

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. LEON FABILLAR, DEFENDANT AND APPELLANT.

G.R. Nos. 46553-46555. September 27, 1939

Ponente: MORAN, J.

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MORAN, J.:

Leon Fabillar was charged, in three separate cases, in the Court of First Instance of Capiz, with violation of section 34, in connection with section 39, of the Marriage Law. In each of the three, cases, the accused entered the plea of not guilty and, by agreement of the parties, they were tried jointly.

The evidence discloses that on May 8, 1934, the Director of the National Library issued a certificate to the accused, then a parish priest of the Independent Church in Maayon, Pontevedra, Capiz, wherein he was authorized to solemnize marriages within the jurisdiction named therein. The accused has never renewed this authorization after its expiration on May 1, 1935. On June 1, 1935, he was suspended from the performance of his apostolic functions and notice of such suspension was given him by the bishop of the church as well as by the vicar-general for the Provinces of Capiz and Romblon. The suspension continued until it was lifted on October 3, 1936. On January 13, February 9, and March 25, 1936, he solemnized the marriages mentioned in the informations.

The trial court found the accused guilty of the offenses charged and condemned him to pay, in each case, a fine of two hundred pesos with subsidiary imprisonment in case of insolvency. The accused appealed.

Section 34 of the Marriage Law provides:

"Every priest or minister authorized by his church, sect, or religion to solemnize marriage shall send to the Philippine National Library a sworn statement setting forth his full name and domicile, and that he is authorized by his church, sect, or religion to solemnize marriage, attaching to said statement a certified copy of his appointment. The Director of the Philippine National Library, upon receiving such sworn statement containing the information required, and being satisfied that the church, sect, or religion of the applicant operates in the Philippine Islands and is in good repute, shall record the name of such priest or minister in a suitable register and issue to him an authorization to solemnize marriage. Said priest or minister shall be obliged to exhibit his authorization to contracting parties, to their parents, grandparents, guardians, or persons in charge demanding the same. No priest or minister not having the required authorization may solemnize marriage.

"The authorization shall be renewed on or before the first day of May of each year, upon payment of the required fee."

It seems to be the contention of the appellant that, under the above provisions, as far as the authority to solemnize marriages is concerned, the authorization, once issued, continues in force and that the requirement for its renewal is intended solely for revenue purposes. This contention is not in accord with either the spirit or the letter of the law. In the first place, the required fee for the issuance of the certificate of authority to solemnize marriages is, by its nominal character, intended purely for regulation and not for revenue. In the second place, renewal, as required

by law, presupposes expiration of the authorization. And expiration means that the authorization has ceased to exist. In the third place, after the authorization has expired, the accused was suspended from the performance of his apostolic functions and, therefore, he had absolutely no authority to solemnize the marriages in question.

Appellant impugns the constitutionality of section 34 of the Marriage Law. It is contended that it, in effect, confers upon the Director of the National Library the power to inquire into the organization and doctrine of the particular church, sect or religion, and to forbid its operation at his discretion. What the provision in question confers upon the Director of the National Library is the duty which, of course, carries with it the power, to satisfy himself whether the "church, sect or religion of the applicant operates in the Philippine Islands and is in good repute." The duty thus conferred is not one of inquiry into the organization or doctrine of a particular church or religion, but a duty to distinguish and discriminate between a legitimately established religion or church and one that pretends to be as such; as a prerequisite to the issuance of a certificate of authority. The law, therefore, in no sense prohibits nor impairs the free exercise of any religion. On the contrary, it purports to protect every legitimately established religion from the imposture of pseudo or spurious religious organizations which ostensibly appear to be dedicated to the practice of religion and the exercise of particular faith but which in reality are mere marriage agencies.

Finally, appellant contends that section 39 of the Marriage Law imposes a cruel and unusual punishment. It is argued that it imposes a heavy fine for the mere failure to renew the authorization required therein. But, as correctly observed by the trial court, the penalty imposed by law is not for the omission to secure the renewal of authorization, but for the solemnization of marriages by priests or ministers without the required authorization.

Judgment is affirmed, with costs to the appellant.

Avanceña, C. J., Villa-Real, Imperial, Diaz, Laurel, and Concepcion, JJ., concur.

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