

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. SY-SUIKAO, DEFENDANT AND APPELLANT.

G.R. No. 6064. March 02, 1911

Ponente: CARSON, J.

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CARSON, J.:

The evidence of record in this case fully sustains the findings of fact by the trial court. There can be no reasonable doubt that the defendant offered an officer of the Bureau of Internal Revenue the sum of P5 a barrel for each and every barrel of spirits which that officer would permit defendant to withdraw from the warehouse, in which it was stored, without exacting the taxes which under the law the defendant would otherwise be required to pay; that the officer, while pretending to accept the offer, and to enter into the proposed agreement, did not in fact do so, and on the contrary, reported the matter to his superiors, and procured the arrest of the defendant just after five barrels of spirits had been removed from the warehouse, under his simulated agreement to accept the bribe offered him; and that while the spirits were removed from the warehouse, they never in fact passed beyond the control of the internal-revenue officers.

Upon these facts the trial court found the defendant guilty of bribery (cohecho); but under the rulings laid down by this court in many analogous cases, proof of these facts establishes the guilt of the defendant not of the consummated crime of bribery (cohecho), as held by the trial judge, but of an attempt to commit that crime. (U. S. vs. Gloria, 4 Phil. Rep., 341; U. S. vs. Paua, 6 Phil. Rep., 740; U. S. vs. Camacan, 7 Phil. Rep., 329; U. S. vs. Tan Gee, 7 Phil. Rep., 738; see also Comentario, art. 402, Groizard, Penal Code of 1870, p. 257.)

The judgment of conviction and the sentence imposed by the lower court should be and are therefore hereby reversed, and this court should and does find the defendant guilty of an attempt to commit the crime of bribery (cohecho) set out in the information; and he should be and is hereby sentenced to pay a fine of "P300, or in case of insolvency and failure to pay the fine thus imposed, to subsidiary imprisonment as provided by law, and to pay the costs in the first instance, the costs of this appeal to be de oficio. So ordered.

Arellano, C. J., Mapa, Moreland, and Trent, JJ., concur.

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