

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. LAZARO H. GONZALEZ, DEFENDANT AND APPELLANT.

G.R. No. 9732. February 12, 1915

Ponente: ARAULLO, J.

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ARAULLO, J.:

The proceedings in this cause were commenced and prosecuted against Lazaro H. Gonzalez through a complaint filed by the provincial fiscal of Batangas, in the Court of First Instance of the said province, on September 25, 1913, and drawn up in the following language:

The undersigned provincial fiscal charges Lazaro H. Gonzales with the crime of 'selling meat injurious to the public health,' committed as follows:

"In or about October, 1912, in the municipality of Tuy, Batangas, of the district of this Court of First Instance, the accused did, maliciously, and criminally, sell for public consumption putrid beef; with violation of article 341 of the Penal Code."

The accused pleaded not guilty, and after trial and the introduction of evidence his counsel filed a motion praying the court to set aside all the proceedings had and, if the court deemed proper, that a new cause be instituted for violation of Act No. 1655 of the Philippine Commission, to wit, that known by the title of "Pure Food and Drugs Act," on the ground that article 341 of the Penal Code, which the complaint charged had been violated by defendant, was repealed by the said Act and by Act No. 1760 of the same Commission. The court overruled this motion on October 14, 1913, and on January 2, 1914, rendered the following judgment:

"The court is thoroughly convinced that the crime of 'the sale of meat necessarily injurious to health,' alleged in the complaint and provided for and punished by article 341 of the Penal Code, has been committed, and that the herein defendant, Lazaro H. Gonzalez, is, beyond all reasonable doubt, guilty of the said crime, as the sole principal therein, inasmuch as he sold, in the town of the municipality of Tuy, Batangas, of which he was then the municipal vice-president, the decomposed meat of a bull that died from the bite of a snake, thereby causing several persons who ate of the said meat to be afflicted with intestinal disorders—a sale which defendant made in spite of the warning given him by the sanitary inspector of the said municipality that he should bury the said meat and not sell it for public consumption. Defendant's excuse, to the effect that he was authorized by the said sanitary inspector to sell the meat here in question, if, in defendant's judgment, it was good, is not worth taking into consideration, not only because it is not supported by the fact, but also because the evidence of record shows the crime charged to have been proven.

"The commission of the crime here prosecuted was unattended by any generic circumstance whatever modifying the criminal liability incurred by the defendant, Lazaro H. Gonzalez, upon whom, consequently, the penalty fixed by law must be imposed in its medium degree.

"Therefore, pursuant to the aforecited article, the court should and hereby does sentence the herein defendant, Lazaro H. Gonzalez, to the penalty of ten months and one day of prison correctional, to the accessory penalties of the law and to pay a fine of P65, with twenty-six days' subsidiary imprisonment in case of

insolvency, and to pay the costs. So ordered."

Defendant appealed from this judgment and his counsel alleges here that the trial judge erred (1) in sentencing defendant to ten months and one day of prision correccional, with the accessories of the law and a fine of P65, pursuant to article 341 of the Penal Code; and (2) in denying defendant's motion to dismiss the action and quash the proceedings on the ground that article 341 of the Penal Code was repealed by a later and special Act of the Philippine Commission.

It was proven at trial and not denied by defendant, that he was the owner of a bovine work animal in the pueblo of Tuy, Province of Batangas, which was in charge of one of his tenants named Eleuterio Caubalejo; that the said animal died on Thursday morning, October 17, 1912; that defendant cut it up and sold the meat to the public on the afternoon of this same day and continued to sell it on the following day, the 18th, without having obtained, until the latter date, the required permit for the purpose from the municipal treasurer. It was likewise proven, although some of the witnesses for the defense testified to the contrary, that several persons who had bought a part of said meat suffered from pains in the stomach and intestinal disorders. It was also observed that when the meat was cooked it emitted a bad odor.

Eleuterio Caubalejo, a tenant of the defendant and witness for the defense, testified that the animal was already dead when, on the 17th of October, he found it in the camarin where he had left it the previous evening in good health and showing no signs of weakness, notwithstanding that he had worked it in the field that same afternoon; and that he noticed that the muzzle of the dead beast was inflamed by what he supposed was the bite of a poisonous snake which he had seen in the building at noon and again afterwards, though he did not succeed in killing it. Defendant in his own behalf, testified that although his tenant, Caubalejo, had been unable exactly to determine the cause of the animal's death, he had told defendant that he saw that its muzzle was inflamed; and that before the animal was cut up, witness himself had seen the inflammation. Defendant also admitted the possibility of the animal's having died from some disease.

Defendant, however, as aforesaid, had the animal cut up and its meat sold to the public, heedless of the warning the sanitary inspector of the pueblo gave him that same morning of the 17th of October, that that meat should not be eaten and that defendant should have the animal buried.

The lower court, therefore, did not err in holding in the judgment appealed from that defendant is guilty, as a principal, of the crime provided for and punished by article 341 of the Penal Code, although, as its commission was not attended by any generic circumstance modifying that liability, and the trial court so held, the penalty that should be imposed upon defendant is not that of ten months and one day of prision correccional, ordered in the said judgment and comprised within the medium degree of the penalty specified in the aforementioned article, but that of one year and one day of like imprisonment—the penalty comprised within the medium degree.

Whether or not said article 341 of the Penal Code was repealed by Act No. 1655 of the Philippine Commission, is the question which, in the second place, has been raised by the defense before this court. Defendant's counsel in maintaining the affirmative alleged in his brief that the trial court erred in denying his motion to dismiss the case and set aside all the proceedings had therein.

It is unquestionable that the provisions contained in Chapter II, Title V, Book II of the Penal Code, dealing with offenses against public health, among which is found said article 341, and those of Act No. 1655 of the Philippine Commission, have for their object the protection of the public health; but, while all these provisions are compatible among themselves in so far as regards their respective purposes, those of some of the articles in the said chapter of the Penal Code, especially the aforementioned article 341, have a more limited scope and a more circumscribed sphere of action than those of Act No. 1655. The former are, or may properly be considered as, of a

local character, while the latter, though they still retain the same character, tend to produce effects of a general nature, that is, outside of the locality or of the territory for the well-being and the benefit of which they were especially enacted.

The purpose of Act No. 1655, as set forth in its title, is to prevent, not only the manufacture and sale of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, but also the importation of such foods, drugs, medicines, etc., and to regulate traffic therein. To arrive at a knowledge of the character of this Act, one needs but to read carefully each and all of its provisions and the rules and regulations prescribed for its application.

Section 1 of said Act provides that it shall be unlawful for any person to manufacture within the Philippine Islands any article of food or drug which is adulterated or misbranded, within the meaning of this Act; and section 2 prohibits the introduction into the Philippine Islands from the United States or from any foreign country, or the shipment to the United States or to any foreign country from the Philippine Islands, of any such article of food or drug which is adulterated or misbranded. In those general terms said law defines the acts it was deemed necessary to prevent, in order to protect public health. In the first of said sections, no reference whatever is made to the sale of decomposed articles, whether for food or not; it merely provides against the manufacture and misbranding of the articles of food or drugs therein mentioned and fixes the penalty to be imposed upon those who commit such acts. Section 2, after making the prohibition aforesaid, adds:

"* * * and any person who shall ship or deliver for shipment from the Philippine Islands to the United States or to a foreign country, or who shall receive in the Philippine Islands from the United States or from any foreign country, and having so received, shall deliver, in original unbroken packages, for pay or otherwise, or offer to deliver to any other person, any such article so adulterated or misbranded * * * shall be punished for the first offense by a fine not to exceed four hundred pesos, and for each subsequent offense he shall be punished by a fine not to exceed six hundred pesos, or by imprisonment not to exceed one year, or by both such fine and imprisonment, in the discretion of the court."

It is clearly seen that the acts which the law punishes by this section 2 are, in the first place, the introduction or importation into the Islands of the aforementioned articles and drugs and their shipment and exportation from these Islands to the United States or to any foreign country; in the second place, the various acts which are or may be connected with such importation and exportation, like that of receiving said articles or drugs, in original unbroken packages, for pay or otherwise, or in offering to deliver them to any other person, in selling them or offering them for sale in the Philippine Islands, or in exporting them or offering to export them to the United States or to any foreign country. Several of the succeeding sections of the same Act contain provisions intended for the effective enforcement thereof with regard to the introduction into the Islands and the exportation therefrom of the aforesaid articles of food, drugs, etc., by specifying the procedure that must be observed for their examination, determination and classification, by designating the office which must do the technical work involved, and the Government officials whose duty it shall be to prescribe uniform rules and regulations for the enforcement of said provisions—among which officials the first is the Insular Collector of Customs, whose powers and duties relate to all matters concerning the exportation from and importation into the islands of merchandise and all classes of articles and specifying the principal action which devolves upon said Collector of Customs in any proceedings resulting from violations of the law, until the moment these latter shall have passed within the jurisdiction of the Court of First Instance.

It is true, as stated in the brief of counsel for defendant, that it is said in section 6 of said Act that the term "food," as used therein, shall include all articles of food, drink, confectionery, or condiment used by man or other animals, whether simple, mixed, or compounded; and that section 7 states that, for the purposes of this Act, in the case of

food, an article shall be deemed to be adulterated if it consists in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance, or any portion of an animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter. From the provisions contained in said sections 1 and 2, the defense argues that the facts as presented by the prosecution in this case fall entirely within the purview of the Act in question.

Such a conclusion, however, is neither correct nor sustainable, for, in the first of those two sections, the word "food" is defined and its scope explained, and the second defines what shall be considered an article of food or adulterated food for the purposes of said Act, that is, in relation to the purposes sought therein and to all its provisions. Both these sections are no more than parts of the same Act, the other parts of which do not alter or modify their provisions, but, on the contrary, are in harmony and agreement with them.

Furthermore, both said Act No. 1655 and the rules prescribed for its enforcement refer to exportation and importation, to commerce, to traffic, to merchants and dealers, and to a particular procedure related to these concepts, and, as the Solicitor-General has well said, undoubtedly refer to dealings in products which have entered or may enter into interstate commerce, and leave to interior police regulations the matter of local business in local unmanufactured products, this perhaps being the reason, as the Solicitor-General says in his brief, why, with respect to purely local products, the law only prohibits the manufacture thereof, because it is this that may introduce articles into interstate commerce. In support of all the foregoing there is, besides, the last section, No. 14 of said Act No. 1655, which clearly explains the purpose of this law and what are the acts that affect public health that it punishes. It reads:

"That any article, the importation, offer, sale, transportation, or use of which is prohibited or restricted by this Act, which is in transit to the Philippine Islands at the time of the passage of this Act, shall not be subject to the fines, penalties, or forfeitures herein prescribed, but may, under rules and regulations to be prescribed by the Insular Collector of Customs, and approved by the Secretary of Finance and Justice, be returned to the port from which it was shipped."

Finally, as regards Act No. 1760 of the Philippine Commission, also cited by defendant's counsel as having repealed article 341 of the Penal Code, the sole provision therein contained which is in any way related to the matter in question, is that found in section 6, whereby the Director of Agriculture is authorized "to cooperate with provincial and municipal boards * * * in the establishment and maintenance of municipal slaughterhouse and milk-inspection systems, the object of which shall be to prevent the slaughter and sale of animals having diseases or injuries of such a nature as to render the meats and other food products derived from them dangerous or unwholesome for human food." But, as it is seen, this provision is in no wise contrary to that of said article 341 of the Penal Code. It is, on the contrary, in harmony with it, inasmuch as it tends to make it difficult or impossible to sell decomposed substances which, as stated in said article, are necessarily injurious to health.

In conclusion: Act No. 1655 does not prohibit nor punish acts injurious to public health which consist in the sale in municipalities and other localities of these Islands of decomposed articles of food, or the meat of dead animals or animals slaughtered for public consumption which is necessarily injurious to health; and as such acts are prohibited and punished by said article 341 of the Penal Code, it is evident that that part of this article referred to in the complaint filed in the present case and which has brought about defendant's prosecution and conviction, was not repealed either by Act No. 1655 or by Act No. 1760 of the Philippine Commission. The trial court, therefore, committed no error in denying defendant's motion to dismiss the case and set aside the proceedings had therein, and in sentencing defendant in conformity with the provisions of said article 341 of the Penal Code.

For the foregoing reasons, with a modification of the penalty imposed upon the defendant, which shall be one year and one day of prison correccional, the judgment appealed from as so modified is affirmed in all other respects,

with the costs against the appellant. So ordered .

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

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