

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ILDEFONSO DE CASTRO, JR., DEFENDANT AND APPELLANT.

G.R. No. L-3025. August 16, 1949

Ponente: OZAETA, J.

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OZAETA, J.:

On or about December 26, 1945, appellant was caught in possession of a Japanese pistol, which he "used to threaten the person of Sophie Genova." On January 7, 1946, the chief of police of Magallanes, Sorsogon, filed a complaint against him in the justice of the peace court of said municipality for illegal possession of a firearm. At the preliminary investigation the accused appeared, accompanied by his father who was an ex-justice of the peace, and pleaded not guilty. After the prosecution had presented two witnesses and Exhibit A and had rested its case, the accused renounced his right to present proofs. Finding the existence of a probable cause, the justice of the peace remanded the case to the Court of First Instance for trial on the merits.

The assistant provincial fiscal filed an information in the Court of First Instance on March 12, 1946, charging the accused with illegal possession of a revolver with three rounds of ammunition. After various postponements granted by the court at the instance of the accused, the case was called for trial on December 22, 1947. On that date the accused and his attorneys presented a written plea which reads as follows:

"PLEA TO THE INFORMATION

"Come now the accused and his undersigned attorneys and respectfully enter the following plea in the above-entitled case:

"That the accused admits the allegations in the information but invokes the provisions of Proclamation No. 1 of the President of the Philippines, dated July 20, 1946, as exempting him from criminal liability.

"Sorsogon, Sorsogon, December 22, 1947.

"(Sgd.) ILDEFONSO DE CASTRO, JR.

"Accused

"(Sgd.) HUGO D. DADO

"(Sgd.) FELICIANO S. GONZALES

"Attorneys for the Accused

When the case was called the attorneys for the accused submitted the foregoing plea to the court. Notwithstanding that plea the court ordered that the information be read to the accused. The attorneys for the accused renounced the reading of the information, saying that the accused considered himself duly informed thereof. Notwithstanding that waiver the court insisted and ordered that the information be read to the accused in open court, after which the court asked the accused whether he had understood the information which had just been read to him, and the accused answered in the affirmative. The court then asked him whether he pleaded guilty or not guilty. Thereupon

Attorney Gonzales addressed the court as follows:

"MR. GONZALES: At this stage, we are entering the written plea of the accused.

"JUZGADO: Hagase constar que el acusado ha manifestado al Juzgado que acaba de someter su contestacion a la querella y reitera y confirma las alegaciones contenidas en dicha contestacion.

"JUZGADO: Quieren ustedes decir que el plea que acaban ustedes de someter es la contestacion del acusado a la querella?

"SR. GONZALES: Si, señor. Pedimos un plazo de 10 dias desde esta fecha para someter un memorandum por escrito.

"JUZGADO: Se concede a la defensa y al Fiscal Provincial un plazo de 10 dias a contar desde este dia para someter sus informes respectivos."

Thus the only issue submitted to the trial court was whether or not Proclamation No. 1 of the President of the Philippines, dated July 20, 1946, and issued pursuant to Republic Act No. 4, exempted or relieved the accused from any criminal liability upon the facts alleged in the information and admitted by the accused in open court.

Upon the memoranda filed by both parties, his Honor Judge Jose R. de Venecia found that Proclamation No. 1 invoked by the accused was not applicable to the instant case. It appears that Republic Act No. 4, which was approved and took effect on July 19, 1946, amended section 2692 of the Revised Administrative Code, as amended by Commonwealth Act No. 56, by increasing the penalty for illegal possession of firearms. Section 2 of said Act provides that the provisions of the foregoing section to the contrary notwithstanding, any person in possession of any of the prohibited articles therein mentioned, may, without incurring any criminal liability, surrender the same to such officer and within such period of time as the President shall by proclamation designate and fix immediately upon the approval of this Act: Provided, however, That this section shall not be interpreted to mean as in any way exempting from such liability any person, without the requisite license, found, within the aforementioned period of time, making use of any of said articles, except in self-defense, or carrying them on his person except for the purpose of surrendering them as herein required: Provided, further, That this section shall not in any way affect any case pending in court, on the date of the passage of this Act, for violation of section twenty-six hundred and ninety-two of the Revised Administrative Code." Proclamation No. 1 fixed the period within which any person in possession of firearms might, without incurring any criminal liability, "surrender the same to the Secretary of the Interior or to the governor of the province or the mayor of the place wherein he resides or to any officer of the Military Police Command of the Philippine Army," namely, not later than August 31, 1946, in the provinces of Luzon. Since the present case was already pending in court when Republic Act No. 4 was approved and Proclamation No. 1 was issued, the trial court held that under the last proviso hereinabove quoted the accused was not exempted from criminal liability. Consequently the trial court found the accused guilty beyond reasonable doubt of a violation of section 2692 of the Revised Administrative Code, as amended by Commonwealth Act No. 56, and sentenced him to suffer one month of imprisonment, to pay a fine of P200 with subsidiary imprisonment in case of insolvency, and to pay the costs.

The decision of the trial court was dated January 12, 1948. Various postponements of the reading of that sentence were granted by the court upon petition of the accused. It was finally read to him on May 26, 1948. Immediately after the reading of the sentence the accused presented a notice of appeal.

In this appeal a new counsel for the appellant abandons the defense of exemption from criminal liability under Proclamation No. 1 and contends that the trial court should have ordered a plea of not guilty to be entered for the appellant and should have ordered the prosecution to present its evidence.

It seems to us that to countenance such tactics would be to allow the accused to trifle with the court. By his written plea, which he orally reiterated in open court, the accused admitted (factually and not hypothetically) the allegations of the information, thus relieving the prosecution from the necessity of proving them. The only issue he submitted to the court for decision and for which he asked for ten days within which to present a memorandum, was whether or not Proclamation No. 1, issued pursuant to Republic Act No. 4, exempted him from criminal liability. That issue was decided adversely to him, and after more than four months of delay in the promulgation of the decision caused by his repeated requests for postponement, the appellant did not even move for a new trial on the ground that he had made a mistake in admitting the allegations of the information and that he had a valid defense to offer.

The appellant further contends that his written plea should have been treated by the trial court as a motion to quash under section 2 (f) of Rule 113, which says that the defendant may move to quash the complaint or information on the ground that the criminal action or liability has been extinguished. This contention is patently an afterthought which merits no serious consideration. If the accused had any defense other than his mistaken reliance on Proclamation No. 1, he should really have presented to the trial court a motion to quash so that in case it should be denied he could avail himself of such other defense. But he did not do that. Instead, he admitted the allegations of the information outright and submitted the case for decision on the merits upon the question of law raised by his plea of confession and avoidance, which in effect was a plea of not guilty. If by that plea the accused had intended to present a motion to quash (which he did not), he would and should have protested to the trial court against the sentence of conviction and should have moved that court to set it aside and hear the evidence. Instead of doing that, he caused the promulgation of the sentence to be postponed for more than four months and, after hearing it, immediately appealed therefrom. He never asked the trial court to hear any witness in his behalf, nor did he offer any proof whatsoever. He has had his day in court. He cannot complain.

Appellant prays this court to reverse the decision appealed from and to acquit him, "or else to grant him a new trial." Neither of these alternative prayers has any legal or factual basis.

The judgment is affirmed, with costs.

Moran, C.J., Feria, Bengzon, Padilla, Tuason, and Montemayor, JJ., concur.
Reyes, J., concurs in the result.

DISSENTING

PARAS, J.:

I am of the opinion that the "Plea to the Information", quoted in full in the majority opinion, should have been considered by the trial court either as a motion to quash (demurrer before) or as a conditional plea of guilty. If considered as a motion to quash, it was the duty of the trial court to accordingly pass upon it. If denied, the accused should have been required to plead. If considered as a plea, the trial court should have ordered its substitution by a plea of not guilty, since said plea contains a statement which if true would preclude a finding of guilt of the offense charged (Moran, Comments on the Rules of Court, 2d Ed., Vol. II, pp. 684-685, citing U. S. vs. Edpalina, 27 Phil., 43), in which case the lower court was bound, after substituting a plea of not guilty, to proceed with the trial. It is clear that, under the plea here in question, the accused had not contemplated to admit his guilt of the offense charged in the information, and this is obvious from the fact that said accused claimed to be exempt from criminal liability in view of the provisions of proclamation No. 1 of the President of the Philippines, dated July 20, 1946. It is immaterial whether the accused raised a question of law. The important

thing is that, in virtue of that defense, he cannot be convicted of the very offense for which exemption is claimed.

The fact that various postponements of the reading of the sentence were asked by the accused is also of no moment, since said postponements cannot amount to a waiver of his right to a trial, as prescribed by law.

My vote, therefore, is to remand the case to the lower court for a new trial, the accused being considered as having entered a plea of not guilty.

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