

G.R. No. L-8903

[G.R. No. L-8903. October 23, 1956]

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V.S. GODOFREDO GUINTO, DEFENDANT-APPELLANT

D E C I S I O N

Godofredo Guinto, a former Cadastral Costs Collector of the Bureau of Lands, was charged with malversation of public funds before the Court of First Instance of Bataan. The court set the arraignment of the accused on November 8, 1954. When that date came, the accused pleaded not guilty, having waived his right to be assisted by counsel (p. 18, record).

On the date of the trial, November 18, 1954, the accused appeared and moved for the postponement of the trial which was granted, the court postponing it to December 13, 1954. Because Judge Ambrosio T. Dollete, presiding session, the trial was again postponed to January 14, 1955.

On this date, the accused appeared and substituted his plea of not guilty for that guilty, whereupon the court rendered judgment findings him guilty of the offense charge and, considering in his favor the mitigating circumstance of plea of guilty, sentences him to an indeterminate penalty of from 6 months of *arresto mayor* to 4 years 2 months and 1 day of *prision correccional*, to indemnify the Republic of the Philippines in the amount of P1,929.55, to pay a fine of P964.78, with subsidiary imprisonment in case of insolvency, to suffer perpetual special disqualification, and to pay the cost, The accused has appealed to this Court from this judgment.

It is contended for the accused that when he was arraigned in the lower court for crime charge, he asked that he be given a counsel to assist him in his defense and, accordingly, the court appointed Mr. Filoteo T. Banzon as attorney de oficio. But when the case was set for trial and the accused appeared without the assistance of counsel, he substituted his plea of not guilty for that of guilty, and thereafter the court rendered judgment finding him guilty but taking into consideration merely the mitigating circumstance of plea of guilty. Counsel

contends that had the counsel *de officio* been present when the accused guilty, he could have presented evidence to prove some other mitigating circumstances in his favor and he failed to do so for being unassisted by counsel and so he was deprived of his right to due process of law.

To begin with, there is nothing in the record to show that the accused asked the court that he be given the assistance of counsel to defend him, for in all the pleadings attached to the record and in the minutes of the proceedings as certified to by the clerk of court, (p. 76, record) it appears that the accused appeared alone and even went to the extent of waiving his right to be assisted by counsel (p. 18, record). At any rate, the fact that when he pleaded guilty was not assisted by counsel cannot be considered as against due process because he did it voluntarily and without protest, and it cannot be pretended that he did not know the consequences of his act because he is not ignorant but one who has had sufficient schooling. In fact, when he committed the offense, he was an employee of the Bureau of Lands.

The claim that accused's counsel *de officio* had moved for the postponement of the hearing set for January 14, 1955 "on good and reasonable grounds" but because of its denial the accused had to appear alone, is untenable, for there is nothing in the record to show that such motion for postponement has ever been filed. At any rate, this question is of not legal consequence for it is well known that this matter is addressed to the sound discretion of the court. This is more so when the accused, instead of pressing for postponement, substituted his plea of not guilty for that of guilty and submitted the case for decision.

The intimation that after the accused had pleaded guilty and submitted the case for decision he went to see the judge in his chamber and asked him to consider in his favor the mitigating circumstance of voluntary surrender, is preposterous, not only because such a procedure is irregular but because there is nothing in the record to show that accused voluntarily surrendered as intimated.

The decision appealed from is affirmed, with costs against appellant.

Paras, C.J. Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Endencia, and Felix, JJ., concur.

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