

PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT VS. LUCIO RADA, ET AL., DEFENDANTS AND APPELLEES.

G.R. No. L-16988. December 30, 1961

Ponente: BARRERA, J.

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BARRERA, J.:

On March 12, 1958, defendants Lucio Rada, Pedro Bahenting, and Paquito Cañas, were charged (Crim. Case No. 5038) in the Court of First Instance of Davao, with the crime of robbery in an uninhabited house (defined and penalized under Article 302 of the Revised Penal Code), under the following information:

"That on or about July 17, 1957, in the City of Davao, Philippines, and within the jurisdiction of this Court, the above-mentioned accused, conspiring and confederating together and helping one another, did then and there with intent of gain, wilfully, unlawfully, and feloniously, enter the bodega owned by Isidro S. Bastida, situated at Dumoy, This City, by forcibly removing the wooden sidings thereof, for the purpose of making an opening with enough space where a person can pass through, which opening is not intended for entrance or egress and, once inside, wilfully, unlawfully, and feloniously took, stole, and carried away nine (9) sacks of palay valued at P108.00, belonging to the said Isidro S. Bastida, to his damage and prejudice in the aforesaid sum.

"That the commission of the foregoing offense was attended by the aggravating circumstance of nighttime, the accused having purposely sought it to facilitate the commission of the crime.

"Contrary to law."

On arraignment, defendants pleaded not guilty. On August 4, 1958, they filed a motion to quash the information, on the ground that, admitting the commission of the robbery, the crime committed falls under Article 303 of the Revised Penal Code, an offense which is within the original jurisdiction of the Justice of the Peace Court. To this motion, the prosecution filed an opposition on September 11, 1958, to which, defendants filed a rejoinder on September 13.

On September 15, 1958, the court issued an order granting defendants' motion to quash, to wit:

"ORDER

"The accused are charged with (for) the crime of Robbery in an Uninhabited House under Article 302 of the Revised Penal Code, for stealing nine (9) sacks of palay, valued at P108.00, in a bodega owned by Isidro S. Bastida. Counsel for the accused filed a motion to quash, on the ground that the offense alleged in the body of the information, does not fall under Article 302 of the Revised Penal Code, but under Article 303 and the punishment for the offense under Article 303 of Revised Penal Code, if the amount of the property stolen does not exceed P250.00 as in this case, is *arresto mayor* in its minimum and medium period. The offense, therefore is within the original jurisdiction of the Municipal and Justice of the Peace Court.

"The question, raised involves the interpretation of the word 'cereal' as used in Article 303 of the Revised Penal Code. If palay is considered as cereal, then the motion to quash is well-founded and should be granted. There is

no doubt but that palay is cereal. In the Spanish version of the Revised Penal Code, the Spanish words 'semilla alimenticia' is used, which was translated into the English version of the Code as cereal. The word 'semilla' is translated into English as seedling. In *People vs. Mesias*, 65 Phil. 267, the Supreme Court, in interpreting the word 'semilla' (seedling), says that 'it is a part of the fruit of the plant which produces it when it germinates under proper conditions.' It is believed that palay or unhulled rice falls within the meaning of the word 'semilla' as defined above, Palay is seedling. It will germinate under proper conditions.

"IN THE LIGHT OF THE FOREGOING, CONSIDERATIONS, the Court is of the opinion that the motion to quash is well-taken and should be granted.

"WHEREFORE, this case is hereby ordered dismissed, with costs de oficio. The release from custody of the accused Pedro Bahenting and Paquito Cañas, is hereby ordered, and the cancellation of the bail for the accused Lucio Rada, is likewise ordered.

"SO ORDERED*" (Italics supplied.)

From this order, the prosecution (through the Solicitor General) appealed to us.

The only issue to be resolved in this appeal is, whether the palay, subject matter of the robbery in question, is comprehended by the term "cereals" used in Article 303 of the Revised Penal Code, Which states:

"ART. 303. Robbery of cereals, fruits, or firewood in an uninhabited place or private building. - In the cases enumerated in article 299 and 302, when the robbery consists in the taking of cereals, fruits, or firewood, the culprit shall suffer the penalty next lower in degree than that prescribed in said articles." (Italics supplied.)

In the case of *People vs. Mesias* (65 Phil. 267) involving a similar question, we stated the following;

"The information alleges that the thing stolen consisted of seven sacks of rice; and the accused contends that from the definitions given in the Funk and Wagnall's dictionary and in that of Webster: 'The term rice does not only mean hulled rice but also includes palay, as the seed is locally known, as well as the plant itself. If the word rice includes the grain in its original state without the hull being taken away, then the conclusion is inevitable that "rice" is included under the term "semilla alimenticia" or cereal seeds as the appellant puts it. * * * It may be that the thing stolen was really hulled rice (arroz) but there is nothing in the complaint which shows that fact. The complaint merely alleges that the object stolen was seven sacks of rice. It may be hulled rice (arroz) or it may be rice seeds (palay). Under the circumstances, it is submitted that the doubt should always be resolved in favor of the accused.

"The whole question arises from the translation of the words 'semilla alimenticia' used in Article 303 of the Revised Penal Code in Spanish into the English word 'cereal'. The translation is evidently incorrect because 'cereal' simply means grains either of palay, wheat or corn, etc., while the words 'semilla alimenticia' have a broader meaning inasmuch as 'semilla' (seedling) 'is a part of the fruit of the plant which produces it when it germinates under proper conditions.' (Dictionary of the Spanish Language, 16th edition of 1936.) And according to Groizard, the commentator on the Penal Code (volume 6, page 222), 'seedling is the immediate and natural product of the soil'. Hulled rice (arroz) is, therefore, not seedling. Flour which is obtained from wheat through the employment of labor, is likewise not seedling (semilla alimenticia) according to the decision of the Supreme Court of Spain of July 5, 1881, published in the Gazette of September 15 (Vide, 3 Viada, Penal Code, 4th edition, page 400).

"In cases of doubt in the interpretation of the Revised Penal Code, the Spanish text should prevail (*People vs. Samonte*, G.R. No. 36559, July 26, 1932).

"In conclusion, inasmuch as hulled rice (arroz) cannot be considered as seedling (semilla alimenticia), the offense with which the appellee is charged in the information does not fall under article 303 of the Revised Penal Code but under the second to the last paragraph of article 302 where the offense therein defined is

penalized with arresto mayor in its maximum degree; and offense which falls under the jurisdiction of the Court of First Instance."

From the foregoing, it would seem clear that palay (the local name for unhulled rice) is "cereal" and is included in the term "semilla alimenticia" used in the Spanish text of the Revised Penal Code, as it is grain in its original state, and, under proper conditions, can the plant that produces it.

The Solicitor General, however, contends that palay grain while, undoubtedly, a seed, is not necessarily a seedling, and the difference depends upon the purposes intended for it, whether agricultural or commercial or otherwise. But such a distinction is neither expressed nor apparent in the language of the law and, if made, will lead to unnecessary, if not, unfruitful inquiry into the intention, not only of the one taking it (the palay), but likewise of the owner thereof.

In view of the foregoing, we are of the opinion and so hold that the trial judge correctly granted defendants' motion to quash the information, considering that the offense charged properly comes under Article 303 of the Revised Penal Code and, therefore, within the original jurisdiction of the Justice of the Peace or Municipal Court, pursuant to the Judiciary Act, as amended.

Wherefore, the order appealed from is hereby affirmed, without pronouncement as to costs. So ordered.

Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Paredes, Dizon and De Leon, JJ., concur.

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