

1 Phil. 736

[G.R. No. 1043. February 17, 1903]

**THE UNITED STATES, COMPLAINANT AND APPELLANT, VS. JULIAN ATIENZA,
DEFENDANT AND APPELLEE.**

D E C I S I O N

LADD, J.:

This is a motion to dismiss the appeal of the United States taken from a judgment rendered August 15, 1902, by the Court of First Instance of Batangas, acquitting the appellee, of the crime of robbery.

The question presented by the motion, namely, whether the Government is entitled, under the laws now in force in the Philippine Islands, to an appeal to this court in criminal cases from a judgment of acquittal of a Court of First Instance has been already passed upon in the case of the The United States vs. Kepner in a decision rendered October 11, 1902. In an earlier decision in the same case (February 6, 1902) we had held that under the law as it stood prior to the enactment by Congress of the Philippines Bill, the Government was entitled to an appeal in the class of cases in question, and in the decision of October 11, 1902, we held that such right of appeal of the Government remained unaffected by the provisions of that act. Both these decisions were made after full argument and consideration, and we adhere to them, without deeming it necessary at this time to review the grounds upon which they were based.

One point made by counsel for the appellee upon the argument of this motion may, however, be briefly noticed, as it has perhaps not been heretofore suggested. Counsel contends, if we correctly apprehend his position, that the jurisdiction of this court, as defined in the law by which the court was created (Act No. 136. of the. Commission) is of such a nature as necessarily to exclude the idea that the court can, like its predecessor, the Spanish Audiencia, review the whole case upon appeal; that the "appellate jurisdiction" conferred upon it, by Act No. 136 is *ex vi termini* a jurisdiction to correct errors of law merely.

This contention is, we think, founded on a misconception. By section 18 of Act No. 136 it is provided that "The Supreme Court shall have appellate jurisdiction of all actions and special proceedings properly brought to it from Courts of First Instance, and from other tribunals from whose judgment the law shall specially provide an appeal to the Supreme Court." The term "appellate jurisdiction" is here used in a general sense, meaning simply a jurisdiction to review the judgment of the inferior court. Whether the jurisdiction is to reexamine the facts, or the law, or both, and With what limitations and under what conditions, is left undetermined by section 18, except as it is provided that it is to be exercised in "all actions and special proceedings properly brought to it" from the tribunals described. To ascertain what cases may be properly brought to the Supreme Court for review and what matters may be reviewed in such cases, reference must be had to other provisions of law. By section 39 of the same Act "the existing Audiencia or supreme court" was "abolished" and this court "substituted in place thereof." Being substituted in place of the¹ existing Audiencia, clearly its jurisdiction was the same as that tribunal possessed unless and until otherwise provided. Nowhere in Act No. 136 is its appellate jurisdiction defined as respects either civil or criminal cases. It was thus left exactly as it stood prior to the passage of that Act. In civil cases it remained that of the Audiencia until the change effected by the Code of Civil Procedure. In criminal cases the Commission has not seen fit tip to the present time to modify it, and it therefore still remains identical with that exercised by the Audiencia.

If any doubt could be entertained that the intention of the Commission in the enactment of Act No. 186 was to preserve unaltered in this court the appellate jurisdiction of the Audiencia in criminal cases, it would be removed by Act No. 194, section 4, amending General Orders, No. 58, with reference to *consultas* in such cases, in the enactment of which the Commission must be presumed to have had in contemplation all its prior legislation on the same general subject, and in which the right of appeal of both the defendant and the Government is distinctly recognized. The motion is denied.

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