

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. MAXIMINO PLANAS, DEFENDANT AND APPELLANT.

G.R. No. 6867. December 23, 1911

Ponente: JOHNSON, J.

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JOHNSON, J.:

This defendant was accused of the crime of conspiring to commit sedition. The complaint was in the following language:

"That on or about the 1st day of September, 1910, the said defendant, in and around the township of Bambang, Nueva Vizcaya, in the jurisdiction of this court, did conspire to rise publicly and tumultuously in order to attain by force or outside of legal methods, the infliction of acts of hate or revenge upon officials or agents of the Insular Government, the provincial government of Nueva Vizcaya, and the municipal government of Bambang; the infliction, with a political or social object, of acts of hate or revenge upon certain individuals or classes of individuals in the Islands; the despoliation, with a political or social object, of certain classes of persons, natural and artificial, in the township of Bambang, the Province of Nueva Vizcaya, and the Insular Government, and the property thereof; and did utter seditious words tending to instigate others to cabal or meet together for unlawful purposes, suggesting or inciting rebellious conspiracies, tending to stir up the people against the lawful authorities and tending to disturb the peace of the community and the safety and order of the Government, and did knowingly conceal such evil practices from the constituted authorities; contrary to law."

Upon this complaint the defendant was duly arrested and upon arraignment pleaded "not guilty."

After hearing the evidence adduced during the trial of the cause, the Honorable Richard Campbell, judge, found the defendant guilty of the crime of conspiring to commit sedition, as alleged in the complaint, and sentenced him to be imprisoned for a period of three years, to pay a fine of P1,000, and in case of insolvency to suffer subsidiary imprisonment in accordance with the law, and to pay the costs.

From the sentence of the lower court the defendant appealed and made the following assignments of error in this court:

"I. The court erred in not dismissing the case for the reason that the complaint was defective.

"II. The court erred in finding that the evidence introduced at the trial by the prosecution justifies the conviction of the defendant.

"III, The court erred in not acquitting the defendant, inasmuch as his guilt was not proved beyond all reasonable doubt."

With reference to the first assignment of error it will be noted that no objection whatever was made in the court below with reference to the sufficiency of the complaint. This court has held in many decisions that when no objection is made to the sufficiency of the complaint in the court below, the objection will not be considered on appeal. Objections of this character can not be considered for the first time on appeal. (U. S. vs.. Mabanag, 1 Phil. Rep., 441; U. S. vs. Cajayon, 2 Phil. Rep., 570; U. S. vs. Mack, 4 Phil. Rep., 291; U. S. vs. Sarabia, 4 Phil Rep.,

566; *Mortiga vs. Serra*, 5 Phil. Rep., 34; (See also 204 U. S., 470, and 11 Phil. Rep., 762); *U. S. vs. Paraiso*, 5 Phil. Rep., 149; (See also case of *Paraiso*, 207 U. S., 368, also 11 Phil. Rep., 799) ; *U. S. vs. Aldos*, 6 Phil. Rep., 381; *U. S. vs. Eusebio*, 8 Phil. Rep., 574; *U. S. vs. Flores*, 9 Phil. Rep., 47; *U. S. vs. Lampano*, 13 Phil. Rep., 409.)

The other two assignments of error relate only to the sufficiency of the evidence. Many witnesses were presented both by the government and the defendant. The facts in the present case bear a very close relation to the facts in the cases of *U. S. vs. Mandac*[1] (No. 6763), and *U. S. vs. Isidro Olano* [2] (No. 6882).

After hearing the evidence, the Honorable Richard Campbell, judge, in his decision, made the following findings of fact.

"After seeing the witnesses and hearing them testify, and after carefully observing their conduct and bearing while on the witness stand, and after considering all the evidence and listening to the arguments of counsel on both sides, the court declares to have been proven the following facts beyond a reasonable doubt:

"That on the 1st day of September, 1910, an uprising or insurrection against the authority of the United States in the Philippine Islands, and having for its object the overthrow of the Government of the Philippine Islands, and provincial and municipal governments of the Province of Nueva Vizcaya and other provinces in the Philippine Islands, took place in and about the township of Solano in the Province of Nueva Vizcaya.

"That the defendant, Maximino Planas, was the president of the town of Bambang, Nueva Vizcaya, duly elected, qualified, and acting as such on and during all the dates and times mentioned in the complaint. That on the 3d day of September, 1910, the said Maximino Planas called together the policemen of the said town of Bambang and said to them, 'The insurrectos have entered Solano and seized the money from the treasury, burned the papers, and made prisoners of the padres. Now you must bring your arms to my house so that. I can deliver them to the insurrectos when they reach here and you must all be ready to join the insurrectos when they reach Bambang because I am captain of insurrectos, and when they come we will kill the Americans Bennett and Scott and the Romanista padre, and burn the convent. Do not tell anything of this to the Americans or the insurrectos will kill you when they come,' or words to that effect. That on Sunday, the 4th day of September, 1910, between 9 and 10 o'clock, the councilmen of Bambang assembled at the presidencia of said town in obedience to a call or bandillo which had been published the previous evening in said town by the defendant. At this meeting there were present the following councilmen : Proceso Sierra, Martin Apno, Marcelino Alvarez, Angel Malonoy, Santiago Corales, and Francisco Pugayan, and President Planas, the accused. And that the accused then told the assembled councilmen that the insurrectos had entered Solano, seized the municipal funds, burned the papers, and made prisoners of the Romanista padres. 'Prepare your people with arms, bolos, spears, and arrows, and when the insurrectos arrive in this town be ready to join them, and then we will kill the Americans Bennett and Scott and the Romanista padre/ or words to that effect.

"That on the 2d day of September, 1910, in the house of the Councilman Martin Apno, of the town of Bambang, Nueva Vizcaya, the accused had a conversation with the aforementioned Councilman Martin Apno in which the accused said 'Do you know what has happened in Solano? The insurrectos have entered there and taken the money and burned the papers,' and that said Councilman Apno must prepare bolos, lances, and other arms and when the insurrectos entered be prepared to join them and that after that they would kill Mr. Bennett and Mr. Scott and the Roman padre of the town of Bambang, Nueva Vizcaya.

"These facts were conclusively and overwhelmingly proven by the testimony of the prosecution which consisted of the evidence of four policemen of the town of Bambang, Pantaleon Pugayan, Pedro Sierra, Santiago Angala, and Emeterio Marquez; three councilmen of said town whose names were Proceso Sierra, Martin Apno, and Angel Malanoy, and the municipal treasurer of Bambang, Ventura Bernal, and his clerk Martiniano Miralles. The policemen testified that they assembled, four in number, at about 4 o'clock in the afternoon in the presidencia of Bambang by order of the defendant on the 3d of September, 1910, and that the defendant then told them to deliver their arms to his house as he, the defendant, was a captain of insurrectos

and that he (the defendant) would deliver said arms to the insurrectos when they entered the town of Bambang. The defendant also told the four policemen that the insurrectos had already entered Solano, seized the municipal funds and burned the papers, and that when they (the insurrectos) reached Bambang to be ready to join them and that they would then kill the two Americans, Bennett and Scott, and the Roman padre and burn the convent. On the next day, the 4th of September, when six councilmen assembled in the presidencia of Bambang in obedience to his order the defendant repeated substantially the same conversation as he had with the policemen. He told the councilmen to prepare their people with arms of all kinds, bolos, lances, and arrows, and be ready to join the insurrectos when they reached Bambang, after which they (the insurrectos) would kill the Americans Scott and Bennett, and the Romanista padre, and burn the convent. He also told the councilmen that the insurrectos had already entered Solano, seized the municipal funds and burned the papers, and that when they (the insurrectos) entered Bambang, they, the councilmen and their people, would hear the salvos of the police at the presidencia and this would be the signal to join forces with the insurrectos."

After a careful reading of the evidence adduced during the trial of the cause and brought to this court, we are of the opinion that the findings of fact made by the lower court are in accordance with such evidence, and show that the defendant was guilty of the crime charged beyond per-adventure of doubt, and that the sentence imposed by the lower court is in accordance with the law. (Sec. 7, Act No. 292.) The sentence of the lower court is, therefore, hereby affirmed with costs.

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

[1] See Notes, post.

[2] See Notes, post.

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