

THE UNITED STATES, PLAINTIFF AND APPELLANT, VS. TOMAS MOLINA, DEFENDANT AND APPELLEE.

G.R. No. 5455. January 31, 1910

Ponente: MORELAND, J.

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MORELAND, J.:

The defendant was accused of a violation of section 4 of Act No. 610 of the Philippine Commission in that he on or about the 24th day of June, 1907, in the municipality of Solana, Province of Cagayan, not being a soldier of the Army of the United States and not being by law authorized to use or possess a firearm, was found in possession of revolver No. 160528, without a license to carry the same as provided by law.

The accused presented a demurrer to the information, alleging therein that Act No. 610, under which he was accused, had been repealed by Act No. 1780 of the Philippine Commission, which went into effect on the 1st day of December, 1907, while this present cause was pending. The defendant claims further that Act No. 1780 contains no exception with reference to actions pending at the time of its publication and concludes that there is no law in force under which he can be punished for the crime alleged in the complaint.

The court below sustained the demurrer and dismissed the complaint. From the order sustaining the demurrer and dismissing the complaint, the Attorney-General appealed to this court.

The case of the United States vs. Cuna (12 Phil. Rep., 241) is decisive of the question raised in this case. In that case the court held, in substance, that where an Act of the Commission or of the Philippine Legislature which penalizes an offense repeals a former Act which penalized the same offense, such repeal does not have the effect of thereafter depriving the courts of jurisdiction to try, convict, and sentence offenders charged with violations of the old law prior to its repeal.

The judgment of the court below is, therefore, reversed, the demurrer overruled, and the cause remanded for further proceedings. So ordered.

Arellano, C. J., Torres, Mapa, Johnson, Carson, and Elliott, JJ., concur.

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