

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. POH CHI, DEFENDANT AND APPELLANT.

G.R. No. 6637. September 01, 1911

Ponente: JOHNSON, J.

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JOHNSON, J.:

This defendant is the same person who was the defendant in the case of U. S. vs. Poh Chi. (See case No. 6636.[1]) In that case (No. 6636) the defendant was charged with the illegal possession of opium in violation of the provisions of section 31, of Act No. 1761, as amended by section 3 of Act No. 1910.

In this case (No. 6637) the defendant is charged with the violation of section 7 of Act No. 1761. The complaint in each case (Nos. 6636 and 6637) was filed in the lower court on the same day. The evidence adduced in both of these cases in the lower court was practically the same. The evidence shows that one Merrill, a lieutenant of Constabulary, went to the house of the defendant, and after making a search found under the floor a small amount of opium and a pipe used in smoking opium. The opium and the pipe were found together under the floor; they were found in the same place, at the same time, and by the same person. As was said above the defendant was charged and convicted in case No. 6636 with the illegal possession of opium. In this case, No. 6637, he is charged with the illegal possession of a pipe which is used in smoking opium. The lower court, after hearing the evidence in this case, found the defendant guilty and sentenced him to pay a fine of P400, and in case of insolvency to suffer subsidiary imprisonment and to pay the costs. From that sentence the defendant appealed to this court.

The question presented here is, "Is the defendant guilty of two distinct crimes under the facts as above stated?"

This court, in the case of U. S. vs. Canuto Gustilo (19 Phil, Rep., 208), speaking through Mr. Justice Moreland, said:

"We are confident that that portion of the Philippine Bill embodying the principle that no person shall be twice put in jeopardy of punishment for the same offense should, in accordance with its letter and spirit, be made to cover as nearly as possible every result which flows from a single criminal act impelled by a single criminal intent. The fact should not be lost sight of that it is the injury to the public which the criminal action seeks to redress, and by such redress to prevent its repetition, and not the injury to individuals. In so far as a single criminal act, impelled by a single criminal intent, in other words, one violation, is divided into separate crimes and punished accordingly, just so far is the spirit of the Philippine Bill and the provisions of article 89 of the Penal Code violated.

"In our judgment the possession of two firearms under the conceded facts of this case constitutes but one criminal act, one violation. Having been punished once for that act, he can not, under the provisions of the Philippine Bill and article 89 of the Penal Code, be punished again for the same act."

The conclusion in the said Gustilo case is supported by many authorities, therein cited.

It is true that the Commission has provided a certain punishment for the possession of a pipe used in the smoking of opium, for the smoking of opium, as well as a punishment for the illegal possession of opium, but it is not

believed that it was the intention of the legislature to have separate complaints filed against a person who was found in the illegal possession of opium and a pipe at the same time. If that were true then every person who was found to be smoking opium could be charged in three different complaints: First, with the illegal possession of the pipe; second, the illegal possession of the opium; and third, for smoking the opium. Certainly the legislature did not intend any such consequences.

For the reason stated in the said Gustilo case, the judgment of the lower court is hereby reversed, the defendant is discharged from the custody of the law and the complaint is hereby ordered to be dismissed.

Torres, Mapa, Carson, and Moreland, JJ., concur.

[1] September 1, 1911; not published.

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