substantially same language, the only difference being with reference to the particular declarations presented by each of the defendants. The complaint against defendant Gervasia Go Chanco alleged:

"That on or about November 26, 1910, in the city of Manila, Philippine is the said Gervasia Go Chanco, did then and there take an oath before William C. Brady, a competent officer and person duly authorized by law to administer oaths under the provisions of section 21 of Act No. 355 of the Philippine Commission in a case in which a law of the Philippine Islands authorizes an oath to be administered, that she would testify the truth in a case then pending before a board of special inquiry, then, and there during sitting and acting under the jurisdiction of the Bureau of Customs, and thereupon, being so sworn, she did testify under oath, as follows:

" 'Q. Do you know this woman ? - A. Yes.

" 'Q. What is her name? - A. Silvestre Rivera.

" 'Q. How long have you known her? - A. A long time; over twenty years.

" 'Q. Are you related to her? - A. No.

" 'Q. Is she married? - A. No; not to that Chinaman.

" 'Q. What Chinaman? - A. One who is dead.

" 'Q. What was his name ? - A. Sia Hi.

" 'Q. Did she have any children by him? - A. Yes; three.

" 'Q. State their names and ages. - A. Gavino is the youngest.

" 'Q. How old is he? - A. It was so long ago that I can not remember the age; one of the three has twenty-one digits.

" 'Q. The next? - A. Irineo, about twenty.

" 'Q. Who is the next? - A. I do not remember the name of the oldest.

" 'Q. Is it Alberto? - A. No.

" 'Q. Agustin? - A. No.

" 'Q. Cadamaris? - A. No.

" 'Q. Is Crispin the oldest or the second? - A. The oldest.

" 'Q. How old is he? - A. Twenty-one.

" (Note. - Asks mother who is the oldest.)

" 'Q. Have you ever been to China? - A. No.

" 'Q. How many years since those boys went to China? - A. Over ten years, about twelve years ago.

" 'Q. Who took them to China? - A. Their father and mother. When the mother returned here she was a widow.

" 'Q. The mother Silvestra Rivera, was she ever married to a Filipino? She told me that she was the widow of a Filipino.

" 'Q. Can you identify them now? - A. No; at the time they left here were very small.

" 'Q. Take a look at them.'

" (Note. - She is given an opportunity to identify the detained from among number, of others present and picks out Irineo and Crispin, but is unable identify the youngest, Gavino.)

"That all of said testimony above cited was material matter in such c and is false and untrue, and that at the time of giving such testimony accused did then and there willfully and unlawfully and contrary to said so testify to such material matter which she did not believe to be true.

"Contrary to the statutes in such cases made and provided.

"W. H. BISHOP,

"Prosecuting Attorney."

With reference to the first assignment of error above noted, it may said that under paragraph 3 of section 6 of General Orders, No. 58, a complaint or information charging a person with a public offense will be sufficient if the facts are stated "in such form as to enable a person common understanding to know what is intended and the court to pronounce judgment according to right."

In numerous cases this court has announced the doctrine that a complain will be sufficient if it describes the offense in the language of the s whenever the statute contains all of the essential elements constituting particular offense. (U. S. vs. Salcedo, 4 Phil. Rep., 234.)

It is not necessary, however, to follow the language of the statute in complaint, if the complaint sufficiently describes the crime defined law. (U. S. vs. Gatmaitan, 4 Phil. Rep., 265; U. S. vs. 4 Phil. Rep., 529; U. S. vs. Sarabia, 4 Phil. Rep., 566; U. S. et al., 18 Phil. Rep., 122.)

An indictment for the crime of perjury, like an indictment for any o offense, must allege specifically and with sufficient certainty every circumstance necessary to constitute said offense. Perjury in the Phil Islands is a statutory offense. A description, therefore, of the offense language of the statute is sufficient. All that is required is that the indictment shall be stated in plain and intelligible terms, with such as to apprise the accused with reasonable certainty of the offense with which he is charged. It must state the substance of the controversy which the false oath was taken, specify the court or officer by whom the false oath was administered, aver or show that such court or officer authority to administer such oath, allege the falsity of the oath, and perjury thereon.

The present prosecution is based upon a violation of section 3 of Act No. 1697 of the Philippine Commission. Said section is as follows:

"Any person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the Philippine Island authorizes an oath to be administered, that he will testify, declare, or certify truly, or that any written testimony, declaration, deposition certificate by him subscribed is true, willfully and contrary to such states or subscribes any material matter which he does not believe to b true, is guilty of perjury, and shall be punished by a fine," etc.

An examination of the complaint above quoted clearly shows that all of the essential elements of the crime described in said section 3 (Act 1697) are included. The facts stated in the complaint are stated with sufficient clearness and certainty so that those who are charged with crime therein described, if of ordinary understanding, could have no difficulty in fully comprehending: the exact offense with which they charged.

In our judgment the complaint is sufficient.

With reference to the second assignment of error, it will be noted that alleged false oath was given before a board of special inquiry of the department of customs. Said oath was given by each of the defendants in an investigation which said board was holding with reference to the right of three Chinese boys to enter the Philippine. This court has decided in numerous cases that the customs department of the Philippine Islands is charged with the duty of inquiring into and deciding, in the first instance, the right of Chinese to enter the Phi Islands. (In re Allen, 2 Phil. Rep., 630; Ngo-Ti vs. Shuster, 355.)

It has also decided in numerous cases that the conclusions of said department of the Government are final upon matters under its jurisdiction when there has been no abuse of authority. (Ngo-Ti vs. Shus supra; Lo Po vs. McCoy, 8 Phil. Rep., 343.)

Section 21 of Act No. 355 provides that members of said board may be authorized by the Collector of Customs to

administer oaths. The record shows that each of the members of said board had been expressly appointed by the Collector of Customs. By that appointment each had a right to act as a member of said board. As members of said board they had a right to inquire into the questions presented in the practice case submitted to it. They had a right to examine witnesses under oath. They had a right to administer an oath to the witnesses examined. Such board, therefore, constituted a tribunal "in a case which the laws of the Philippine Islands authorized an oath to be administered."

The record discloses the fact that during the investigation relating right of the three Chinese boys to enter the Philippine Islands, the of the board was changed, i. e., the same members of the board did not sit continuously during the entire examination. While this is however, it affirmatively appears that all of the members who sat at a one time had been expressly authorized to act. The fact that the personnel of the board was changed from day to day might affect the final decision of the board upon the right of the Chinese boys to the Philippine Islands. We are not, however, called upon to pass upon that question in the present case. It is sufficient, in our opinion, the present criminal action, if the following facts appear:

First. That the board was authorized to make an investigation into the particular questions submitted to it.

Second. That the members of said board were legally authorized to act as members at the time when the alleged false oath was given.

Third. That said board, or members of the same, were duly authorized administer an oath.

We think the record clearly shows that all of the foregoing facts existed and that said board constituted a tribunal, duly authorized in which the laws of the Philippine Islands authorized it, or its administer an oath and that, therefore, any person who, having taken oath before said tribunal that he will testify, declare, depose, or certify truly, and who willfully and contrary to such oath testifies to facts he does not believe to be true, is guilty of perjury.

In our opinion the board before which the alleged false declarations oath were made, was a legally constituted tribunal, under the laws the Philippine Islands, authorized to conduct the investigation which making at the time the said alleged false oaths were given and that said board, or its members, were authorized to and did administer the oat to each of said defendants in accordance with the law.

We find no reason for modifying the sentence of the lower court based upon the second assignment of error. The board was not only a de facto board, but a de jure board.

With reference to the third assignment of error, the following facts are proven beyond a question of reasonable doubt:

It appears from the record that on or about the 25th of November, 1910, on the steamship Yingchow, there arrived at the port of Manila three Chinese boys, of the respective ages of 13, 15, and 21 years and asked permission to enter the Philippine Islands. In support of their right the Islands, the defendants in the present case appeared and gave testimony, under oath, before the board of special inquiry. The defend Marta Sumera (alias Silvestra Rivera) appeared before the board and swore positively that her name was Silvestra Rivera; that the three Chi boys were her children; and that they had been born in the city of Manila and baptized in the Quiapo Church of the city of Manila.

Each of the other defendants, Gervasia Go Chanco, Aniceta Reyes, Carl Ortiz, and Mariano Gabriel, appeared before the board and after being duly sworn, supported by positive and direct declarations, the facts to by the defendant, Marta Sumera (alias Silvestra Rivera). Baptism certificates were presented (see Exhibits C, D, and E),

showing that the boys of the same names which these three Chinese boys bore, had been baptized on the dates mentioned in said certificates, in the Quiapo Church of the city of Manila. During the investigation a witness was called was proved to be the real Silvestra Rivera, a woman who had always lived in the city of Manila and who was the real mother of the three boys mentioned in said certificates, who were then and there living in of Manila and whose names were the same which the three Chinese boys had assumed. She swore positively that her three boys had been baptize in the Quiapo Church at the times mentioned in said Exhibits C, D, and her three boys were called as witnesses and their identity was proved beyond question. They had always resided in the city of Manila. There no question that this woman was the real Silvestra Rivera and that t three boys whom she presented as witnesses were her sons and the person mentioned in the three baptismal certificates; that the defendant Marta Sumera (alias Silvestra Rivera) was not the person whom she claimed to to wit, the mother of the three Chinese boys who were seeking admission into the Philippine Islands. The falsity of the oath of each of the defendants, when the entire record is examined, is so glaring that it is to imagine how men and women could have secured the consent of their own conscience to have made them.

Without a further discussion of the facts showing the falsity of the declarations made by the defendants, we find that the record shows, beyond any question of doubt, that the defendants are guilty of the crime charged.

For all of the foregoing reasons, the judgment of the Court of First Instance of the city of Manila is hereby affirmed with reference to each of the defendants, with costs.

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

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