

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. FRANCISCO VALERA ANG Y, DEFENDANT AND APPELLANT.

G.R. No. 8956. February 04, 1914

Ponente: CARSON, J.

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CARSON, J.:

The accused pleaded guilty in the court below to a charge of a violation of the Opium Law, in that, as set forth in the information, he was found with ten grams of opium ashes in his possession and under his control. The minimum penalty prescribed by law for this offense (a fine of P300) was imposed, and the only contention of counsel on this appeal is that this penalty is excessive.

Whether or not the penalties prescribed by law upon conviction of violations of particular statutes are too severe or are not severe enough are questions as to which commentators on the law may fairly differ; but it is the duty of the courts to enforce the will of the legislator in all cases unless it clearly appears that a given penalty falls within the prohibited class of excessive fines or cruel and unusual punishments. Manifestly a fine of P300 prescribed for the violation of the provisions of the Opium Law does not fall within the prohibited class of penalties.

The question is not whether, in the opinion of the court, the minimum fine prescribed by law is in excess of that which the court might consider expedient or advisable were it called upon to prescribe such penalty. The exercise of discretion in this regard is conferred not upon the court but upon the legislator. Hence the courts will be justified in declaring a fine prescribed by statute to be excessive, only in those cases where it is so clearly so, considering the nature of the violation of the law for which it is prescribed, that all right-minded men will agree that it exceeds the utmost limit of punishment which the vindication of the law demands.

In a former case we discussed at length the nature and the gravity of the injury to the body politic which it is asserted would result from the unchecked spread of the opium habit, and we then expressed our belief that the legislator was clearly within his prerogative in enacting the statute defining and penalizing the unauthorized use of the drug and its derivatives. (U. S. vs. Lim Sing, 23 Phil. Rep., 424.) Adhering to the doctrine and the reasoning of that opinion we have no hesitation in holding that in prescribing a minimum penalty of P300 for the violations of the penal provisions of that statute, the legislator did not exceed the limits of the discretion conferred upon him in that regard, and that this penalty is not therefore excessive in the sense in which that word is used in the Philippine Bill of Rights.

The judgment of the lower court convicting and sentencing the defendant and appellant should be and is hereby affirmed, with the costs of this instance against him.

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

CONCURRING AND DISSENTING

MORELAND, J.

I am in accord with the result in this case. I object, however, to the reference made to *United States vs. Lim Sing* (23 Phil. Rep., 424). That case, in so far as it sought to limit the trial court in the use of its discretion in the imposition of penalties under the Opium Law, has been repeatedly overruled by the practice of this court. While it has been followed in some instances, it has been disregarded in more. It has been and is utterly discredited as an authority. A case which has been disregarded and rejected as often, if not oftener than it has been followed, I do not consider an authority relative to the doctrine as to which it has been disregarded.

If the reference to the case were confined to some of the general principles therein referred to, I would have no objection ; but an attempt to reaffirm a doctrine, already thoroughly discredited, which takes away from Courts of First Instance the discretion which the legislature expressly gave them, which deprives them of the power to represent their districts judicially, which prohibits them from administering the law according to the needs of their provinces and thereby makes their knowledge of those provinces and of the history and status of crime therein utterly valueless, which takes from them the right of informing themselves relative to the criminal before them, his mental and physical condition, his antecedents and history, and make proper use of such information, which prevents them from considering the personal needs of the criminal with the object of uniting curative and punitive treatment, which denies them the right to use the faculty of observation at trials and of making deductions therefrom, which puts discretion in bonds and judgment in stocks, which makes trial courts not trial courts but referees to take testimony for submission to the Supreme Court, which makes them automatons moving and acting by the substituted judgment of the Supreme Court, which, while it does not relieve them of the grave responsibility of properly administering the law in their districts placed upon them by the legislature, robs them of the ability to meet and discharge that responsibility adequately, which repeals the law establishing discretionary penalties and substitutes in its place a court-made law instituting the system of fixed penalties, which overrules the doctrine universally accepted that an appellate court will not interfere with a trial court acting in the exercise of its discretion unless a clear abuse thereof is affirmatively shown and that the judgment of a trial court imposing a criminal penalty which is within his discretion is not subject to review by an appellate court, which lays down the proposition that a court which is expressly authorized by statute to impose, in its discretion, a fine of from P300 to P10,000, commits a reversible error when it imposes P400; an attempt to reaffirm a doctrine doing or tending to do these things meets my instant opposition.

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