

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ARTURO R. SILO, DEFENDANT AND APPELLANT.

G.R. No. L-7916. May 25, 1956

Ponente: JUGO, J.

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JUGO, J.:

Appellant Arturo R. Silo was accused before the Court of First Instance of Manila of the crime of estafa upon an information, which reads as follows:

"That in, about and during the period comprised between August 28, 1951, and November 27, 1951, in the City of Manila, Philippines, the said accused did then and there willfully, unlawfully and feloniously defraud the United States Tobacco Corporation, received cigarettes valued at P3,172 to be sold by him and under the express obligation to account for and deliver the proceeds of the sale thereof, if sold, or to return the said articles, if not sold; but the said accused, far from complying With his aforesaid obligation and despite repeated demands made upon him to do so, accounted for the sum of P2,127.65 only, and with intent to defraud, wilfully, unlawfully and feloniously misappropriated, misapplied and converted the rest, to his own personal use and benefit, to the damage and prejudice of the U. S. Tobacco Corporation in the amount of P1,044.35, Philippine currency".

He pleaded not guilty.

The following facts were found proven by Judge Conrado V. Sanchez, Presiding Judge of said Court.

"* * * From May, 1951, up to January 17, 1952, the defendant was a salesman of the U. S. Tobacco Corporation whose duty was to sell cigarettes of the corporation in Manila and environments. He used to get the products from the warehouse of the U. S. Tobacco Corporation after obtaining an official delivery permit to withdraw the same. He was under obligation to sell the stocks issued to him and to turn over the proceeds thereof to the cashier of the corporation. All cash received by defendant had to be turned over to the corporation on the same days, unless reasonably delayed. "* * * From August 28, 1951, and November 27, 1951, defendant sold to diverse customers cigarettes of the total value of P8,487.80. Out of these sales Silo turned over in cash and in stocks the total amount of P5,880.05. There is due from the customers the sum of P1,562.50. Deducting the sums of P5,880.95, and P1,562.50, or a total of P7,443.45 from the total amount of P8,487.80, there remains a total of P1,044.35".

Auditor Gregorio Twano of the corporation and defendant Silo examined the accounts of the different customers, and it was found that the defendant could not account for the different sums he had collected from the customers. The defendant signed an admission that he had kept the different amounts for himself without turning them over to the corporation nor advising the company of the collections. The amount of the shortage is, as already stated, P1,044.35.

The Judge found him guilty of the crime of estafa as charged, and sentenced him to suffer an indeterminate penalty of from 2 months and 1 day of arresto mayor to 1 year and 1 day of prision correctional, to indemnify the U. S. Tobacco Corporation in the amount of P1,044.35, with subsidiary imprisonment in case of insolvency, and

to pay the costs.

The defendant appealed to the Court of Appeals, but as he raises a question of law only, the case was certified by said Court to this Court.

The defendant-appellant makes the only assignment of error as follows:

"El juzgado inferior incurrió en error al no especificar, clara y distintamente, en su sentencia la disposicion penal por la cual ha sido procesado el acusado y bajo que articulo del codigo penal revisado ha sido sentenciado y condenado.

It should be noted that under the facts stated as proven, the Court of First Instance found the appellant guilty of the crime of estafa. Estafa is a well-known crime not only to lawyers but also to the community in general, and especially to businessmen and business agents. Then the court imposed the penalty ranging from 2 months and 1 day of arresto mayor to 1 year and 1 day of prision correctional. This penalty would also indicate the kind of estafa committed. It was not necessary, therefore, for the court to specify the particular article and paragraph of the Revised Penal Code, which have been violated by the appellant. There are cases where the law or legal principle involved is not obvious or clear. It is those cases that it would be necessary for the court to specify the particular statute or principle violated. On the other hand, where the statute or principle concerned is so clear and obvious, as in the present case, and is really understood from the facts, the conclusion and the penalty imposed, an express specification of the statute or an exposition of the law is not necessary.

Section 2 of Rule 116 of the Rules of Court provides, among other things, that a judgment in a criminal case shall contain clearly and distinctively a statement of the facts proved or admitted by the defendant and upon which the judgment is based. If the judgment is of conviction, it shall state the legal qualification of the offense, the aggravating or mitigating circumstances, the participation of the defendant in the commission of the offense, and the penalty as well as the civil liability. In the present case, the judgment appealed from states the qualification of the offense as estafa and fixes the penalty and the civil liability of the defendant. It does not state the aggravating or mitigating circumstances, because there are none to speak of. It does not state whether the defendant acted as principal, accomplice or accessory, for the case is so simple that it is evident that the defendant acted as principal. The commission of these details shows that when they are evident and clearly understood, it is not necessary to express them. The same thing happens with the particular paragraph and article of the Revised Penal Code concerned, for they are clearly understood from the facts stated, the legal qualification thereof and the penalty imposed by the court below. However, for the sake of clearness, we may add here that the legal provision violated is Article 315 of the Revised Penal Code, paragraph 3rd in connection with paragraph 4th, subparagraph (b), of the same article, for conversion or misappropriation.

To illustrate this point, in the case of *United States vs. Mendoza*, 14 Phil., 202, the court said:

"With reference to the second assignment of error that the lower court failed to designate in his decision the provision of law violated, it is true that the sentence of the lower court does not indicate the particular provision of law violated by the defendants. This was not error, however, if the lower court did actually apply the proper provision of the Penal Code to the parts established by the proof during the trial of the case."

Although the decision appealed from does not specify the particular article and paragraph of the Revised Penal Code, violated, it can not be held void for that reason as claimed by the appellant, because it was rendered by a court of competent jurisdiction. (*Crispulo Talabon vs. The Iloilo Provincial Warden*, 44 Off. Gaz., No. 11, p. 4326.)

In view of the foregoing, the judgment appealed from is affirmed, with costs against the appellant. It is so ordered.

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

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