

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. CAMOLO DIGORO ALIAS PANONDIONGAN, DEFENDANT AND APPELLANT.

G.R. No. L-22032. March 04, 1966

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

An information charging Counterfeiting of Treasury and Bank Notes under Article 166 of the Revised Penal Code was filed in the Court of First Instance of Lanao on June 3, 1959 against Camolo Digoro alias Panondiongan, Hadji Solaiman Digoro and Macasasab Dalomangcob. Amended informations charging the same offense were filed on June 5, 1959 and August 13, 1959. On August 14, 1959, upon arraignment, all the accused pleaded not guilty.

Subsequently, on March 20, 1961, the case was provisionally dismissed, upon the Provincial Fiscal's motion, in regard to the accused Hadji Solaiman Digoro and Macasasab Dalomangcob. On that date, however, an amended information was filed against Camolo Digoro alias Panondiongan. It was captioned "For: Illegal Possession of Counterfeit Treasury and Bank Notes".

As follows is the body of said amended information:

"The undersigned Provincial Fiscal accuses CAMOLO DIGORO alias PANONDIONGAN of the crime of ILLEGAL POSSESSION OF COUNTERFEIT TREASURY AND BANK NOTES, committed as follows:

"That on or about the 2nd day of June, 1959 and for sometime prior thereto, in the Municipal District of Taraka, Province of Lanao del Sur, Philippines, and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously, with intent to possess, have in his possession, custody and control, 100-peso bill, 20-peso bill, 10-peso bill, 5-peso bill, 2-peso bill and 1-peso bill denominations in resemblance or similitude to a genuine treasury or bank notes issued by the Government of the Republic of the Philippines, to wit:

1.

26

pieces

..... "20-peso bill with serial No. AC 665154

2.

3

"

..... 1-peso bill half face

3.

5

"

..... 2-peso bill half face

4.

6

"

..... 5-peso bill one half face

5.

5

"

..... 10-peso bill one half face

6.

24

"

..... 20-peso bill one half face

7.

4

"

..... 20-peso bill one half face

8.

1

"

..... 1-peso bill with serial No. DU176494

9.

2

"

..... 100-peso bill with serial No. F00933623

10.

2

"

..... 100-peso bill reverse bill with VICTORY printed

11.

1

"

..... 20-peso bill with serial No. AD 838751

12.

1

"

..... 20-peso bill with serial No. 66 SN FO 2555823

13.

6

"

..... 20-peso bill with serial No. SN AC 665154

14.

5

pieces

..... pieces 1-peso bill one half face

15.

1

"

..... 20-peso bill with serial No. FO 2555823

16.

1

"

..... 20-peso bill one half face

17.

8

"

..... 20-peso bill with serial No. SN BA 910645

18.

1

"

..... 10-peso bill

19.

68

"

..... 20-peso bill

20.

83

"

..... 20-peso bill with serial No. AC 665154

21.

1

"

..... 20-peso bill with serial No. V 177393

"Contrary to and in violation of Article 168 of the Revised Penal Code."

A plea of guilty was entered thereto by the accused, with the assistance of counsel, on the same day. A decision was thereupon rendered sentencing the accused to suffer imprisonment of not more than ten (10) years and one (1) day and not less than six (6) years and one (1) day, and to pay the costs.

From said judgment the accused appealed to the Court of Appeals, on the ground that the amended information, to which he pleaded guilty, does not charge an offense. Said appeal was thereafter certified to this Court, by resolution of the Court of Appeals dated September 11, 1963, as involving questions purely of law.

Possession of false treasury or bank notes alone, without anything more, is not a criminal offense. For it to constitute an offense under Article 168 of the Revised Penal Code the possession must be with intent to use said false treasury or bank notes. From the provision of the law the foregoing is clear:

"ART. 168. Illegal possession and use of false treasury or bank notes and other instruments of credit.—Unless the act be one of those coming under the provisions of any of the preceding articles, any person who shall knowingly use or have in his possession, with intent to use any of the false or falsified instruments referred to in this section, shall suffer the penalty next lower in degree than that prescribed in said articles."

It follows that an information, as in this case, alleging possession of false treasury and bank notes without alleging intent to use the same but only "intent to possess" them, charges no offense. A plea of guilty to such an information, therefore, does not warrant conviction of the accused. It is well recognized that a plea of guilty is an admission only of the material allegations of the information but not that the facts thus alleged constitute an offense (*People v. Fortuno*, 73 Phil. 407).

From the allegations in the information to which the accused pleaded guilty, intent to use cannot be clearly inferred. It is true it was stated that the accused possessed the false treasury and bank notes "unlawfully and feloniously * * *. Contrary to and in violation of Article 168 of the Revised Penal Code". Such statements,

however, are not allegations of facts but mere conclusions that the facts alleged constitute the offense sought to be charged. Furthermore, the information alleged "intent to possess" instead of intent to use. Such allegation precludes clear inference of intent to use, in the absence of express allegation of the latter, since intent to use entails intent to part with the possession.

Wherefore, the judgment appealed is hereby set aside and the case is remanded for new prosecution under an appropriate and valid information. Costs de oficio.

So ordered.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Dizon, Regala, Makalintal, Zaldivar and Sanchez, JJ., concur.

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