

**THE PEOPLE OP THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
CHU CHI, DEFENDANT AND APPELLANT.***G. R. No. L-5876. April 27, 1953*

Ponente: LABRADOR, J.

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This is an appeal from a judgment of the Court of First Instance of Manila finding Chu Chi guilty of violation of Executive Order No. 331, in relation to Republic Act No. 509, and sentencing him to pay a fine of P5,000 or suffer the corresponding subsidiary imprisonment in case of insolvency, ordering the cancellation of his license and barring him from engaging business in the country for a period of five years, and, as he is a Chinese alien, recommending his immediate deportation from the Philippines. The case was appealed to the Court of Appeals, but that court, upon finding that appellant questions the constitutionality of the law under which he was convicted, has certified the appeal to this Court, in accordance with the provisions of existing law.

The evidence for the prosecution shows that at about 11:30 in the morning of July 18 Felipe Umlas entered the store of the defendant-appellant Chu Chi at 305 Azcarzaga, Tondo, to buy a fresh duck s egg. He bought one from the defendant-appellant for P0.20, having given the latter the sum of PI and receiving as change the sum of P0.80. As he went out of the store, a patrolman by the name of Josue del Rosario, then assigned to the price control unit of the Manila Police Department, saw him and asked him how much he had paid for the egg. Umlas replied that he paid P0.20 for it. Del Rosario went into the store with Umlas, who pointed to the defendant-appellant as the one who had sold him the egg. Appellant was at that time inside the counter. Thereupon defendant-appellant was asked how much he had sold the egg for, and he replied that he had sold it for P0.20. So the policeman told him that he had violated Executive Order No. 331, showing him the price list; wherein it appeared that the price of the egg was only P0.15. Defendant-appellant said by way of excuse that he did not know the current ceiling price of the egg. Both Umlas and the defendant-appellant were taken to the police station, and there were required to sign a statement, introduced at the trial as Exhibit A. This statement is to the effect that at 11:50 a.m., Umlas bought one fresh duck's egg for P0.20 from defendant-appellant Chu Chi, at 395 Azcarraga, Tondo. This statement is signed both by the appellant and Felipe Umlas.

At the time of the trial, however, the defendant-appellant denied that it was he who had sold the egg, pretending it was one of his salesgirls by the name of Nieves Boado; that at the time of the sale he was inside the kitchen of his store where the policeman saw him. The trial court, however, refused to give any credit to this denial and found him guilty as stated above and sentenced him accordingly.

It is first contended on this appeal that the trial court erred in not giving weight and credit to the testimony of the defendant-appellant. The claim is without merit. Defendant's testimony is not corroborated at all. On the other hand, the theory of the prosecution that it was the defendant-appellant who sold the egg to Umlas for P0.20 is borne out not only by the testimony of Felipe Umlas, the person to whom the sale was made, but also by the fact that immediately thereafter Umlas pointed to the defendant-appellant as the one who had sold him the egg, and the latter admitted to the policeman the fact of the sale, explaining that he did not know the ceiling price for which

duck's eggs were to be sold under the law. All the above circumstances are further corroborated by the fact that appellant was taken to the police station, evidently without protest on his part, and that there he signed the statement, Exhibit A, to the effect that the egg was purchased from him for P0.20.

Another claim of the defendant-appellant is that Republic Act No. 509 is unconstitutional, because it imposes an excessive fine, that of not less than P2,000 nor more than P10,000.00, upon any person who sells an article in excess of the ceiling price fixed by the President of the Philippines. In a very recent case decided by this Court, *People vs. De la Cruz*,[*] G. R. No. L-5790, promulgated April 17, 1953, we held, through Mr. Justice Bengzon, that the law is not necessarily unconstitutional, and the issue raised in said case as to the excessiveness of the penalty imposed by the trial court avoided by the reduction thereof. The penalty as reduced (from five years to six months imprisonment) was deemed commensurate with the gravity of the offense committed. We hereby adopt this same course and reduce the penalty of P5,000, fine imposed by the trial court to a fine of P2,000, with subsidiary imprisonment in case of insolvency, and affirm the decision appealed from in all other respects, with costs.

Paras, C. J., Feria, Pablo, Bengzon, Tuason, Montemayor, Reyes, Jugo and Bautista Angelo, JJ., concur.

[*] *Supra*, p. 906.

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