

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS. SIM BEN, DEFENDANT AND APPELLANT.

G.R. No. L-8320. December 20, 1955

Ponente: PADILLA, J.

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PADILLA, J.:

Sim Ben appeals from a judgment of the Court of First Instance of Cebu finding him guilty of violating paragraph 3, Article 201 of the Revised Penal Code, for having exhibited cinematographic' films of indecent or immoral scenes inside his establishment, a restaurant which is a place open to public view in the City of Cebu, On the sole. ground that he entered a plea of guilty to the information without the aid of counsel.

The minutes of the session of the Court 31 January 1953 disclose that when the case was called for trial, the appellant was informed by the Court of his right to have counsel and asked if he desired the aid of one. He replied that he did not. Then the Court asked, if he was agreeable to have the, information read to him even without the assistance of counsel. His answer was in the affirmative. The court interpreter translated ths information to him in the local dialect and after the translation he entered a plea of guilty: He was asked whether he knew that because of the plea of guilty the punishment as provided for by law would be imposed upon him and he answered "Yes, sir." The Court asked him if he insisted' on his pies of guilty and he answered "Yes, sir." At this juncture the fiscal recommended that a fine of P200 be imposed upon the defendant. Thereupon, the Court sentenced him to suffer 6 months and 1 day of prision correccional and to pay the costs.

What transpired when the appellant was arraigned shows that his rights were,fully protected and safeguarded. The Court complied with its duty when it informed the appellant that it was his right to have the aid of counsel. And before pronouncing the sentence the Court took pains to ascertain whether he was aware of the consequencss of the plea he had entered. Notwithstanding this precaution and warning, he waived his right to have the aid of counsel and entered a plea of guilty to the information.

Appellant claims that he entered the plea of guilty because the fiscal promised him that only a fine would be imposed. The recommendation of the fiscal that only a fine be imposed upon the appellant seems to bear out his claim; but such recommendation or one of leniency does not mean that the appellant is not guilty of the crime charged against him. A promise to recommend a specific penalty such as fine does not render the sentence void if the Court ignores the recommendation and metes out to the defendant a penalty which is provided by law.

The sentence appealed from is affirmed, with cost against the appellant.

Paras, C. J., Bengzon, Moniemayor, Reyes, A., Jugo, Bautista Angelo, Labrador, Concepcion, and Reyes, J.B.L., JJ., concur.

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