

3 Phil. 633

[G.R. No. 1586. April 09, 1904]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. FELIPE NAVARRO,
DEFENDANT AND APPELLANT.**

D E C I S I O N

COOPER, J.:

The defendant, Felipe Navarro, is charged with the offense of bribery committed in the following manner, to wit:

That, being a duly appointed, qualified, and acting sanitary inspector for the Board of Health of the City of Manila, he did solicit, accept, and receive a present from Tiong Siaco and San Kaco, to wit, the sum of 3.50 pesos, local currency, to the end that the said defendant should abstain from performing an act which he should perform in the exercise of the duties of his office, to wit, the reporting to his superior officers that the said Tiong Siaco and San Kaco had violated the health ordinances and regulations of the city of Manila.

The defendant was found guilty by the Court of First Instance and sentenced to imprisonment at hard labor, in Bilibid, for the period of four months and one day and a fine of 10.50 pesos and to pay the costs of the case. From this judgment he has appealed to this court.

The prosecution is based upon the provisions contained in article 383 of the Penal Code, which reads as follows:

“When the purpose of the gift received or promised was that the public official should abstain from performing an act which he should perform in the exercise of the duties of his office,

the penalties shall be those of *arresto mayor* in its medium to its maximum degree and a fine of an amount equal to three times the value thereof.”

The proof shows that the defendant was a sanitary inspector for the Board of Health of the City of Manila, and that in pursuance of his duties as such he called at various times at the house of the Chinamen for the purpose of inspecting the sanitary condition of their premises, and on these occasions collected sums of money amounting to from 20 to 30 cents, Mexican.

San Kaco testified that the defendant went to the house of Tiong Siaco frequently and whenever he came he said that the house was dirty; that sometimes he collected 20 cents and sometimes 50 cents, in all amounting to about 4 pesos; he testified that Tiong Siaco paid the money because he was afraid of being fined for not keeping the house clean; that every time the defendant came to the house of Tiong Siaco he told him to clean the house and if he did not do so that he would be arrested, but the witness stated that Tiong Siaco had never been arrested.

The defendant testified in his own behalf and stated that he had inspected the houses in his district once a day and recollects of having inspected the house of the Chinamen at No. 15 Calle Mestizos. He stated that the house of these Chinamen was always found in a dirty and unsanitary condition and that he reported the case to the sanitary department.

If he had made such a report he should have corroborated his testimony by having the report produced and offered in evidence. This he failed to do.

Although he was on the stand testifying in his own behalf, he also failed to deny the testimony given by the Chinamen that he had received money from them on the occasion of his visits to their house.

No explanation was made by him as to why he had made these collections, nor was there any denial on his part that such collections

were made.

We think the proof is sufficient to sustain the conviction, and the judgment of the lower court will be affirmed with costs and with a modification of the sentence in so far as he is sentenced to imprisonment at hard labor. The law defining and punishing this offense does not provide for hard labor as a part of the punishment.

Arellano, C. J., Torres, Mapa, McDonough, and Johnson, JJ., concur.

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