

5 Phil. 469

[G.R. No. 2709. December 28, 1905]

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. ISIDORO ARAGON,
DEFENDANT AND APPELLANT.**

D E C I S I O N

JOHNSON, J.:

This was an action for the crime of giving false testimony.

The complaint filed in said cause was as follows:

“The undersigned accuses Isidoro Aragon of the crime of false testimony in a civil cause, committed as follows:

“That on February 23 of the present year (1904), E. H. Warner filed the following complaint
:

” ‘United States of America, Philippine Islands. In the justice of the peace court of the city of Manila. Edwin H. Warner, plaintiff, vs. Claro Magcauas, defendant.

” ‘The plaintiff appears and as a cause of action against the defendant, alleges:

” ‘ I. That the plaintiff is the plain and absolute owner of a great extension of land commonly known by the name of Hacienda of Pasay, situated partly in Malate and Singalong, in the jurisdiction of the city of Manila.

" 'II. That the defendant, as a tenant, occupied a small piece of the said hacienda located in Singalong, in the jurisdiction of the city of Manila, which measured approximately 10,000 meters square, and for the occupation of which as a tenant he paid an annual rental of 13 pesos 3 reales and 12 cuartos.

" 'III. That the defendant has failed to pay and is owing to the plaintiff the rents corresponding to the years 1899, 1900, 1901, 1902, and 1903, at the annual rate of 13 pesos 3 reales and 12 cuartos, which amounts to the sum of 77 pesos 2 reales, or \$....., notwithstanding that the payment of same has been repeatedly requested by the plaintiff.

" 'Wherefore the plaintiff prays judgment against the defendant for the said sum of \$....., being the rents corresponding to the said years, for the costs of this action, and for such other and further relief as the court may deem equitable and just in the premises.

""Manila, February 23, 1904. For Sutro and Ortigas, Eusebio Orense, attorney for the plaintiff.'

"That on the 4th day of March of the present year the accused was summoned as a witness to appear before the justice of the peace court of Manila, and after having been duly sworn, testified as follows:

"
'Q. Have you ever heard about the Pasay or Pineda estate?

A. I have heard question of lands.

"
'Q. Do you know the Pasay estate?

A. I do not know.

"
'Q. What is it that you heard about the Pasay estate?

Well,

A. I can tell that with reference to the Pasay estate that there has been objection to the survey, to the assessment of that land, plenty of that, nothing more.

"
'Q. When was it that you say objection was made to the survey and nothing more?

A. Four years ago today.

"
'Q. Prior to that survey had you not heard any talk about the Pasay estate?

A. No, sir.

Do

you know if the Augustinian Fathers, during the years 1895 and 1898, brought any action for forcible entry and detainer against Agustin

"
'Q. Montilla, and whether in said action, by reason of the decision ousting Mr. Montilla, the defendant, Claro Magcauas, in this case was likewise ousted from his land as a sublessee of Mr. Montilla?

A. I do not remember, sir.

"
'Q. Did you not know then Mr. Agustin Montilla as administrator of the Pasay estate?

A. I do not remember.

"
'Q. Were you justice of the peace for Singalong?

A. Assistant.

"
'Q. But were you acting at the time?

A. Yes, sir.

In

the justice of the peace court where you were acting was there not a

"
'Q. suit brought by Mr. Montilla for forcible entry and detainer against the tenants of the Pasay estate, among them the defendant in this case, and for the lands in question?

A. I do not remember.

"
'Q. Can you not assure that in your court not even a single action for forcible entry and detainer was brought against Mr. Montilla?

A. I do not remember, sir.

Do

you not remember that while you were justice an order was received from the judge of the Court of First Instance calling upon you to forward a

"
'Q. list of all the actions for forcible entry and detainer pending in your court and brought by Don Agustin Montilla against various tenants of the Pasay estate?

A. I do not remember, sir.

Do

" you not remember having received any order from the Court of First Instance as to these actions for forcible entry and detainer in regard to the Pasay estate?

A. I remember having received orders, but I do not remember to what they referred.

Don't

you remember that in the justice of the peace court while you were acting judge, there was pending an action for forcible entry and detainer against Claro Magcauas, Manuel Santajuana, Felipe Villanueva, Pedro Pascual, Escolastico Verge, Claro Villanueva, Anastasio Ramos, Agustin Bonifacio, Arcadio Villanueva, Bernardino Isidro, Maximo de los Santos, Severo Dinerl, Florentino Gabriel, Pedro Nagomboy, Leocadio Villareal, Leonardo Tailer, Catalino O. Santiago, Demetrio Espiritu, P.

" Tomaso, N. Vergel, H. de los Reyes, Jose Carlos, Honorio Santiago, Rufino de Jesus, Victorino Delignac, Aniceto Ordonez, Clemente Isidro, Claro Naracos, Eulogio Alcantara, Simeon A. Protasio, Apolonio C. Santos, Gregorio R. Patricio, Alejandro Dionisio, Aniceto Severo, Pascual Villanueva, Ignacio Pernate, Engracio Flores, Crispino Ampagan, Lino Vergel, Macario Sergis, Dimas Dison, Modesto Protasio, Severo Vizcara, Isidro Vizcara, Petrona Vizcara, and Bonifacio Vizcara, by Agustin J. Montilla?

A. No, I do not remember.

" None of those mentioned in my question?

A. I do not recollect now anyone.

" Did you not know Father Benito Ibanez, administrator of the Hacienda of Pasay?

A. No, neither.

" Father Martin Arconada, who was administrator of the estate—did you know him personally as administrator of that estate?

A. I do not remember whether he has been administrator or not.

You

do not remember whether any orders were published in Singalong by means of the public crier, within Pasay, notifying the decision rendered in the suit in favor of Mr. Montilla against the Augustinian Friars, and warning all the tenants of the Pasay estate to pay thereafter Mr. Montilla as a lessee of that estate?

If

A. you talk about public crier I do not remember, sir. Truly there have been notices by means of public criers, because there in that month the revolution broke out.'

"All these statements are absolutely false, and are

essential to the case at issue wherein they were made, because really and truly the accused had heard about the Pasay estate prior to the four last years, and he well knew that at that time there were brought in the justice of the peace court at Pineda when he was filling that office many actions for forcible entry and detainer, instituted by Agustin J. Montilla against tenants of the estate, he having received an order from the Court of First Instance asking for a list of said actions, with a statement of the actions for forcible entry and detainer and the answers filed by the defendants, and the accused himself signed three lists which he forwarded to the Court of First Instance; because the accused himself received an order from the Court of First Instance enjoining him to notify all the tenants of the Pasay estate of the decision rendered in favor of Don Agustin J. Montilla, in the suit brought by fyim against the Augustinian Friars, and the accused himself having rendered an order wherein the proper action was taken for the compliance with such order of the Court of First Instance, and the accused himself having taken part in various other proceedings had for the purpose of complying with such orders from the Court of First Instance; because the accused knew that Don Agustin Montilla was the administrator of the Pasay estate, and was substituted by reason of the suit by him brought against the Augustinian Friars by the curate of the pueblo, Father Benito Ibanez, and he, the accused, likewise knew that Father Martin Arconada, the procurator of the convent of the Augustinian Fathers, did intervene in the management of the Pasay estate, and because he, the accused, likewise knew that in the years 1895 and 1898 there was brought by the Augustinian Friars against Mr. Montilla an action for forcible entry and detainer of the Pasay estate, the result of which was that said Mr. Montilla, together with many other tenants of the Pasay estate, were ousted; all contrary to the form of the statute in such cases made and provided.”

This complaint was duly signed and sworn to. At the close of the trial in the inferior court the defendant was found guilty of the crime charged in the said complaint and was sentenced to be imprisoned for a period of three months of *arresto mayor*, with the accessories of article 61 of the Penal Code and to pay a fine of 1,500 pesetas or

to suffer, in case of insolvency, the corresponding subsidiary imprisonment, which should not exceed one-third part of the period of imprisonment imposed, and to pay the costs.

From this sentence the defendant appealed to this court. It is admitted that the defendant gave the testimony set out in the complaint, during the trial of a civil case in the court of a justice of the peace of the city of Manila, between Edwin H. Warner, plaintiff, and Claro Magcauas, defendant, an action brought by the plaintiff to recover of the defendant the annual rent for a certain tract of land for the years 1899, 1900, 1901, 1902, and 1903. The defendant was summoned as a witness to appear before said justice of the peace, to give testimony upon the trial of this cause.

It is difficult to ascertain from an examination of the alleged false testimony set out in the said complaint just how the questions and answers in said false testimony have any bearing whatever upon the issue that was being tried before said justice of the peace. Admitting, however, that they must have had some reference to some question presented before the court, we proceed to an examination of the question whether such testimony was false.

Chapter VI of Title IV of the Penal Code provides the punishment for false testimony in both criminal and civil cases, but this chapter makes no attempt to define false testimony or in any way to indicate of what false testimony consists.

Escriche in his valuable dictionary (p. 972) defines false testimony to be: "La impostura o acusacion contra un inocente y la deposicion que hace un testigo contra la verdad."

"Falso testimonio" under Spanish law corresponds to *"false swearing"* under English law. False swearing, under the English law, is committed by a person who swears falsely before any person authorized to administer an oath upon a matter of public concern, under such circumstances that the false swearing would have amounted to perjury if committed in a judicial proceeding.

Bishop in his work on criminal law (Vol. 2, p. 588) says:

“False swearing is the name given in the statutes of some of the States to false declarations on oath which, while not within any common law or statutory designation of perjury, are, by such statutes, rendered otherwise indictable.”

Article 321 of the Penal Code provides that—

“False testimony given in a civil cause shall be punished with a penalty of *arresto mayor* in its maximum degree to *presidio correccional* in its medium degree and a fine of from 625 to 6,250 pesetas.

“If the amount of the claim should not exceed 625 pesetas, the penalties shall be those of *arresto mayor* and a fine of from 325 to 3,250 pesetas.”

This testimony was given in a civil cause and it was the duty of the Government to prove that it was false. Not only was it the duty of the Government to show that the testimony was false but that it was given knowing that it was false and with malicious intent. Viada, in his valuable Commentaries on the Penal Code (vol. 2, p. 449, 4th ed.), says:

“Comete el delito de falso testimonio todo el que falta maliciosamente a la verdad en sus declaraciones, sea negandola, sea diciendo lo contrario a ella.”

During the examination of the defendant as a witness in the cause in which it is alleged he gave false testimony he was asked certain questions with reference to the existence of certain facts. His answers invariably were that he did not remember, or that he had no recollection concerning those facts. The prosecuting attorney proved the existence of the facts with reference to which the defendant was questioned, but failed to prove that the statements of the defendant with reference to those facts were false. The mere fact that the

defendant had had to do in the year 1896 with certain facts and relations was not sufficient to prove that he stated a falsehood when he stated in December, 1904, that he had "*no recollection with reference to such facts or relations.*"

The evidence adduced during the trial fails, in our judgment, to show that the defendant testified falsely or gave false testimony as was charged in the complaint.

In order that a defendant may be convicted under article 321 of the Penal Code for giving false testimony, the following facts must be shown:

First. The testimony must be given in a civil cause.

Second. The testimony must relate to the issues presented in said cause.

Third. The testimony must be false.

Fourth. The false testimony must be given by the defendant knowing the same to be false.

Fifth. Such testimony must be malicious and given with an intent to affect the issues presented in said cause.

The evidence adduced during the trial of this case is not sufficient to show that the defendant committed the crime charged in the complaint. The judgment of the inferior court is therefore reversed and the said cause is hereby ordered to be dismissed.

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

