

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. ARSENIO MESIAS Y REGALA (ALIAS ARSENIO OSIAS), DEFENDANT AND APPELLEE.***G.R. No. 45749, January 29, 1938*

Ponente: CONCEPCION, J.

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The question raised on this appeal has to do with the correct translation in English of the words "semilla alimenticia" in speaking of the crime of robbery, defined and penalized in article 303 of the Revised Penal Code, corresponding to article 511 of the old Penal Code. The accused in this case, according to the allegations of the information, entered into a warehouse by breaking the padlock of the door, and took away seven sacks of rice valued at P42. Before arraignment, he filed a motion to dismiss the information, on the allegation that the seven sacks of rice were cereal within the meaning of this word as it is used in the English text of the Revised Penal Code; therefore, the penalty imposable in this case is that provided in the second to the last paragraph of article 302 in connection with article 303 of the Revised Penal Code; that is, *arresto mayor* in its minimum and medium degree, wherefore, the crime falls within the exclusive jurisdiction of the municipal court. Over the objection of the city fiscal, who contended that the phrase "hulled rice" was not within the meaning of "semilla alimenticia" as used in the Spanish text of the aforesaid article 303 of the Revised Penal Code, the court sustained the motion with instructions to the fiscal to file the information in the municipal court. From this order the fiscal appealed to this court.

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 product of the soil." Hulled rice (*arroz*) is not the immediate and natural product of the soil, but the product obtained from unhulled rice (*palay*) through the employment of labor. 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 to *prision correccional* in its minimum degree; an offense which falls under the jurisdiction of the Court of First Instance.

The appealed order is reversed, and it is ordered that this case be remanded to the court of origin so that it may proceed with the trial thereof on the merits, without costs. So ordered.

Avanceña, C. J., Villa-Real, Abad Santos, Imperial, Diaz, and Laurel, JJ., concur.

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