

1 Phil. 487

[G.R. No. 552. November 17, 1902]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. UI MATIAO,
DEFENDANT AND APPELLANT.**

D E C I S I O N

COOPER, J.:

The defendant, Ui Matiao, was convicted in the Court of First Instance of the city of Manila of the offense of an attempt to bribe a public official. The court based the conviction on the provisions of articles 381 and 387 of the Criminal Code, taken in connection with article 354 of the same Code, and the defendant was given the benefit of article 11 of the Penal Code.

The defendant is condemned to the punishment of imprisonment for six months and one day and to pay a fine of three times the amount of the alleged bribe and costs of the suit, from which he appeals.

The provisions of the Code upon which the conviction rests read as follows:

“Art. 381. The public official who shall receive, directly or through an intermediary, a gift or present, or who shall accept offers or promises for his committing, in the discharge of his office, an act constituting a crime, shall be punished with the penalties of prison correccional in its minimum to its medium degree and a fine of an amount equal up to three times the value of the gift, without prejudice to the imposition of the penalty pertaining to the crime committed in consideration of the gift or promise should it have been executed.”

Article 387 reads as follows:

“Those who shall corrupt public officials with gifts, presents, offers, or promises,

shall be punished with the same penalties as those imposed on the officers suborned, excepting that of disqualification.”

Article 354 is as follows:

“The public official who shall knowingly render or advise an unjust interlocutory decree or decision in a matter of administrative litigation, or merely administrative, shall incur the penalty of temporary special disqualification in its maximum degree to perpetual special disqualification.” One of the sanitary inspectors of the city of Manila visited the premises of the defendant in order to make a report on an application by the defendant for a license to sell oil. The defendant offered the officer money, and in order to secure evidence against the defendant the officer wrote out a note and obtained the defendant’s signature to it. The note, the form of which is contained in the complaint, reads as follows;

“That said Ui Matiao on the 28th of September, 1901, or thereabouts, in the city of Manila, P. I., having petitioned for a license to sell oil in the city of Manila, P. I., then and there, knowing well what he did, corruptly, maliciously, and willfully, offered and gave to Doctor Altman, as and for a bribe, a note in the sum of ten (10) pesos, said note being in the following form: ‘I have offered and promised to bearer ten (10) pesos to expedite my license to sell oil; and I understand well what I am signing. 28-9-1901. Ui Matiao.

“Altman was an official of the Health Inspector, and it was his duty to report on the petition. Ui Matiao then and there offered said note as a bribe to said Altman on condition and for the purpose of securing a favorable indorsement and report from said Dr. Altman contrary to the law in such cases provided.”

The defendant interposed a demurrer to the complaint, one paragraph of which is that the facts charged in the complaint constitute no offense.

Under the provisions of article 387 of the Code above cited, those who corrupt officials with gifts, presents, offers, or promises are punishable with the same penalties as those imposed upon the officer suborned, excepting that of disqualification, In order that a public official may be convicted of bribery he must have accepted a bribe for his committing in the discharge of the duties of his office an act constituting a crime. It therefore becomes

necessary to consider whether the official if he had accepted the bribe in the discharge of his office in the particular case, would have committed an act constituting a crime as defined in article 354 of the Penal Code.

Suppose that the officer in consideration of the note had decided to make a favorable report on the application and had made such a report. This would not of itself have constituted the offense defined in article 354. It must have been *an unjust decision knowingly rendered*. The information contains no allegation embodying this requisite.

For the same reason the charge is defective under article 382. Perhaps the information might be held sufficient under article 386, which is against the public official who shall accept presents in consideration of his official position. But the punishment for this offense is suspension in its minimum and medium degree, and public censure; and as the same penalty applies to persons offering or giving the bribe as those imposed on the officer suborned it is evident that the punishment can not be the same and is therefore not applicable to the case.

Other interesting questions have been raised not necessary to consider.

On account of the insufficiency of the information in the particulars indicated the judgment of the Court of First Instance is reversed and the case remanded, with costs of the appeal *de oficio*.

Arellano, C. J., Torres, and Ladd, JJ., concur.

Willard, J., concurring:

I agree with the result.

Smith and Mapa, JJ., did not sit in the case.