

6 Phil. 338

[G.R. No. 2705. July 31, 1906]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. ALBERTO GONZALEZ,
DEFENDANT AND APPELLANT.**

D E C I S I O N

WILLARD, J.:

The defendant at the time in question was a justice of the peace in the municipality of Kaibiran, in the Province of Leyte. As such" justice of the peace he tried Ambrosio de los Reyes for the crime of *estafa*, convicted him, and. sentenced him to four months of imprisonment. This prosecution was afterwards commenced against the defendant for "arrogacion de atribuciones."

The complaint does not mention the article of the Penal Code for the violation of which the defendant is prosecuted nor does the judgment mention the article under which he is condemned. We assume, however, that he was convicted for a violation of article 194 of the Penal Code.

The most that can be said against the defendant is that while exercising judicial functions he made a mistake in his interpretation of the law and thought that as long as the penalty which he inflicted was less than six months he had jurisdiction of the case, although from its nature a penalty of more than six months might have been imposed. The case is fully covered by the decision of this court in the case of the United States vs. Florentino Rallos,^[1] April 24, 1905 (3 Off. Gaz., 408). The court there said:

"There is no doubt that this act confers upon the president judicial functions. He^was exercising such functions when he tried Francisco del Mar, Magno Seno, and others for a violation of the ordinances against gambling. He therefore does not come within the provision of said article 194 nor within the provisions of

article 374 of the same code. He did not by those proceedings arrogate to himself judicial functions, but he was then exercising judicial functions conferred upon him by law.

“The fact that in the exercise of such functions he may have committed an error in declaring Magno Seno guilty of perjury and punishing him therefor, or that he may have committed an error in punishing him at all when no complaint had been filed against him, does not alter the case. These were, perhaps, errors; committed by a judicial officer in the exercise of his duties, but such errors do not constitute a violation of either of the articles above mentioned.”

The judgment of the court below is reversed and the defendant acquitted, with the costs of both instances *de officio*. After the expiration of ten days from the date of final judgment let the case be remanded to the lower court for proper procedure. So ordered.

Arellano, C. J., Torres, Mapa, Carson, and Tracey, JJ., concur.

^[1] 4 Phil. Rep., 446.
