1 Phil. 35

[G.R. No. 1. October 18, 1901]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. MANUEL SY-TAY, DEFENDANT AND APPELLANT.

D E C I S I O N

WILLARD, J.:

In this motion, the moving party prays the court to dismiss the appeal from the judgment of the Court of First Instance of Manila. The accused was tried for seduction in the court of the justice of the peace of Binondo, and judgment of conviction was there rendered against him. He appealed from this judgment to the Court of First Instance of Manila, which took cognizance of the case on appeal and gave judgment affirming the judgment of the justice of the peace. From this judgment an appeal to this court was admitted.

The motion must be granted. Section 43 of General Orders, No. 58, permits an appeal in this class of cases only when there is involved the constitutionality or validity of a law. The accused alleges that General Orders, No. 58, is a law in force; that the said order repealed the Spanish Code of Criminal Procedure, and that he should have been tried in accordance with the provisions of said general order. The question whether one law repeals another is not a question that involves the validity of the law which is alleged to have been repealed, within the meaning of the exception. This exception refers only to those cases in which it is contended that a law was invalid from the time of its passage. In the present case there is no such contention. It results that all of the questions which are sought to be presented by means of this appeal were determined by the judgment of the Court of First Instance, and that in accordance with the provisions of section 43 of the abovementioned General Orders, No. 58, the said judgment is final and of such character that it can not be the subject of review in this court.

Wherefore, the motion of the appellee is granted and the cause is remanded to the Court of First Instance, whence it has proceeded, for its action in accordance herewith, with the

costs *de oficio.*

Arellano, C. J,, Torres, Cooper, Mapa, and *Ladd, JJ.,* concur.

Date created: April 03, 2014