

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. PATRICIO C. GUARIN, DEFENDANT AND APPELLANT.

G.R. No. 9900. March 15, 1915

Ponente: CARSON, J.

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CARSON, J.:

A careful review of all the evidence of record in this case discloses nothing which would justify us in disturbing the findings of fact by the trial judge who saw and heard the witnesses testify. We are satisfied that this evidence leaves no room for reasonable doubt as to the existence of the adulterous relation charged in the complaint, or as to the knowledge of this defendant and appellant of the fact that his paramour was a married woman.

It appears that the married woman who was charged, tried, convicted and sentenced in the court below together with this appellant, was pardoned by the Chief Executive and set at liberty after she had been convicted and sentenced by the trial judge.

Counsel for the appellant contends that the pardon of the woman should be held to have the effect of extinguishing the criminal liability of the appellant. Counsel bases his contentions on the well-settled doctrine of the law in force prior to the enactment of section 2 of Act No. 1773, in accord with which the remission by the husband of the penalty imposed upon his wife for the crime of adultery was deemed to have the effect of remitting the penalty imposed upon her paramour. (Art. 435 of the Penal Code.) Prior to the passage of Act No. 1773 the crime of adultery was included in the class of private crimes criminal liability for which might be extinguished by the pardon of the offended party. (Art. 130 of the Penal Code.) By the passage of that Act, however, adultery has been made a public crime, and the husband has been deprived of power to pardon the offenders after a criminal action has been instituted against them upon his complaint. It follows that since the passage of that Act, the power to pardon offenders charged and convicted of the crime of adultery is vested exclusively in the Chief Executive.

The policy of the law, which gave to the husband the power to pardon the guilty conduct of the parties before conviction or to remit the penalty imposed upon the wife after conviction, limited the free exercise of this prerogative by the husband so that a pardon or a remission of the penalty as to one of the offenders enured to the benefit of the other. It is not necessary for us to discuss the manifestly wise and beneficent purposes which the lawmaker had in view in thus limiting the power of the husband, nor to dwell upon the danger of abuse which would inevitably follow the grant of power to a private individual to pardon one of two offenders convicted of the private crime of adultery in proceedings instituted by him, without some such limitation as was imposed upon the husband under the Spanish law.

But the power to pardon when exercised by the Chief Executive in favor of persons convicted of public crimes is unlimited, the exercise of that power lying in his absolute and uncontrolled discretion. The reasons for its exercise are not open to judicial inquiry or review, and indeed it would appear that he may act without any reason, or at least without any expressed reason, in support of his action.

There is nothing in the provisions of the Penal Code touching the crime of adultery, as amended by Act No. 1773,

which would justify us in holding that the power of the Chief Executive to pardon one of two offenders who have been convicted of adultery is limited by any rule by virtue of which such pardon must enure to the benefit of the other.

Many reasons suggest themselves which in a particular case might well induce the Chief Executive to extend clemency to one without wishing to pardon the other. One of the convicts may be desperately ill, or it may appear that one was in truth the victim of the other, or one may have displayed marked good conduct or heroism on a particular occasion and thus attracted the favorable notice of the Chief Executive. In such cases it is clearly within his power to extend executive clemency to the particular convict whom he wishes to favor, without any such limitation upon the free exercise of his will as would necessarily be involved in a requirement that a pardon could only be granted to one of two or more convicts on condition that it enure to the benefit of all. If the circumstances are such that the reasons which induce the Chief Executive to extend executive clemency to one convict are such that justice, or equity, or sound public policy would require the extension of like clemency to another, we must assume that the Chief Executive will act accordingly. And however this may be, this court has neither the right nor the power to inquire into the motives which prompt the exercise of executive clemency.

We conclude that the exercise of executive clemency in favor of appellant's paramour in no wise affects his criminal liability for the offense of which he was convicted.

We find no error in the proceedings prejudicial to the substantial rights of the accused. The judgment entered in the court below convicting and sentencing this appellant should therefore be affirmed, with the costs of this instance against the appellant. So ordered.

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

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