

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS, CEFERINO CAUAS, DEFENDANT AND APPELLANT.*G.R. No. 4217. February 12, 1908*

Ponente: TORRES, J.

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On one of the first ten days of January, 1907, Ceferino Cauas, an employee of the Bureau of Internal Revenue, acting as collector for the Divisoria Market, in the city of Manila, and in charge of the allotting of stalls in the market to persons applying for them, asked the Chinaman Go Tiaco, who occupied stalls numbered 990, 991, 992, and 993, hiring them for the day only, whether he would like to have them permanently allotted to him, and upon the replying in the affirmative, Cauas stated that as a matter of fact it was better that he should take them permanently, At about 5 p. m. on another day the accused called at the other store which the Chinaman kept outside of the market and asked for a loan of P100, under the promise of reserving to him permanently the four stalls. The Chinaman being short of money at the time was only able to give him P50, of which P45 were his own and the other P5 he borrowed from Agustina Roxas; the accused then warned him that if he did not complete the payment of the P100 which he needed on the following Monday, the Chinaman would lose the four stalls above referred to; and this actually happened, for when the Chinaman went to the market on the morning of the said Monday he found that the four stalls were already occupied by other persons, and, upon complaining about it, the accused answered that because he had refused to pay the P100, his stalls were allotted to others. It should be noted that the daily rent for each stall was P15 centavos, or P1.05 a week, under the regulations or municipal ordinances.

The corresponding complaint was presented by the prosecuting attorney charging Ceferino Cauas with having willfully collected an unlawful reward in violation of the Internal Revenue Law. Proceedings were instituted and the judge entered judgment on the 4th of June, 1907, sentencing the accused to the penalty of six months' imprisonment with hard labor, and to pay a fine of 400 and costs. From this judgment the attorney of the accused has appealed.

From the facts above stated, which have been fully proven in this case, it appears that a crime has been committed in violation of the provisions of section 24 of the Internal Revenue Law, Act No. 1189 of the Philippine Commission, which, as applied to the present case, is of the following tenor;

"Every officer, employee, or agent appointed and acting under the authority of this act.—

"First. Who is guilty of any extortion or willful oppression under color of law; or

"Second. Who knowingly demands other or greater sums than are authorized by law, or receives any fees, compensation, or reward except as by law prescribed for the performance of any duty; or

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"Tenth. Who demands or accepts, or attempts to collect, directly or indirectly, as payment, gift, or otherwise,

any sum of money or other thing of value for the compromise, adjustment, or settlement of any charge or complaint for any violation or alleged violation of law, except as expressly authorized by law, shall be fined in a sum not less than four hundred pesos nor more than ten thousand pesos, or be imprisoned for a term not less than six months nor more than five years, or be punished by both fine and imprisonment, in the discretion of the court. One half of any fine so imposed shall be for the use of the Insular Government and the other half for the use of the informer, who shall be ascertained and stated in the judgment of the court.

"Provincial treasurers and their deputies and employees shall be deemed to be officers or agents acting under the authority of this act."

There is no doubt that the accused, Ceferino Cauas, as an employee in the service of the Bureau of Internal Revenue, under Act No. 1407 of the Philippine Commission, drew his salary under the regular pay roll of the same, and was in charge of the allotment of stalls at the Divisoria Market to those who applied for them; that notwithstanding his denial and exculpatory allegations it is a proven fact that he obtained the sum of P50 from the Chinaman Go Tiaco, who was anxious to secure stalls for the sale of his goods in said market, a demand which the law does not authorize; that because the Chinaman failed to give him the other P50 asked for, under promise to allot to him the four stalls, the accused, Cauas, assigned them to other persons, and the Chinaman Go Tiaco, who occupied temporarily the stalls, was unjustly deprived of them simply because he failed to comply with an unlawful demand and extortion under the guise of a loan. The Chinaman testified that he never considered the amount asked for by the accused as a loan but as a gift that could not be recovered.

The declarations of the witnesses offered by the defense have not served to counteract or weaken the probatory merits of the testimony of witnesses Go Tiaco, Agustina Roxas, and Go-Changco. The first-named stated that the P50 were delivered to the accused in his store, after 5 p. m., in the presence of the second-named person, who positively asserts the truth thereof. The last-named witness also testifies to having seen the offended party count money at his counter on that afternoon, in the presence of the accused and of Agustina Roxas. It may be true that on said afternoon the accused took the street car in company with his wife and witness Esteban Baquiran, and returned to his house in Santa Ana, but this does not exclude the fact that he first called at the store to receive

The circumstance that the accused was not actually a collector for the Divisoria Market does not relieve him from liability for the extortion of the P50 which, although qualified as estafa under the Penal Code, according to article 535, No. 1, in connection with article 309 thereof, yet under the aforesaid section of the Internal Revenue Law the act constitutes a marked violation of its provisions, and the accused, as the convicted author of the offense, has incurred the punishment provided by the later law.

Therefore, and in view of the fact that the judgment appealed from is in accordance with the law, it is our opinion that the same should be affirmed with the costs against the appellant, provided, however, that in the penalty the provision for hard labor shall be suppressed. So ordered.

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

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