

6 Phil. 740

[G.R. No. 3106. November 22, 1906]

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. JOSE PAUA, DEFENDANT
AND APPELLANT.**

D E C I S I O N

TORRES, J.:

On the 23d of October, 1905, the defendant, Jose Paua, was charged by a member of the customs secret service with the crime of bribery, committed as follows:

That on and between the 19th and the 21st days of October, 1905, the defendant, willfully, illegally, and feloniously, went to the house of Frank C. Lane, inspector of hulls and boilers of the custom-house of Manila, Philippine Islands, whose official duty was, after due inspection of the hull of any coastwise vessel, to certify, in conjunction with the inspector of boilers, as to the seaworthiness and good condition of such vessel and appliances, without which requisites he could not put his name to said certificate, and promised the said Frank C. Lane that if he would wrongfully be a party to the issuance of a new certificate of inspection for the steamer *Iruffa*, registered in the custom-house of the city of Manila in the name of Monico Lizarraga, which steamer did not then fulfill the requirements of the inspector of hulls in that the tie-plates of said steamer were in bad condition, due to rust and decay, being broken in places, in addition to many other defects, said certificate of inspection to be wrongfully issued to be operative for the period of one year from the date of the issuance thereof notwithstanding the bad condition of the vessel which did not fulfill the official requirements of the inspector of hulls he, the accused, would, in consideration of the consent of said Frank C. Lane to the issuance of a new certificate of inspection for the S. S. *Iruña* as aforesaid, give him the sum of P500, and that the accused then and there delivered to the said Frank C. Lane, as a guaranty that he would keep the promise aforesaid, the sum of P200, Philippine currency.

The case having proceeded to trial upon the said complaint, the court after hearing the

evidence adduced rendered judgment on the 23d of December, 1905, sentencing the defendant, Jose Paua, to one year and two months imprisonment (*presidio correccional*), with the accessories provided in article 58 of the Penal Code and to pay a fine of P300, and in case of insolvency to suffer the corresponding subsidiary imprisonment, with the costs of the proceedings, and directed that the P200 delivered by the defendant as a gift to Inspector Lane be forfeited. From this judgment the defendant appealed.

It appears from the evidence in this case that according to an examination made by Inspector Frank C. Lane, sometime in the month of October, 1905, of the steamer *Iruña*, then registered in the custom of Manila, that the same was in a doubtful seaworthy condition, because the repairs on the same, such as the renovation of the boiler, the change of some worn-out rivets on the plates, the calling of the deck, and other minor repairs which had been commenced several months before, had not been completed; that on the night of the 19th of the said month the defendant, Jose Paua, went to the house of the said inspector, stated that he represented one Lim Pangco, and that the object of his visit was to ask the said inspector to let the said steamer pass by issuing a certificate to the effect that it was in a seaworthy condition, notwithstanding the fact that the repairs required by the inspector of hulls and boilers to be made before it could be allowed to sail were not then completed; that the defendant then told Inspector Lane that he would come back on the following day with P500, as in fact he did on the night of the following day, October 20th, about 11 o'clock, at which time, after taking a seat in the room where the inspector was, and remarking that he had only brought with him P200 because he had been unable to find the cashier of the firm of Lim Pangco, and stating that he would bring the balance on the following evening, he there and then delivered to the said Lane eight 25-peso bills, making a total of P200, whereupon he was surprised by Detective Manion of the custom-house who, with others, was hidden in the next room; the inspector of hulls and boilers having notified them in the morning to come to his house for this purpose; and that the P200 in bank notes offered by the defendant as a gift were there and then seized, said notes being the same that were introduced in evidence at the trial.

The foregoing facts, duly established as they were by the testimony of credible witnesses who heard and saw everything that occurred, show beyond peradventure of doubt that the crime of attempted bribery, as defined in article 387, in connection with article 383 of the Penal Code, has been committed, it being immaterial whether it is alleged in the complaint that section 315 of Act No. 355 of the Philippine Commission was violated by the defendant, as the same recites facts and circumstances sufficient to constitute the crime of bribery as defined and punished in the aforesaid articles of the Penal Code.

There was an attempt to corrupt Inspector Frank C. Lane with a gift of P200 and a promise of WOO more, to be delivered to him on the following day, as a consideration for the issuance of a certificate by him to the effect that the steamer Irwfta was in a seaworthy condition, when, as a matter of fact, it was toot, this in violation of the rules and regulations prescribing the duties of the inspector of hulls and boilers.

The gift offered was not accepted and, the corruption of the official was not consummated. Inspector Lane called upon members of the police to witness the attempted bribery, and the guilty party was caught while attempting to commit the crime by direct overt acts, by delivering to the said inspector the P200 in question. The crime of bribery was not consummated by the defendant, not because he voluntarily desisted from such attempt but because Lane refused to accept the gift even before it was actually given to him, and further because the defendant was caught in the act of attempting to pay the said P200 to Lane.

The defendant, Paua, pleaded not guilty, but the evidence introduced at the trial shows that he is guilty of the crime of attempted bribery by his exclusive and direct participation therein, and he was accordingly convicted. There is nothing in the record to overcome this evidence and to establish the innocence of the defendant. No aggravating or extenuating circumstances having attended the commission of the crime, article 83 of the Penal Code should be taken into consideration, and under article 66 of the same code a correctional fine is the adequate penalty to be imposed. As to the imposition of a fine equal to three times the value of the gift of P200 offered by the defendant, in view of the provisions of paragraph 2 of article 94 of the Penal Code, it should be reduced one-fourth of the maximum amount for each of the two degrees of the penalty prescribed by law—that is to say, to P300— which is two degrees lower than that provided in article 383 of the Penal Code for the consummated crime.

We are therefore of the opinion that the judgment of the court should be reversed and the defendant Jose Paua, sentenced to pay a fine of 6,000 pesetas, and in case of insolvency to suffer subsidiary imprisonment which shall not exceed one month, and to pay an additional fine of 300 pesos which is three times the amount of the gift offered, and in default thereof to suffer the corresponding subsidiary imprisonment which shall not exceed one month, with the costs of both instances. The 200 pesos offered as a gift are hereby confiscated under the provisions of article 389 of the Penal Code. After the expiration of ten days from the date of final judgment the case will be remanded to the court below for execution. So ordered.

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

Date created: May 05, 2014