101 Phil. 745

[G. R. No. L-9768. June 21, 1957]

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. DOMINADOR SANCHEZ Y AGLIBUT, DEFENDANT AND APPELLEE.

D E C I S I O N

MONTEMAYOR, J.:

Defendant-appellee Dominador Sanchez y Aglibut was charged with a violation of Circulars Nos. 20 and 45, as amended by Circular No. 55, all of the Central Bank of the Philippines, in relation to Section 34 of Republic Act No. 265, alleged to have been committed as follows:

> "That on or about the 20th day of December, 1954, in the City of Manila, Philippines, the said accused, having in his possession the amount of $400.00, did then and there wilfully and unlawfully fail and refuse to declare the same with any authorized agent of the Central Bank of the Philippines upon his arrival in the Philippines as prescribed by Circulars 20 and 42 as amended by Circular 55 of the Central Bank.

" When first arraigned, he entered the plea of not guilty. Later on, however, he was allowed by the court on re-arraignment to change his former plea to that of guilty, on the basis of which, he was sentenced thus:

> "WHEREFORE, upon recommendation of Asst. Fiscal Jose T. M. Mayo, the accused Dominador Sanchez is hereby sentenced to pay a fine of FIFTY (P50.00) pesos and five (5) days imprisonment, and to pay the costs.
>
> "The $400.00 taken from the accused, referred to in the aforecited information, are hereby ordered to be exchanged at the Central Bank of the Philippines

with Philippine Currency and delivered to Dominador Sanchez, the owner of said money".

Defendant Sanchez did not appeal the decision. But the Government, through the Solicitor General, took an appeal from it, particularly, the last paragraph of the dispositive portion of the decision aforequoted, claiming that inasmuch as under the provisions of Article 10 of the Revised Penal Code, the said code shall be supplementary to special laws punishing offenses, unless such laws specially provide otherwise; that there is no such special provision in the law violated to the effect that the Revised Penal Code should not be considered supplementary to it; that consequently, the provisions of the Penal Code are applicable, particularly, the provisions of Article 45 of said code, referring to confiscation and forfeiture of the proceeds of the crime and the instruments with which the crime was committed. The Government counsel believes that since the $400.00 involved in the offense can clearly be considered as proceeds of or an instrument in committing the offense, inasmuch as without said money, there would have been no violation of the law, then said amount should have been forfeited to the Government instead of having been ordered returned to defendant-appellee after exchanging it at the Central Bank with Philippine pesos.

The Solicitor General cites a long line of decisions in support of his contention and we are inclined to agree with him. However, counsel for defendant-appellee says that the appealed decision is already final and conclusive, for the reason that the terms thereof had been satisfied and complied with by the accused, he having not only paid the fine of P50.00, but also served the five-day imprisonment. This claim of service of the sentence by the accused is not only not refuted by the Solicitor General, but would appear to be borne out by the certificate of Police Sergeant Ruflno C. Mendoza of the Manila City Jail where the defendant was confined for five days and later released after serving his sentence. We also agree with defendant's counsel who cites several decisions of this Tribunal to the effect that a sentence in a criminal case in this jurisdiction may become final in two ways: First, by the lapse of fifteen days after rendition thereof; and second, by defendant complying with the terms of the same. (U.S. vs. Hart, 24 Phil. 278; People vs. Quebral, 76 Phil. 294; Gregorio vs. Director of Prisons, 43 Phil. 650). Moreover, under Section 7 of Rule 116, Rules of Court, a judgment in a criminal case becomes final after the lapse of the period for perfecting an appeal, or when the sentence has been partially or totally satisfied or served or the defendant has expressly waived in writing his right to appeal. Under the circumstances, the sentence having become final, no court, not

even this high Tribunal, can modify it even if erroneous, as claimed by the Solicitor General.

Furthermore, and this is equally important, in a similar case[1] involving a violation of the same circulars of the Central Bank, where the trial court in sentencing the accused failed to provide for the disposition of the amount ill. dollars involved, but by a subsequent resolution, it provided that the same should not be confiscated but should be exchanged with pesos at the Central Bank and then delivered to the accused, from which resolution the Government tried to appeal, we said:

> "With the view we take of' the propriety and legality of the appeal, we find it unnecessary to go into the merits of the con- tention of the parties, although it may not be out of place to state that according to the decision of June 10,1955, as well as the appealed resolution, the penalty imposed which did not include the confiscation of the amount of 83,140.00, was upon the recommendation of the prosecution itself. In the first place, the confiscation or forfeiture of the above mentioned sum would be an additional penalty and would amount to an increase of the penalty already imposed upon the accused. To reopen the case for the purpose of increasing the penalty, as is sought in the Government's appeal, would be placing the accused in double jeopardy, and under Rule 118, Section 2 of the Rules of Court, the Government cannot appeal in a criminal case if the defendant would be placed thereby in double jeopardy. (People vs. Cornelio Ferrer, G. R. No. L-9072, October 23, 1.906; People vs. Ang Cho Kio, G. R. No. L-6687-88, 50 Off Gaz. No. 8, p. 3563; People vs. Luis M. Taruc, G.R. No. L-8229, November 28, 1955.) In the present case, the defendant-appellee did not file any brief, .naturally, this point of the legality of the appeal of the Government is not raised; even so, this Tribunal feels it is its duty to apply the law, specially when it favors the accused in a criminal case. In the second place, the record shows that at the time the appealed resolution was issued on July 30, 1955, the decision of June 10, 1955 had already become final and no longer subject to modification for the reason that the accused had already served the sentence, not partially but totally."

In view of the foregoing the appeal is hereby dismissed, with costs de oficio.

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

[1] People vs. Alejandro Paet y Velasco 100 Phil., 357, 53 Off. Gaz., [3] 668).

Date created: October 13, 2014