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[G.R. No. 1127. April 28, 1903]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. BIAN JENG,
DEFENDANT AND APPELLANT.**

D E C I S I O N

LADD, J.:

Bian Jeng was convicted of *cohecho* in the municipal court for the north district of Manila. He appealed to the Court of First Instance, and was again convicted. He then appealed to this court. The Government now moves that the appeal be dismissed, on the ground that no appeal lies from a judgment of the Court of First Instance of Manila rendered in an appeal from a municipal court, except in cases involving the validity or constitutionality of a statute, and that the present is not one of the excepted cases.

An examination of the record shows that no question is raised in this case as to the constitutionality or validity of any statute. It is not claimed that the article of the Code under which the conviction was had is invalid or unconstitutional, but only that the evidence fails to show the commission of the offense punished by that article.

The appellate jurisdiction conferred upon this court by Act No. 136 of the Commission is identical, as respects criminal cases, with that possessed under General Orders, No. 58, by the preexisting Supreme Court. General Orders, No. 58, section 43, provides generally that "from all final judgments of the Courts of First Instance, or courts of similar jurisdiction, and in all cases in which the law now provides for appeals from said courts, an appeal may be taken to the Supreme Court as hereinafter prescribed." It then goes on to except from this general provision judgments rendered in appeals taken "from the final judgments of justices of the peace in criminal cases to the courts of the next superior grade," and it then excepts from this exception "cases involving the validity or constitutionality of a statute, wherein appeal may be made to the Supreme Court."

The courts of justices of the peace in the city of Manila, which by section 69 of Act No. 136 had been continued as theretofore organized, were abolished by Act No. 183 (sec. 44), and by the same Act (sec. 40) provision was made for the organization of municipal courts for the city of Manila, and they were given jurisdiction over offenses where "the maximum punishment is by imprisonment for not more than six months, or a fine of not more than one hundred dollars, or both," which was the same as that previously possessed, by the courts of justices of the peace. (G. O., 58, s. 108; Act No. 136, sec. 56, par. 6.)

There is some force in the argument that, as the courts of justices of the peace of Manila have been abolished, and as the municipal courts were not expressly substituted in their place, and as the subject of appeals from municipal courts was expressly regulated in the Act creating those courts (Act No. 183, sec. 42), all that part of General Orders, No. 58, section 43, which relates to appeals from justices of the peace to Courts of First Instance must be regarded as having been repealed so far as respects the city of Manila, leaving the general provision of that section giving the right of appeal "from all final judgments of the Courts of First Instance," in force, and without limitations or exceptions.

We are, however, on the whole, of opinion, having regard to the fact that the jurisdiction conferred upon the municipal courts of Manila was the same as that of the justice courts in criminal cases, that the intention of the Commission was to preserve the limitation upon the right of appeal in cases originating in the municipal courts which had previously existed as respects the same class of cases originating in the justice courts. This limitation would continue to exist with reference to justices' courts outside of Manila, and it is not probable that it was the legislative intention to establish a difference in this respect between cases appealed from the inferior criminal tribunals of that city and those appealed from tribunals of the same grade in other parts of the Archipelago.

The appeal is dismissed, with costs.

Arellano, C. J., Torres, Cooper, Willard, and Mapa, JJ., concur.

McDonough, J., did not sit in this case.

