

1 Phil. 241

[ G.R. No. 408. April 24, 1902 ]

**THE UNITED STATES, COMPLAINANT AND APPELLANT, VS. FRANCISCO ENRIQUEZ, DEFENDANT AND APPELLEE.**

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

**MAPA, J.:**

On the 14th of February, 1883, in the district of Binondo, city of Manila, a public instrument was executed before the notary Miguel Torres, the parties to which were Antonio Enriquez y Sequera, of the one part, and of the other Dona Concepcion Dayot. This instrument recites that the notary went to the house No. 4 David Street, in the district above mentioned, for the purpose of authenticating the execution of this instrument. It also recites the sale by Antonio Enriquez to Concepcion Dayot of a house helonging to him at No. 14 Baluarte Street, Walled City, Manila, for the sum of 7,150 pesos, and that the vendor had already received the sum of 4,484 pesos on account of the purchase price. The notary certified in the instrument that Antonio Enriquez stated he had the necessary legal capability for the execution of this instrument, and that in the opinion of the notary this was true. He also certified that the parties to the instrument were personally known to him, that they personally appeared before him, and that the contract was executed in the presence of the witnesses Ambrosio Aquino and Mariano Palacio. The instrument is signed by the latter and by Concepcion Dayot. With respect to the other party to the contract, the deed contains the following statement: "The vendor, Antonio Enriquez, being unable to sign for himself, because, although in good health, he is physically unable to sign by reason of the paralysis of his right hand, his son, Francisco Enriquez, here present, signs at his request." The notary also certified to his personal acquaintance with Francisco Enriquez.

The complainants charge Francisco Enriquez with having committed a falsification in the execution of the instrument in question by falsely simulating the participation of Antonio Enriquez, and by attributing to him the statements contained therein, it being charged that

these statements and such participation are wholly false, because on the date in question the said Antonio was physically and mentally incapable of executing the instrument referred to.

This incapability the complainants allege to be the result of a cerebral hemorrhage suffered by Antonio Enriquez in October, 1882. They assert as a fact that in consequence of this hemorrhage Antonio Enriquez became paralyzed and totally deprived of reason and speech; that he was constantly, from that time on and up to the time of his death in the month of July, 1884, in a completely imbecile condition and therefore absolutely incapable of making contracts and executing public instruments.

The evidence introduced shows it to be a fact that Antonio Enriquez suffered a hemorrhage in October, 1882, which resulted in the paralysis of the entire right side of his body, and that in consequence he lost his speech and the use of his intellectual faculties for a more or less lengthy period of time, the duration of which is not clearly determined in the record. But we do not consider the evidence to be sufficient to show that subsequently to that time he never recovered his reason or that at the date of the execution of the deed alleged to have been falsified, to wit, on February 14, 1883, he was physically and mentally incapable of executing the same, as affirmed and maintained by the complainants.

In the first place, the testimony of the witnesses for the prosecution does not agree as to the degree and persistence of the effects produced by the illness of Antonio Enriquez. Trinidad Enriquez, a sister of the complainants, testified that Don Antonio remained in such a condition that he could not speak or walk or move or recognize any one; that he had become, as she says, completely idiotic, the witness giving it to be understood that he remained constantly in this idiotic condition up to the time of his death. Another witness, Carmen Gonzalez, also avers that Don Antonio was deprived of his speech from the time he fell ill until he embarked for Europe (at the end of March or the beginning of April, 1883); but, on the other hand, she says that some days he was better; that sometimes he was rational, and at others not. Luis Quintos, also a witness for the prosecution, testifies, on the other hand, in effect that Antonio Enriquez recovered his speech, although he spoke with difficulty and incoherently. According to this witness he went to see Don Antonio two or three times for the purpose of transacting some business with him in connection with the inheritance of his wife. The first visit was about the beginning of his illness, and the last shortly before his departure for Europe. He testifies that on neither of these occasions did he succeed in attaining his purpose, because they could not reach an understanding, as Don Antonio was unable to answer him clearly. "*The replies he gave me,*" says the witness,

*“although spoken most laboriously, I could not understand, because I wanted to say one thing and he answered me about something else.”* The same witness says that on one of those occasions he talked to Don Antonio for about half an hour; but states, however, that during that period he remained silent for a short time, and that he did not continue talking about his business, but about the illness (Don Antonio’s, he doubtless meant to say). *“I do not think”* adds the witness, *“that Don Antonio was mentally unbalanced, but as he did not talk about what I was saying I withdrew.”* Nevertheless, upon being asked to give his concrete opinion with respect to Don Antonio’s mental condition, he stated that he believed the latter was incapacitated because he could not give a consistent answer to his questions. It appears that the witness bases this opinion upon the fact that when he said to Don Antonio, *“Let us see if tee can not make a satisfactory arrangement about the matter”* Don Antonio replied to him by saving, *“I know nothing about it.”* This reply, considered in itself, does not in our opinion appear to be so inconsistent as the witness regards it, but might well be interpreted as an intentional evasion, for the purpose of not going into the matter which the witness desired to discuss with Don Antonio.

At all events, it is evident that the testimony of Luis Quintos is in open contradiction with that of Trinidad Enriquez and Carmen Gonzalez. It would have been absolutely impossible for him to have had a more or less lengthy conversation with Don Antonio Enriquez, even if his answers, in the opinion of the witness, were inconsistent, if it were true that Don Antonio had never recovered his speech, as affirmed by Trinidad and Carmen.

The testimony of Agueda Esteban, another witness for the prosecution, is of but little interest in the case. She simply testifies that the illness of Don Antonio Enriquez consisted in his being unable to speak, but without stating whether or not he ever recovered from it. As the only concrete fact which she adduces in support of her assertion the witness states that upon one occasion she approached Don Antonio to complain about the determination of the accused to evict herself and her family from the Teatro Viejo, where they lived, the property, apparently, of Don Antonio, and that the latter did not reply to her, because he could not speak. This occurred, according to her statement, about the middle of 1882, the fact being that Don Antonio fell ill in October of that year. This detail shows how uncertain is the memory of the witness, more especially if it is held in mind that in one part of her testimony she says that she was evicted from the Teatro Viejo by the accused after Don Antonio went to Spain, and in another place states that this occurred while Don Antonio was still in the city of Manila.

The testimony of Julian de las Cajigas is of still less importance. This witness was also called

by the complainants, and his testimony refers exclusively to the condition in which he saw Don Antonio Enriquez while in Paris. He did not see him once during the time he was ill in this city.

One of the proofs presented by the prosecution is the letter written by the accused on December 30, 1882, to the now complainant, Rafael Enriquez, who was then in Paris, informing him of the illness of Don Antonio, their father, and of his condition at that time. The authenticity of this letter has been admitted by the accused, who also offered it as evidence for the defense, and it therefore has the force of evidence admitted and accepted by both parties. Now, in that letter it is stated, it is true, that Antonio Enriquez had suffered, some days after the 10th of October, 1882, *an attack of paralysis, complicated with hemorrhage of the brain, which completely deprived him of movement and of speech*, and that the gravity of the attack was such that at first his family despaired of saving him; but it is also true that the letter itself states that some weeks after the attack the patient commenced to improve, slowly at first but rapidly and notably subsequently, to such an extent that at the date of the letter, *he was able to walk about the house, with the help only of a little girl, and although he had not yet recovered his speech, he was, however, already able to pronounce clearly a number of words. "The doctor," adds the letter, "hopes that he will very soon be able to speak; he [Don Antonio] already eats with us at the table, \* \* \* and at this rate I hope that by the end of January he will be able to walk without assistance."*

From this letter it can not properly be inferred that Antonio Enriquez was physically and mentally incapacitated on the 14th of February, 1883, for the execution of the instrument in question. On the contrary, if on the 30th of December, 1882, the date on which the letter was written, he was already able to walk all over the house alone, with the slight assistance of a little girl, and was already able to clearly pronounce a number of words, it is in nowise improbable, in our opinion, that his improvement should have been still more marked in every way a month and a half later, unless he had suffered, in the meantime, some relapse. This, however, does not appear from the record.

We do not consider it necessary to concern ourselves with the opinion of Drs. Manuel Xerez y Burgos and Manuel Garcia Ageo, cited by the complainants, to the effect that Antonio Enriquez was absolutely incapacitated. This opinion, founded as it is upon the statements of the witnesses for the prosecution and upon the contents of the letter of December 30, 1882, already spoken of above (for it does not appear that these physicians personally attended Don Antonio), we are unable to give greater weight than that to which it is entitled relatively to the weight which should be given the statements and the letter themselves. It should also

be stated that the opinion referred to has been impugned and contradicted in its technical part by Drs. Altmann and Garcia del Rey, called by the defense, who testified that from the evidence in the case it was not possible to draw a sufficiently clear conclusion to form an opinion as to the diagnosis of the illness suffered by Don Antonio, and of its consequences, and that therefore *“it can not be affirmed that the latter remained in the condition stated by the doctors Xerez y Burgos and Garcia Ageo.”*

In addition to the testimony of these doctors, Messrs. Altmann and del Rey, the defense introduced documentary and oral evidence to demonstrate the capability of Antonio Enriquez at the time of the execution of the deed in question. The oral testimony consists of the declaration of Venancio Ruiz, who says that as solicitor of Jose Roman he filed a complaint against Don Antonio Enriquez for the recovery of a sum of money in February or March, 1883, and that upon service on the latter of the summons, as he was ill, he sent for the witness; that on his arrival Don Antonio said to him, *“What is this against me?”* *“A complaint of Jose Roman concerning a sum of money”* replied the witness. To this Don Antonio replied, *“Well, I want that complaint to be withdrawn, I am going to Spain, and I want that complaint withdrawn. Make arrangements with my lawyer, Antonio Gomez.”* The witness states that the conversation continued for ten or fifteen minutes, and that Don Antonio spoke readily, and that he understood him very well, although he observed that he had some difficulty in enunciation. He also adds that during the entire conversation Don Antonio was standing up, leaning on a stick; but the witness noticed, however, that he walked with some difficulty.

The documentary evidence consists, in the first place (1) of a public instrument purporting to have been executed by Antonio Enriquez before the notary public Miguel Torres on the 5th of March, 1883, conferring a power of attorney on his son, Francisco, to represent him in all his affairs and to manage his property, in which instrument it appears that Attorney Pederico Gimenez Zoboli signed at the request of Don Antonio, the donor of the power, he being unable to do so himself on account of the disability of his right hand; (2) a copy of an order entered on the 19th of February, 1883, in a case brought in the Court of Intramuros (Manila) by Francisco de Paula Enriquez, in which it is stated that Don Antonio Enriquez has expressed his approval of the taxation of costs in the said case; (3) copy of the record of demand of payment of said costs made personally upon Antonio Enriquez in his house on March 4, 1883, in which record it appears that he himself at that time gave a comparatively long answer, which, as it is unconnected with the case at bar, it is unnecessary for us to repeat. These copies were not impugned by the prosecution and have apparently been compared with their originals.

The authenticity of these documents being taken for granted—and they must be presumed to be authentic until their falsity is shown, owing to their legal character as solemn public instruments—we must necessarily admit the reality of Don Antonio Enriquez’s participation therein and of the statements therein alleged to have been made by Don Antonio. From this point of view these documents must be regarded as strong evidence as to the capacity of Don Antonio at the time of the execution of the instrument in question, because it is indubitable that he could not have personally participated in the proceedings to which these documents refer, or have made these statements, if he had been physically and mentally incapacitated, as asserted by the complainants.

Part of the documentary evidence of the defense consists of certain letters of a date subsequent to that of the instrument in question, written from Paris by the complainant, Rafael Enriquez, to his brother, Francisco, the defendant herein, the authenticity of which was admitted by Rafael at the trial. These letters corroborate the fact, flatly denied by some of the witnesses for the prosecution, that Antonio Enriquez had really attained a positive and notable improvement during his illness. Thus, for example, in the letter of June 1, 1883, Rafael says: *“Father has improved noticeably during the eleven days we have been here. He goes out with me on foot every day, and with little difficulty goes up and down stairs twice a day to the room in which we live; \* \* \* the improvement in his health points to a complete recovery in a few months”*. In his letter of the 28th of the same month of June he says, *“His mind is quite clear, and he talks to me about everything, and particularly about the little girls.”*

Finally, the record contains a letter written to the accused by Don Antonio from Paris, dated September 30, 1883, signed in his own handwriting, as admitted by the complainant, Rafael, himself. In this letter he speaks of some accounts and the sending of money, giving the accused instructions for a certain business transaction, just as any completely sane person might do. The explanation which Rafael has endeavored to give concerning this letter, to the effect that he guided his father’s hand in the signing of it, apart from the fact that it is wholly unproven, we consider to be of but little importance after what he himself has said in his letters with respect to the physical and mental condition of Don Antonio Enriquez.

In view of the result of the evidence introduced in the case we are of the opinion that the falsity of the instrument of February 14, 1883, the object of the complaint, has not been proven. This instrument, having been executed before a notary public, and being, therefore, a public document, carries with it the legal presumption of its authenticity until the contrary is fully established.

This conclusion having been reached, it is wholly unnecessary to pass upon the question raised by the defense as to the prescription of the alleged crime, and therefore we make no ruling upon this point.

We therefore decide that the judgment appealed, by which the accused was acquitted, must be affirmed, with the costs of this instance to the appellant.

*Arellano, C. J., Cooper, Willard, and Ladd, JJ., concur.*

*Torres, J., did not sit in this case.*

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