

8 Phil. 737

[G.R. No. 2461. April 04, 1906]

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. MARTIN SARTE,
DEFENDANT AND APPELLANT.**

D E C I S I O N

TORRES, J.:

On December 2, 1904, a complaint was filed by the provincial fiscal of Ambos Camarines charging the defendant, Martin Sarte, with the crime of "false testimony" (perjury) committed as follows: That in a civil action then pending in the Court of First Instance of that province between Sarte and one Valentin Sumayo or Sumayao, Martin Sarte, the defendant in this case, falsely testified that he had not signed a certain certificate evidencing the sale of a carabao and that he had not received the purchase price thereof.

The said complaint having been duly allowed, the court, after hearing the evidence, entered judgment January 16, 1905, sentencing the defendant, Martin Sarte, to four months and one day of imprisonment, to pay a fine of 625 pesetas, and in case of insolvency to suffer subsidiary imprisonment, the same not to exceed one-third of the principal penalty, and to pay the costs. From this judgment the defendant appealed.

From the testimony as well as from the documentary evidence introduced during the trial, it appears that according to "Exhibit A" (f. 31), a translation of which is found on folio 32, the defendant, Sarte, declared on July 3, 1901, that on that date he had transferred one carabao, branded and marked in the manner stated in the certificate of sale, to Valentin Sumayo, for the sum of 150 pesos, local currency, value received, said certificate having been issued as proof of the transfer and as a substitute for a public instrument, and as a further security to the purchaser he also gave him a certified impression of the cattle brand and mark used by him, and finally signed the certificate of transfer in the presence of two witnesses in the town of Nabua. The said certificate purports to have been signed by Martin Sarte, Eugenio Elevado, and Cecilio Vergara.

The certificate of sale above referred to was shown to the defendant, Sarte, at the trial of the civil action. He testified that he did not recollect having sold the carabao in question nor having signed any document in favor of Valentin Sumayo, alleging that he could only sign his name. He further denied that the signature appearing on the document was his signature, adding that he had not sold the carabao to Sumayo for the sum of 150 pesos as alleged; that he had not received the said amount; that he had not signed the certificate of transfer, and that he had not heard of it until the day before the trial.

The witnesses Eugenio Elevado and Cecilio Vergara identified "Exhibit A" as the document signed by them at the request of Martin Sarte. These witnesses testified that they had seen him, Sarte, sign the document and receive the 150 pesos from Valentin Sumayo while at the house of Cecilio Vergara, the latter having drawn the document one morning in the year 1901. Their testimony was corroborated by the witness Valentin Sumayo. He testified that the document was executed for the purpose of confirming the transfer of one carabao for the sum of 150 pesos as aforesaid; that he had introduced the same document in evidence, on December 2, 1904, in a civil action brought by him against the accused.

The other two witnesses, H. B. Waterman and George L. Armstrong, testified relative to the testimony given by Martin Sarte in the civil action in question. A copy of his testimony appears on folio 32 of the record.

It will be noticed that this was a case in which a party to a civil action relating to the recovery of a carabao sold by him for the sum of 150 pesos gave false testimony, thus committing the crime defined and punished in article 321 of the Penal Code.

The question now arises whether under the provisions of General Orders, No. 58, and those of the Code of Civil Procedure now in force, a party to an action who gives false testimony as a witness in his own case can be convicted of the crime of "false testimony."

Under the laws now in force the answer to the above question must be in the affirmative and against the contention of the Attorney-General, who bases his opinion upon the legislation existing in these Islands prior to the promulgation of General Orders, No. 58, and the Code of Civil Procedure. If under our present system a court can take into consideration the sworn statement of a party to an action together with the other evidence introduced during the trial and decide the case against the adverse party, it would seem just that, if it be shown that his testimony was false, he should be punished in accordance with the provisions of section 321, not as a party litigant but as a perjured witness.

It is true that a person could not be hanged or sent to a penitentiary for giving false testimony in a civil suit, but it is none the less true that through his perjured testimony a family may lose its home and be reduced to misery and poverty and be even deprived of all means of subsistence.

Section 382 of the Code of Civil Procedure provides in part as follows: All persons, etc., may be witnesses. Neither the parties nor other persons who have an interest in the event of an action or proceeding shall be excluded.

Section 15, No. 3, of General Orders, No. 58, provides that in all criminal prosecutions the defendant shall be entitled to testify as a witness in his own behalf, and section 55 says that all persons, without exception, etc., may be witnesses. So that neither the parties nor other persons who have an interest in the event of an action shall be excluded, etc.

If a party to an action gives false testimony he shall be held criminally liable and shall be punished in accordance with the provisions of the said article of the Penal Code, not as a party to the action but as a false witness in a civil suit.

It would certainly be unjust to punish a witness who has merely perjured himself to please one of the litigants, and to allow the litigant himself, the only one really interested in the successful result of the suit, to benefit by his own criminal act, when he testifies falsely.

The supreme court of Spain in an opinion rendered November 8, 1877, said that the main ground upon which the appeal by the prosecution rested was the error committed by the trial court in holding that the false testimony by a litigant or injured party was not covered by the provisions of the Penal Code relating to "false testimony," etc., which only referred to the testimony of witnesses and experts. In fact, such holding on the part of the trial court was notoriously erroneous. The party aggrieved by the commission of a crime can only testify as a witness. His testimony has considerable bearing upon the case. If he fails to state the truth his false testimony becomes a crime.

This same doctrine was followed in a decision rendered June 9, 1882. It was therein held that the fact that the witness had been injured by the commission of a crime did not take away from him his relation as a witness, and that he was therefore liable as such under the law.

The doctrine thus laid down in a criminal case carried to the Supreme Court by writ of error is likewise applicable to the false testimony committed by a litigant as a witness in his own

case. If, under the present laws, one of the parties to an action may obtain a favorable judgment on the strength of his testimony, it would seem just, for the protection of his fellow-citizens and the moral interests of the community, that he should be punished if he testifies falsely.

It having been proven that the defendant, Martin Sarte, committed the crime of false testimony (perjury) in the civil action in question, his denial and the testimony of his wife, Urbana Agban, to the contrary notwithstanding, he should be punished with the minimum grade of the penalty prescribed in the first paragraph of article 321 of the Penal Code, considering the amount involved in the civil action and the extenuating circumstance of article 11 of the code, without any aggravating circumstances.

For the reasons above stated we are of the opinion that the judgment appealed from should be affirmed. The appellant shall pay the costs of this appeal and he shall also suffer subsidiary imprisonment in case of failure to pay the fine imposed in the judgment of the court below. So ordered.

Arellano, C. J., Johnson, Carson, and Willard, JJ., concur.
