

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. JUANITO C. PECAÑA, DEFENDANT AND APPELLANT.

G.R. No. L-4410. February 29, 1952

Ponente: REYES, J.

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REYES, J.:

The accused Juanito C. Pecaña was charged with malversation of public funds in the Court of First Instance of Laguna for having misappropriated the sum of P6,860.03 belonging to the municipality of Bay, Laguna, and entrusted to his custody as treasurer thereof. Having pleaded guilty to the charge, he was sentenced to an indeterminate penalty of from 4 years, 1 month and 1 day to 8 years of imprisonment, to indemnify the municipality of Bay in the sum of P6,860.03, perpetual disqualification to hold public office, a fine of P3,430.01, and the costs. From this sentence he has appealed to this Court, alleging that the trial court erred in fixing the amount of indemnity and in imposing upon him a fine equivalent to one-half of the amount malversed.

As to the indemnity we agree with the Solicitor General and with counsel for the defense that appellant should be credited with the sum of P400.00 which he has already reimbursed, as shown by the receipt issued by the provincial treasurer and exhibited at the trial, so that the actual indemnity to be paid should be reduced to P6,460.03. But the fine imposed below is within the range prescribed by Article 217 of the Revised Penal Code, which is from one-half to the total value of the funds embezzled, and we see no reason for reducing its amount and much less for remitting it entirely. The fine is by no means excessive considering the nature of the offense committed, and the plea that it is "unreasonable" is one, that should be addressed to the legislative branch of the Government. All we can do is to apply the law as it is and not as it should be.

We notice that the trial court did not correctly fix the maximum term of the imprisonment imposed, which, under the law, should not be less than 8 years and 1 day of prisión mayor.

Wherefore, with the only modification that the indemnity to be paid by the appellant be P6,460.03 and that the maximum term of imprisonment be 8 years and 1 day, the sentence appealed from is affirmed, without costs in this instance.

Parás, C. J., Feria, Pablo, Bengzon, Padilla, Tuason, Montemayor, and Jugo, JJ., concur.

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