

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. LIM POCO,
DEFENDANT AND APPELLANT***G.R. No. 7973. August 16, 1913*

Ponente: CARSON, J.

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The appellant in this case was found guilty of a violation of the provisions of section 31 of Act No. 1761 (the Opium Law) and sentenced to pay a fine of P300, the minimum penalty prescribed in the law.

It was proven at the trial that the accused, who was not a duly licensed and practicing physician or pharmacist, had in his possession a bottle containing some 16 or 18 pills of which opium, or one of its derivatives, constituted a component part. It further appeared that he was not furnished with a prescription of a duly licensed and practicing physician authorizing him to have these pills in his possession for medicinal purposes. The accused claimed that although he had formerly been a victim of the opium habit, he had long since given it up, and that he had bought the pills strictly for medicinal purposes. There is evidence in the record to the effect that at the time of the seizure of the pills the accused admitted that he knew that they contained a small quantity of opium, though he denied such knowledge at the trial. Testifying in his own behalf he said that he had purchased the pills six years ago, at the English drug store in Manila, and that he kept them in his possession because the state of his health necessitated his having frequent recourse to them. A pharmacist, who examined these pills, testified that while he had not made a quantitative analysis, he could say, as a result of the tests applied by him, that they contained a small quantity of opium, "very slightly," if any, more than the amount of morphine or opium frequently found in paregoric and other patent medicines of that nature, or about four-tenths of one percent. He testified further that these pills were in his opinion "medicine—put up as medicine."

Counsel for appellant contends that a conviction of a violation of the provisions of the Opium Law should not be sustained in a case such as that at bar, where, as he contends, the proof of guilt consists merely of evidence establishing the fact that the accused, without being furnished with a prescription from a duly licensed and practicing physician, had been found with a drug or medicinal compound in his possession containing a very small but appreciable quantity of opium or one of its derivatives. We cannot agree with this contention. The provisions of the statute leave no room for doubt as to the intent of the legislator to suppress the unauthorized use of the drug and its derivatives, even in small quantities and for scientific or medicinal purposes. It penalizes the mere possession of opium or its derivatives by unauthorized persons without regard to quantity; and there is nothing in the law which would justify the inference that, notwithstanding its express provisions, the legislator could not have intended to penalize the unauthorized possession of very small quantities of the drug for medicinal purposes. On the contrary, the carefully worked out provisions authorizing its use as a medicine, but requiring a prescription of a physician therefor, clearly discloses the intention of the legislator to penalize its unauthorized use even for medicinal purposes. When the language of a statute is clear it is no part of our duty to attempt to discover the reasons which actuated the legislator in its enactment; but it may not be improper to observe that in the discussions which have led up to the enactment of legislation regulating the use of opium, morphine and similar

drugs, it has frequently been urged that the habit of using such drugs is not infrequently acquired as a result of their reckless or ill-advised use for medicinal purposes.

Counsel for appellant lays great stress upon the apparent injustice which, as he contends, would result from a construction of the law which might subject to severe penalties the purchaser in good faith of patent medicines and drugs, which, unknown to him, contain small quantities of opium or morphine. But this contention will be seen to have no merit in the light of our rulings in the cases of *United States vs. Tan Tayco* (12 Phil. Rep., 739) and *United States vs. Tin Masa* (17 Phil. Rep., 463). In these cases we expressly laid down the rule that a conviction upon a charge of having opium on one's premises or in one's possession will not be sustained where it appears that the *animus possidendi* was absent or that the defendant was not aware that the prohibited drug was on his premises or in his possession.

Cases may well arise wherein an innocent purchaser of a patent medicine or other medicinal preparation may be wholly unaware of the fact that such preparation contains opium, and under the rule laid down in the cases above cited such innocent purchaser is not guilty of a violation of the penalized provisions of the statute. But the mere uncorroborated claim of the accused that he did not know that the preparation found in his possession contained opium, will rarely be sufficient to overcome the presumption to the contrary. The fact of lack of knowledge, if it existed, is one peculiarly within his own breast, and before accepting his claim, the court may well be required to make a full, frank, and honest statement of all the circumstances as to time, place, and conditions under which he came into possession of the preparation containing the prohibited drug; and any evasion, false statement, or attempt at concealment on the part of the accused will justify the courts in declining to believe the truth of his claim of ignorance. Under the express terms of the statute, proof of the mere fact of possession, in a case such as that at bar, will sustain a conviction, unless a reasonable doubt arises, from the peculiar circumstances of the case, as to whether the accused was aware that the article under his control contained the prohibited drug.

After a careful consideration of the whole record, we are unable to say that the trial judge erred in refusing to believe the highly improbable story of the accused that he had purchased the pills six years prior to the date of his arrest, at a time when, as he admitted, he was a licensed user of opium, but that he did not know that they contained opium, and that he had kept them ever since because he was frequently compelled to have recourse to them as a medicine.

This story does not ring true, and was satisfactorily shown to be false by the testimony of the revenue agents, who swore that at the time when the pills were found in his possession he admitted that he knew they contained opium, at the same time insisting that the amount was so small that he should not be proceeded against because of it.

The judgment of conviction and the sentence imposed by the trial court should be and they are hereby affirmed, with the costs of this instance against the appellant. So ordered.

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

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