

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. FRED C. BRUHEZ ET AL., DEFENDANTS. IGNACIO VELASCO, PETITIONER AND APPELLANT.

G.R. No. 9268. November 04, 1914

Ponente: MORELAND, J.

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MORELAND, J.:

This is a proceeding to recover from the Court of First Instance of the city of Manila the sum of P3,500, consisting of seven P500 bills which had been used in that court by the prosecution in the case of the United States vs. Joaquin Lorenzo Uy Yjo as evidence tending to establish the crime of illegal importation of opium, said sum of money having been delivered to a certain customs official by the accused as a bribe whereby the illegal importation was effected.

The trial court, after a hearing at which considerable testimony was taken, denied the return of the money to the applicant. This is an appeal from the order denying the application.

Some time before the proceeding in question was instituted Joaquin Lorenzo Uy Yjo, by bribing Fred C. Bruhez, at that time a customs inspector, by delivering to him P3,500, consisting of seven P500 bills, obtained the importation of a considerable quantity of opium into the Philippine Islands. The bribery and the consequent importation were discovered and both parties were arrested charged with the illegal importation of opium. The P3,500 was found in the possession of Bruhez, was seized by the customs officials and was presented in the Court of First Instance as evidence upon the trial of Joaquin Lorenzo Uy Yjo. He was duly convicted and sentenced, but the money was still left in the hands of the court to be used as evidence upon the trial of the other accused, Fred C. Bruhez. He, however, eluded detention, escaped from the Philippine Islands and has never been brought to trial. The information filed against him was later dismissed on the application of the prosecuting attorney.

It was at this point that the present application was made for the recovery of the P3,500. Such application, however, was not made by Joaquin Lorenzo Uy Yjo, who delivered the money to the customs official, but by one Ignacio Velasco, who asserts that Joaquin Lorenzo Uy Yjo, at the time of the illegal importation complained of, was in his employ as a trusted and confidential servant and that, during the absence of Velasco from Manila, and without his knowledge or consent, Joaquin Lorenzo Uy Yjo drew a check upon Velasco's bank account for the sum of P3,500, by means of which there was turned over to said Joaquin Lorenzo Uy Yjo by the bank seven P500 bills; that said bills belonged to Velasco and the identical bills involved in this application were used in bribing Fred C. Bruhez to permit the illegal importation of opium. He asserts that that identical money belongs to him, and that he himself not having been in any wise engaged in the commission of the crime, and being wholly ignorant of the fact of its commission, he is entitled to recover possession of the money from the Court of First Instance under the provisions of article 62 of the Penal Code.

This petition was denied by the court and application was made for a new trial. A new trial was granted and a rehearing of the whole matter had. Upon that hearing testimony was presented by Velasco for the purpose of

demonstrating his ownership of the P3,500 in question. On the termination of the hearing the court denied the petition and refused to deliver the money to Velasco but, instead, stated its determination to turn it over to the Collector of Customs for confiscation. The court said:

"I am of the opinion that my refusal to deliver it to the Insular Collector of Customs after the complaint against Bruhez had been dismissed, because it should be confiscated, was erroneous.

"I am of opinion that the court has no authority to confiscate this money which came in the possession of the court in the way in which this did. It was not money used, or a part of the means used to procure an unlawful importation into the Philippine Islands. It having come in the hands of the Insular Collector of Customs in the transaction of the business of the Customs Bureau it belongs to that Bureau, and this court has no jurisdiction to determine in this action that it be delivered to the petitioner.

"Counsel for the petitioner insist that, the issues having been submitted to this court in relation to the ownership of the money, that the court has jurisdiction to dispose of it but I am unable to reach such conclusion."

While the proceedings to determine to whom the P3,500 should be delivered were pending, it appears that there was also before the Insular Collector of Customs a proceeding relative to the same subject matter. Certain customs officials having seized the money, the Insular Collector of Customs sent to Fred C. Bruhez the following notice:

"You are hereby informed that P3,500 Philippine currency, used by you in attempting to bribe a customs officer, has this day been seized for violation of section 333, of Act No. 355.

"A hearing will be held at this customhouse at 10 o'clock a. m., Monday morning, December 11, 1911. If you desire to make claim for same, you should be present at that time in person or by attorney, with whatever relevant evidence you may care to offer."

Nothing was ever done in this proceeding further than the giving of the notice referred to and, so far as the record shows, it is still pending. It is our opinion that the court below should have resolved all of the questions presented by the issues, among them being the ownership of the P3,500. If that money was owned by Joaquin Lorenzo Uy Yjo and was by him used to bribe a customs official to permit the illegal importation of opium, it became an instrument used in the commission of that crime and would be susceptible to the dispositions provided for in articles 25 and 62 of the Penal Code. Article 25 provides, among other things, that, as an accessory penalty, there shall be "a forfeiture of the instruments and proceeds of the offense" and article 62 provides that "every penalty imposed for the commission of a felony shall carry with it the forfeiture of the proceeds of the crime and the instrument with which it was committed. ' Such proceeds and instruments shall be forfeited unless they be the property of a third person not liable for the offense."

These articles constitute the law which governs the disposition of the money in question. If Joaquin Lorenzo Uy Yjo had been convicted of the crime of bribery, then the money paid as a bribe would have been forfeited by virtue of article 389. The crime charged and prosecuted, how ever, being that of illegal importation of opium, the money became an instrument used in the commission of the crime and, therefore, became subject to the articles of the Penal Code already referred to.

Under these articles of the Penal Code the court trying the cause has jurisdiction to determine the ownership and disposition of the instrument used in the commission of the crime, and any person claiming this instrument has a right to take his proceeding in that court for the purpose of determining his rights in the premises.

We have been cited ,to no statute or other authority which gives the Insular Collector of Customs any jurisdiction whatever over the money involved in this litigation.

To be sure, it was used in corrupting one of the officials of that bureau, but it is not subject to seizure and confiscation by the Insular Collector of Customs for that reason. So far as we have been able to ascertain from the meager citations and references presented on this hearing, the right to seize property and declare it forfeited by the Insular Collector of Customs is restricted to merchandise which is imported or which it is attempted to import illegally and does not extend to the money which may be used as a bribe to corrupt the officials of that bureau.

The judgment of the court below is hereby set aside and vacated and the cause returned to the Court of First Instance of the city of Manila, with instructions to determine the questions presented by the issues framed with respect to the sum of P3,500 which is the subject matter of the action.

This court expresses no opinion as to whom the said sum belongs. That is a matter, which is left to the judgment of the trial court from the evidence presented to it.

Arellano, C. J., Torres, Johnson, and Araullo, JJ., concur.

Carson, J., dissents.

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