

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. EMILIA NEBRIDA AND FELIX SAORDA, DEFENDANTS AND APPELLANTS.

G.R. No. 9963. November 05, 1915

Ponente: CARSON, J.

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CARSON, J.:

The defendants in this case were convicted of the crime of adultery, and each of them was sentenced to two years four months and one day of prision correccional together with the accessory penalties prescribed by law.

The complaining witness claimed that he was married to the woman defendant by a priest named Candido Esguerra, in the municipality of Oras, Samar, some twenty years prior to the date of the trial; that she left him about the year 1906, and went to the mountains with a man named Roman Ellang; that thereafter, and up to the date of the trial she lived with the male defendant, and maintained with him illicit relations, both parties holding themselves out to the public as man and wife.

It is not denied that the defendants lived together as man and wife; and a document, offered in evidence by the prosecution and which appears to have been stolen from the woman defendant tends to prove that they had been married civilly by the justice of the peace of Catbalogan, Samar, on the 24th day of February, 1906.

Upon this evidence there could be no doubt as to the guilt of the woman defendant, and perhaps also of the male defendant, if the evidence of record can be held to be sufficient to sustain a finding as to the alleged marriage of the woman with the complaining witness some twenty years prior to the date of the trial.

But the only material evidence as to that marriage is the testimony of the complaining witness. No effort appears to have been made to verify his claim that he was married to the woman defendant by a Roman Catholic priest in Pinamontan, in the municipality of Oras in the Province of Samar, although it would appear that if his testimony is true, the marriage must have been recorded in the church registers of that municipality, so that his testimony, if it were true, might readily have been corroborated by the introduction of the originals or duly certified copies of the church register or of a certificate of marriage issued in accordance with the practice in vogue at the time of the alleged marriage.

In the absence of a satisfactory explanation of the reason for the failure to corroborate the testimony of the complaining witness with some written evidence as to the fact of his alleged marriage with the woman defendant, we do not think that his testimony is sufficient to sustain a finding, in a criminal case and beyond reasonable doubt, that the alleged marriage did in fact take place.

It is the duty of the prosecution in cases of this kind to establish the alleged marriage of the complaining witness with one of the defendants beyond a reasonable doubt. A judgment of conviction carries with it not merely the infliction of the prescribed penalties upon the offenders, but also the possibility of indirect consequences affecting the family relations and property interests of those connected with the married couple by ties of blood or affinity. It follows that nothing short of the best available evidence should be accepted as satisfactory proof of the

marriage, and a judgment of conviction should not be entered upon vague, indefinite or uncertain oral testimony as to the fact of marriage, or even upon the positive testimony of manifestly hostile witnesses where there is an unexplained failure by the prosecution to produce official records or certificates of the celebration of the marriage, and there is reason to believe that such records or certificates should be in existence and available as evidence, if the alleged marriage had in fact been celebrated.

In the case at bar, the defendants who appear to have been civilly married in the year 1906 were convicted in the court below upon the practically uncorroborated oral testimony of the complaining witness, who asserted that he himself was married to the female defendant some twenty years ago by the priest of a parish in the province in which the trial was held. If this testimony were true, it was manifestly the duty of the prosecution to offer in evidence the record of the celebration of that alleged marriage, or to account for the failure so to do. Under these circumstances, we do not think that this alleged marriage can be said to have been proven beyond a reasonable doubt so as to sustain the judgment convicting the defendants of the crime of adultery. It would be an intolerable condition of affairs which would expose every married couple in these Islands to prosecution for, and conviction of crimes such as adultery and bigamy upon the uncorroborated or imperfectly corroborated oral testimony of malicious persons claiming to have married one or other of the defendants at a date prior to that on which they themselves had been united in matrimony.

Perhaps we should add that our ruling in the case at bar is to be understood merely as a finding that the alleged former marriage is not proven by the evidence beyond a reasonable doubt; that there is nothing in the record which would justify or sustain a finding to the effect that the alleged former marriage did not in fact take place at the time and place mentioned by the complaining witness.

The judgment entered in the court below should be reversed and the defendants and appellants acquitted of the offense with which they are charged in the information, with the costs of both instances de oficio. So ordered.

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

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