

7 Phil. 329

[G.R. No. 3052. January 16, 1907]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. JACINTO CAMACAN,
DEFENDANT AND APPELLANT.**

D E C I S I O N

JOHNSON, J.:

This defendant was charged with the crime of bribery under article 383 in relation with article 387 of the Penal Code. He was tried by the Court of First Instance of the Province of Cagayan, was found guilty, and sentenced to suffer imprisonment (*arresto mayor*) for a period of four months and twenty days and to pay a fine of P30, Philippine currency, that being three times the value of the bribe given, with subsidiary imprisonment in case of insolvency. The 10 pesos which were paid by the accused as a bribe were declared forfeited and were delivered by the clerk of said court to the provincial treasurer of said province. The accused was also sentenced to pay the costs. From this judgment the defendant appealed to this court.

An examination of the record brought to this court shows the following facts:

That the defendant was on or about the 5th day of August, 1905, a councilman of the pueblo of Enrile in the Province of Cagayan; that he was the owner of a carabao corral located near said pueblo; that on said day there were contained in said corral a large number of carabaos; that on or about said day complaint was made to one Captain Knauber that the defendant had in said corral a number of carabaos which had been stolen; that on said 5th day of August the said Captain Knauber sent two Constabulary soldiers, Adriano Dalapa, and Alejandro Rodriguez, to go to said corral and take charge of the same until he, the said captain, could make an investigation of said charges; that said Constabulary soldiers, in pursuance of said order, went to the said pueblo of Enrile and took possession of said corral on the afternoon of the 5th day of August; that during the night of the said 5th day of August, while the said Constabulary soldiers were guarding said corral, the accused, at

about 2 o'clock on said night, approached the said Dalapa, who was then and there acting as guard, and offered to pay him the sum of 40 pesos if he, the said Dalapa, would permit the accused to take out of said corral four carabaos, giving some excuse therefor; that at the same time the defendant actually paid to the said Dalapa the sum of 10 pesos in cash and gave him a promissory note or *vale* for the sum of 30 pesos, which *vale*, according to the testimony, was to be paid on the next day, the 6th of August; that after the receipt of the 10 pesos and the said *vale*, Dalapa refused to permit the accused to remove from the corral the four carabaos and reported the action of the accused to his companion Alejandro Rodriguez, and later the same facts were reported by the said Constabulary soldiers to Captain Knauber.

The lower court found that these facts were sufficient to show that the defendant was guilty of the crime of bribery. We are of the opinion, however, that they constitute only the crime of attempted bribery, and that therefore the accused should be punished in accordance with the provisions of the Penal Code for attempted crimes.

Article 387 of the Penal Code provides that "those who shall corrupt public officials with gifts, presents, offers, or promises shall be punished with the same penalties as those imposed upon the officers suborned, excepting that of disqualification." The punishment for the official in this case, had the bribe been accepted, would have been *arresto mayor* in its medium to its maximum degree and a fine of an amount equal to three times the value of such bribe.

Article 66 of the Penal Code provides that principals in an attempted crime shall be punished with a penalty lower by two degrees than that prescribed by the law for a consummated crime. Reducing the penalty which should be imposed upon one guilty of a consummated offense under said article 387 by two degrees, a fine only must be imposed upon the defendant, under the provisions of article 26 of said code.

In view of all the facts adduced during the trial, it is the judgment of this court that the sentence of the lower court be reversed and that the defendant be sentenced to pay a fine of 2,500 pesetas, or 500 pesos, in place of the imprisonment imposed by the lower court.

Said article 383 imposes as penalty upon an officer who receives a bribe, in addition to imprisonment, a fine of an amount equal to three times the value of said bribe. The amount of the bribe offered in this case was 40 pesos; three times that amount would be 120 pesos. Reducing this fine of three times the amount of the bribe in accordance with the provisions

of article 94 of the Penal Code for the reduction of the penalty for attempted crimes, the defendant should be fined in lieu thereof the sum of 60 pesos.

Therefore it is the judgment of this court that the judgment of the lower court be reversed and that the defendant be sentenced to pay a fine of 560 pesos, and in case of insolvency to suffer corresponding subsidiary imprisonment, and to pay the costs. After the expiration of ten days judgment will be entered accordingly and ten days thereafter the case returned to the lower court for proper action. So ordered.

Arellano, C. J., Torres, Carson, Willard, and Tracey, JJ., concur.
