

4 Phil. 446

[ G.R. No. 1871. April 24, 1905 ]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. FLORENTINO RALLOS,  
DEFENDANT AND APPELLANT.**

**D E C I S I O N**

**WILLARD, J.:**

The defendant in this case was convicted in the court below for usurping judicial functions in violation of article 194 of the Penal Code.

At the time in question he was the municipal president of Cebu. As such president he took jurisdiction of a complaint against Francisco del Mar for violation of an ordinance of the municipality prohibiting gambling. While the complaint presented to him mentioned the name of Francisco del Mar only, the result of the judicial investigation, which lasted four or five days, was that the defendant, as such municipal president, entered a judgment convicting del Mar of a violation of the ordinance, and convicting also seven other persons. Six of these were convicted of a violation of the same ordinance; the seventh, Magno Seno, was convicted and sentenced to three days' imprisonment for failure to testify truthfully during the trial. Magno Seno was imprisoned for the time mentioned in the judgment, and some months after his release filed a complaint in the Court of First Instance of the Province of Cebu against Florentino Rallos for the violation of said article 194. The defendant was convicted in that court, and from the judgment of conviction has appealed to this court.

The Municipal Code (Act No. 82) provides in section 18, paragraph (*g*), as follows:

“He [the municipal president] shall hold a court to hear and adjudge alleged violations of public ordinances upon complaint filed by his direction, or by a public officer or a private citizen; and, after due trial in which the accused and his witnesses shall be heard, shall, upon conviction, impose such punishment, either by admonition or by fine and imprisonment, or both, in his discretion, as is

provided in subsection (*dd*) of section 39.”

Paragraph (*j*) of the same section requires the president to keep a docket containing a memorandum of his proceedings upon such trials. By section 39 of the same act appeals from his judgments lie to the Court of First Instance where the fine imposed by him exceeds 15 pesos or the imprisonment exceeds fifteen days.

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. Those 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 is acquitted, with the costs of both instances *de officio*.

*Arellano, C. J., Torres, Mapa, Johnson, and Carson, JJ., concur.*

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