

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. EUGENIO GACUTAN, DEFENDANT AND APPELLANT.

G.R. No. 9600. October 01, 1914

Ponente: MORELAND, J.

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MORELAND, J.:

This is an appeal from a judgment of the Court of First Instance of the Province of Cagayan convicting the accused of the crime of prevarication, and sentencing him to imprisonment for two months, to pay the costs of the proceeding, and to suffer temporary special disqualification in its maximum degree for the period of ten years and one day.

This case arises out of the facts on which is formed the case of United States vs. Gacutan, ante, p. 100.

The evidence shows that on July 20, 1912, Elias Pagulayan was charged before the accused, a justice of the peace in and for the pueblo of Solana, Cagayan Province, with the theft of a horse belonging to one Pascua; that on or about July 31, 1912, the accused promised Pascua that, in consideration of the delivery to him of a female carabao worth P80 he would decide the case against Pagulayan regardless of the evidence; that said carabao was delivered in pursuance of that agreement; that Gacutan, fulfilling his promise, did on August 12, 1912, convict the said Pagulayan of the crime of larceny and sentence him to six months' imprisonment, to pay the costs, and to indemnify Pascua in the sum of P50, the value of the horse alleged to have been stolen; that the sentence imposed was not executed for the reason that on August 23, 1912, the accused transferred the cause to the Court of First Instance, the same, under Act No. 2030 of the Philippine Legislature, not being within his jurisdiction.

Gacutan, the accused, was, on the 2d of October, 1913, convicted of bribery in the Court of First Instance of Cagayan, it having been found that he accepted from Pascua a carabao as a bribe in consideration of which he agreed to and subsequently did decide a criminal case then pending before him against Pagulayan and in favor of the people without regard to the evidence upon which the same was founded.

The appellant assigns in this court as errors:

"1. That the court allowed the motion of the fiscal asking for additional time to present further evidence and in permitting the prosecuting attorney in pursuance of said permission to produce evidence, of facts which had not theretofore been presented in the case.

"2. For having disallowed the plea of double jeopardy.

"3. For having convicted the accused and sentencing him as he was sentenced."

We do not believe that the conviction can stand. The information is based on article 347 of the Penal Code which provides that "any judge who shall knowingly render an unjust decision against the defendant, etc.," shall be punished as provided therein.

As we said in the bribery case against the same accused, (ante, p. 100), we do not know whether the decision

rendered by the accused was an unjust or a just decision. Neither do we know whether it has been executed or not. In fact, the decision seems subsequently to have been set aside and the cause sent to the Court of First Instance for original action in the premises. 'What has become of the case, we do not know.

Moreover, it does not appear that the accused knowingly rendered an unjust judgment even if we concede that the judgment was unjust. The mere fact that the court may not have had jurisdiction of the subject matter of the action does not necessarily establish the fact that his judgment was unjust. He may have been honestly mistaken with respect to his jurisdiction. In fact, this seems to have been precisely the case, for, on being informed of the existence of the law depriving his court of jurisdiction in such cases, he immediately set aside his judgment of conviction and sent the case to the Court of First Instance for trial.

Without, therefore, referring to the effect, if any, which the decision of the United States Supreme Court in the case of *Alzua vs. Johnson* (231 U. S., 106) has upon Chapter I, Title VII of the Penal Code, we may say upon the record that there is no evidence warranting the conviction of the accused, and the judgment of conviction is accordingly reversed and the sentence imposed thereunder set aside; costs de officio.

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

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