

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. CHENG CHUA, DEFENDANT AND APPELLANT.

G. R. No. 10481. August 14, 1915

Ponente: CARSON, J.

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CARSON, J.:

This is an appeal interposed by the accused, Cheng Chua, from a judgment of the Court of First Instance of Manila finding him guilty of a violation of section 181 of Act No. 2339 of the Philippine Legislature, and sentencing him to pay a fine of P100 and the costs of the trial.

The information charges the commission of the offense as follows:

"That on or about the 15th day of September, 1914, in the city of Manila, Philippine Islands, the said Cheng Chua, being then and there clerk and owner of a store, willfully, unlawfully, and feloniously and fraudulently gave short measure in the making of a sale of rice, in that having been then and there requested by one Ambrosio Tangangco to sell to him a ganta of rice, the said defendant in measuring the rice with a ganta measure, used a scraper, one side of which was convex, which convex side he passed over the edge of the ganta measure so as to scrape therefrom more rice than was right, thereby causing a shortage in the rice so measured of about one-quarter of an inch from the surface of the rice to the edge of the measure. Contrary to law."

From the evidence it appears that the accused was the owner of a tienda (store) at the corner of Calles Oroquieta and-Malabon, Manila, and that between 3 and 4 o'clock of the afternoon of September 15, 1914, one Ambrosio Tangangco entered the store and made a purchase of a ganta of rice, paying therefore 28 centavos. Immediately after he had made the purchase two internal-revenue officers, Santos and Collantes, entered the store. After making some inquiries from Tangangco as to the purchase and the amount he had paid, they demanded to know of the accused whether the amount of rice sold was a full ganta. Some discussion followed between the officers and the accused and the rice was emptied into the ganta measure which had been used in making the sale. Tangangco and the two officers testified that the rice did not fill the measure at the edges by nearly a half of an inch.

A piece of wood was found in the store which it is claimed was used as a scraper (nivelador o rasante) to level the rice in the measure when making a sale. The court observed that the scraper had a convex edge on one side so that when passed over the measure full of rice, the surface was left concave rather than level with the top. It is charged that the accused defrauded Tangangco by using this convex scraper and thereby improperly reducing the amount of rice in the measure used in making the sale. The customer, Tangangco, stated that the rice was measured behind or below the counter in such a way that he did not see it measured, and that he did not see the accused use the convex scraper. The evidence on this point is not satisfactory, but there is some evidence in the record tending to show that the accused admitted the use of this scraper to the internal-revenue agents at the time. But, however this may be, there can be no reasonable doubt, if the evidence of the internal-revenue officers be accepted as true, that the amount of rice sold by the accused as a ganta of rice was distinctly less than a full ganta; and that it fell distinctly short of a full ganta when measured honestly by the measure actually used by the accused in making the

sale.

No sufficient reason appears for doubting the truth and veracity of the testimony of these officers. Evidence was introduced at the trial to show that they had thrown away some of the rice after it was seized for use as an exhibit at the trial; and it is suggested that the alleged shortage discovered by them at the time of the seizure may be accounted for by the fact that the measure used by the accused had been in use for over six months and that "rice dust had accumulated on the sides, bottom, and in the corners;" it is claimed also that the shortage may be accounted for by the alleged action of the agents in shaking the rice down in the measure when making the test at the time of its seizure.

We find nothing in the record which would justify us in believing that the internal-revenue officers threw away any part of the rice; and although the shortage in the rice sold was not very great, we agree with the trial judge that the ingenious explanations offered by the accused fall far short of accounting for this shortage. Under all the circumstances of the case we are satisfied that the trial judge was justified in finding the accused guilty of fraudulently giving short measure in making the sale mentioned in the complaint.

Much stress is laid upon the fact that the shortage in the amount of the rice sold was in fact very slight; but however slight the shortage may have been, if it was the result of fraud the accused was guilty of the offense charged. The suppression of the commission of such petty frauds upon the poor and needy purchaser of the necessities of life is not less vital to the public welfare than the punishment and elimination of larger frauds upon purchasers in larger quantities, who, indeed, are better able to protect themselves against the use of short weights or measures, than are the buyers of a few cents' worth of goods in the small retail stores or tiendas of the country.

The judgment entered in the court below should be affirmed, with the costs of this instance against the appellant.

So ordered.

Arellano, C. J., Torres, Johnson, Trent, and Araullo, JJ., concur.

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