

3. This decree shall not become absolute until the period for appealing therefrom has expired without any appeal having been filed or until any appeal taken shall have been finally disposed of.

MOBEL DELEMEL, and Others, Appellants

v.

TRUST TERRITORY OF THE PACIFIC ISLANDS, Appellee

Criminal Case No. 234

Trial Division of the High Court

Palau District

October 4, 1962

Defendant was convicted in Palau District Court of fishing with dynamite, in violation of T.T.C., Sec. 780. On appeal, sole point raised by defendant was whether evidence was sufficient to support findings. The Trial Division of the High Court, Chief Justice E. P. Furber, held that evidence in record was sufficient to support findings, and that facts alleged by counsel in their arguments which were not covered by evidence or introduced at trial will be completely disregarded.

Affirmed.

1. Criminal Law—Appeals—Scope of Review

In criminal prosecution, whether alleged facts not covered by evidence are true or not, they have no proper place in consideration of appeal.

2. Criminal Law—Appeals—Scope of Review

Where there is no indication that alleged facts raised in argument on appeal of criminal case were introduced at trial or included in record, or that counsel made motion that trial court hear evidence, appellate court will completely disregard such alleged facts. (Rules of Crim. Proc., Rule 31e)

Assessor:

JUDGE R. FRITZ

Interpreter:

HARUO I. REMELIUK

Counsel for Appellants:

WILLIAM O. WALLY

Counsel for Appellee:

AGUSTO UCHEL

FURBER, Chief Justice

This is an appeal from convictions of fishing with dynamite in violation of Trust Territory Code Section 780.

OPINION

The sole point raised by this appeal is whether the evidence is sufficient to support findings.

[1, 2] In seeking to explain or interpret the evidence both counsels in their arguments have gone into alleged facts which are not covered by the evidence. Whether these alleged facts are true or not they have no proper place in consideration of this appeal. See Rules of Criminal Procedure 31e. If counsel for either side considered these alleged facts of importance to a correct decision of the case he should have introduced evidence of them at the trial and seen to it that such evidence was included in the record, or made a motion under Rule 31e(2) that the Trial Division hear evidence. There is no indication that either counsel made any effort to do either of these things. The court has, therefore, completely disregarded the alleged facts recited in the arguments which are not covered by the evidence.

The court is of the opinion, however, that the evidence in the record is amply sufficient to support the findings of the District Court.

JUDGMENT

The findings and sentences of the Palau District Court in its Criminal Cases Nos. 2194, 2195, 2196 and 2197 are affirmed.