

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. SANTOS P. PALMA, DEFENDANT AND APPELLANT.

G.R. No. 8748. March 14, 1914

Ponente: CARSON, J.

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CARSON, J.:

The evidence of record fully sustains the findings of fact by the trial judge and establishes the guilt of the accused of the offense of which he was convicted beyond a reasonable doubt.

It was shown at the trial that the accused purchased two tracts of land, one in the year 1908 and the other in the year 1909, and that neither of these tracts was at that time listed on the books of the provincial treasurer. The accused filed no declaration of ownership of these lands until the year 1910, and they were assessed for the first time by the municipal council in November of that year, though the valuation was not finally determined until February, 1911, when it was definitely fixed by the provincial board of tax appeals. Thereafter the accused paid the taxes assessed for the year 1911, but paid no taxes for the years 1908, 1909, and 1910, during which he had held the land without declaring it for taxation as required by law. Early in the year 1911, notices of delinquency relating to the unpaid taxes were addressed and mailed to the accused. In April, 1912, the accused took the elector's oath, solemnly declaring that at that time he was not delinquent in the payment of taxes, although at that time he had paid no taxes on the lands in question for the years 1908, 1909, or 1910.

Upon proof of these facts the court below convicted the accused of a violation of paragraph 4 of section 30 of the Election Law (No. 1582), in that he had "knowingly taken a false oath" before an election officer in relation to a material fact in a registration proceeding.

The contention of counsel for appellant would seem to be that at the time when the oath was taken no taxes had been lawfully assessed upon these lands for the years 1908, 1909, and 1910, and that the notices of delinquency mailed in January and February, 1911, were irregular and were not based on a lawful assessment.

We find no merit in this contention. There can be no question as to the fact that the accused was liable for the payment of the back taxes, and although the evidence is not wholly satisfactory as to the regularity of the assessment and the delinquency notices, nevertheless we think that in the absence of satisfactory proof to the contrary, there is enough evidence in the record to sustain a finding that these taxes were duly assessed and the accused duly notified of his delinquency early in the year 1911. Moreover, where it appears, as it does in this case, that the owner of real estate knowingly and willfully neglects to make the declaration of ownership required by law, and thus avoids the assessment of his land and evades the payment of taxes for which he was justly liable, we are of opinion that he is delinquent in the payment of such taxes so as to render him guilty of perjury in the event that he takes the elector's oath to the contrary. While one who has duly declared his real estate does not become delinquent in the payment of the taxes thereon, so as to render him liable to the payment of the penalties prescribed for delinquency, until and unless the lands are duly assessed and notice of the amount of the taxes has been duly furnished the land owner (*U. S. vs. Labadan*, 26 Phil. Rep., 239), this rule does not apply in cases

wherein the owner fails to declare his property, and thus avoids the listing and valuing of such property for purposes of taxation. Under the provisions of section 55 of Act No. 82, when back taxes are assessed in such cases "the penalties and interest" are added to the back taxes "as if the same had been assessed at the time when they should have been assessed."

The judgment entered in the court below convicting and sentencing the defendant and appellant should be affirmed, with the costs of this instance against the appellant. So ordered.

Arellano, C. J., Moreland, Trent, and Araullo, JJ., concur.

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