THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ELEUTERIO MANTE, DEFENDANT AND APPELLANT.

G.R. No. 9348. March 14, 1914

Ponente: TRENT, J.

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TRENT, J.:

The appellant was convicted of taking the oath of office as a municipal councilman and discharging the duties thereof, knowing at the time that he was not qualified to hold such office, in that he was delinquent in the payment of his taxes.

The prosecution introduced the appellant's oath of office, a portion of the minutes of a session of the municipal council showing that he had taken part therein, and the official record of plaintiff's tax receipt bearing a date subsequent to the other two documents, and then rested. The appellant sought to show that at the time he took the oath of office and participated in a session of the council he was honestly of the opinion and had good reason to believe that he was not delinquent in the payment of his taxes.

Delinquency in the payment of taxes is an offense under the Election Law in the case of a voter as well as of an elective officer. The sole fact of a delinquency does not of itself constitute the offense, however. In each case the law requires that the defendant's knowledge of such delinquency is essential to his conviction. But since "whether or not the said tax has been paid is something which the accused ought to know better than anyone else, said fact being by the very nature of the case properly within his own knowledge," proof of the delinquency carries with it the inference of knowledge thereof on the part of the accused. (U. S. vs. Tabuyo, 19 Phil. Rep., 501.) Consequently, when the prosecution has proved the delinquency and the exercise of suffrage rights or of the assumption of official duties, as the case may be, it has made a prima facie case.

Under such circumstances it devolves upon the accused at least to raise a reasonable doubt of his knowledge of such delinquency. The mere assertion that he did not know of the delinquency in his tax payments is not sufficient to overcome the prima facie case made by the prosecution. It is a general rule that where a statute makes a specific act penal when knowingly done and the knowledge of the accused cannot be directly proved but is a matter of inference, it is only necessary to show that a prudent man could and would have ascertained from available sources of information, that the act complained of, under the existing circumstances, was contrary to law. In United States vs. Estavillo (19 Phil. Rep., 478), a number of delinquent taxpayers were charged with exercising their suffrage rights. Their defense was that when they took the elector's oath they did not knowingly [falsely] swear that their taxes had been paid, when as a matter of fact they were delinquent. On the trial they gave what this court considered insufficient excuses for their lack of knowledge. It was held in that case that the defendant had not exercised due diligence in ascertaining whether or not their taxes were delinquent; and that had they done so they would have discovered the actual state of affairs; that is, that their taxes were delinquent. The court said:

> "When it is admitted or shown, as in the case at bar, that the defendants committed the unlawful act (swearing1 that they were not delinquent, when in fact they were), it is presumed that they did so knowingly and intentionally. And when they seek to justify themselves by an excuse, such excuse must be reasonable and

> adequate. If it appears that they voluntarily closed their eyes to the truth, or negligently failed to make inquiry, then their ignorance or mistake of fact is not defense.
>
> " 'It may fairly be assumed that one who has reason to believe a fact exists, knows it exists. Certainly if he be a reasonable being.' (Shaw vs. Railroad Co., 101 U. S., 557.)"

Conversely, if a man commits the act upon information obtained from a reliable source which would appeal to a reasonable man and cause him to perform the act on the strength of such information, believing that circumstances existed which rendered it lawful, he ought not to suffer the penalty. For it is not always possible to make first-hand investigations of the existence of facts which are necessary to justify a contemplated act. If a false report of the existence of a fact reaches a man through an agency which he has every reason to rely upon, he has a right to assume its existence, and cannot be said to know that it does not exist.

In the case at bar the defendant knew that his taxes had not been paid, and was aware that the law made it a penal offense to take the oath of office under such circumstances. His two sons, both grown men, were preparing to start for the poblacion on Friday morning. He therefore gave them sufficient money to pay his taxes, together with his tax receipt for the preceding year. Upon arriving at the town, the brothers transacted some business. The elder brother met an old friend, and the two went away together to a tienda where they drank considerable tuba, becoming intoxicated. This was the one who carried the tax, money and who was expected to go to the municipal treasury and pay it in. The two brothers met late in the afternoon and started home. The elder brother was asked by the younger if he had paid their father's taxes and he answered in the affirmative. He was so intoxicated that he gave his brother very little assistance in rowing the boat on their way home. They arrived home about 12 o'clock at night. In the meantime, their father had received a message from the municipal president requesting him to come to the municipal building the next day, Saturday, to take the oath of office. Accordingly, on Saturday morning the defendant prepared to start for town and asked his younger son if the taxes had been paid, to which the latter replied in the affirmative. The elder son had left home at daylight to gather fish. On Sunday he came to his father's house and delivered over to him the tax money, stating that he had not gone to the treasurer's office on Friday at all. The defendant paid the tax on the next day, Monday.

These are the facts of the case as made by the united testimony of the defendant and his two sons. There are no inconsistencies in their testimony, their story is reasonable, and the sole ground given by the trial court for refusing to credit their declarations is that they are all related, and consequently interested in the acquittal of the defendant. But it is error to discredit the testimony of witnesses on the ground of interest alone. If the testimony of an interested witness is reasonable and consistent and is not contradicted by evidence from any reliable source, we see no reason, as a general rule, for not accepting it. The frank confession of the defendant of his knowledge of the law making it a criminal offense for a delinquent taxpayer to qualify for an elective office, and his promptness in paying the tax on Monday, which was the first available opportunity for doing so after his eldest son informed him that it had not been paid, indicate to us that he did not take the oath of office knowing that his taxes were delinquent.

Upon a careful consideration of the testimony of record we conclude that the trial court did not give due weight to the testimony for the defendant, and that such testimony rebuts the inference that he took the oath of office knowing that his taxes were delinquent. A precedent both in the facts and law governing our decision is United States vs. Lopez (16 Phil. Rep., 416).

The defendant is therefore acquitted, with costs de officio.

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

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