

PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ALICIA RAPIRAP, DEFENDANT AND APPELLANT.

G. R. No. 11000. January 21, 1958

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Appeal from a decision of the Court of First Instance of Camarines Sur (Criminal Case No. 3335) certified to this Court by the Court of Appeals, as the issue involved is purely a question of law.

It appears that the appellant, Alicia Rapirap, was charged with, and after due trial was convicted by the Municipal Court of the City of Naga, of the crime of less serious physical injuries and sentenced to pay a fine of P25.00. Not satisfied with said decision, she appealed to the Court of First Instance of Camarines Sur. When the case was called for trial, the accused appeared with her counsel and manifested to the court that she was changing her former plea of not guilty to that of guilty; and having been given the permission of the court to do so, she withdrew her plea of not guilty and upon arraignment anew, accused voluntarily pleaded guilty to the crime described in the information in the following manner:

"That on or about January 16, 1954 in the City of Naga, Philippines, and within the jurisdiction of this Honorable Court, the said accused, without any justifiable motive or cause, did, then and there wilfully, unlawfully and feloniously attack, assault and use personal violence upon the herein complainant, Remedios Braca, by hitting the latter with a piece of wood, thereby inflicting upon her physical injuries as per medical certificate hereto attached, to wit;

Contusion, sacral region, direction of contusion transverse, 3 inches wide and 7 inches long.

Which injuries have required and may require medical attendance for a period of three (3) to seven (7) days and have incapacitated and may incapacitate said Remedios Braca from performing her customary labor for the same period of time, and as a result thereof, Remedios Braca suffered damages in the amount of P200.00, Philippine currency, in concept of actual and moral damages."

Thereafter, Atty. Catimbang (one of her counsel) asked the court to impose the penalty of P20.00 to the accused, in consideration of her plea of guilty, but the petition was denied. In view of this refusal of the court, the appellant then asked permission to withdraw her appeal, which was also denied. Thereafter, she was sentenced: (1) to suffer the penalty of eleven (11) days arresto menor; (2) to pay the damages in the amount of P200 to the offended party, or to suffer subsidiary imprisonment in case of insolvency at the rate of P2.50 per day which shall not be more than 1/3 of the principal penalty; and (3) to pay the costs of the proceedings.

The only issue tendered in this appeal is whether or not the refusal of the lower court to permit the withdrawal of the appeal from said court was proper under the circumstances. Appellant invokes section 12, Rule 118, of the Rules of Court:

"Notwithstanding the perfection of the appeal, the Court of First Instance may allow the appellant to withdraw his appeal before the record has been forwarded by the clerk of the court to the appellate court as provided in

Section 8, in which case the judgment shall become final.

The Court of First Instance may also, in its discretion, allow the appellant from the judgment of the justice of the peace court or judge of a municipal court to withdraw his appeal, provided a motion to that effect is filed before the trial of the case on appeal, in which case the judgment of the justice of the peace or municipal court shall become final, the provisions of Section 8, Rule 119, to the contrary notwithstanding, and the case shall be remanded to the court a quo for execution of the judgment.

In the first place, it is clear from this provision of the Rules that the withdrawal of the appeal should be allowed upon motion, only before the trial of the case on appeal, and not during or after it. In the case of *People vs. Ilagan* (58 Phil. 851), this Court implied that an accused is deemed to have been brought to trial after issues are properly joined with a plea of not guilty. A plea of guilty does not merely join the issues of the complaint or information, but amounts to an admission of guilt and of the material facts alleged in the complaint or information (*People vs. Buco*, G. R. No. L-2633, February 28, 1950; *People vs. Sabilul*,* 49 Off. Gaz., 27434; *Rules of Court Annotated*, by Moran, Vol. II, p. 806), and in this sense takes the place of the trial itself. Such plea removes the necessity of presenting further evidence and for all intents and purposes the case is deemed tried on its merits and submitted for decision. It leaves the court with no alternative but to impose the penalty prescribed by law (*People vs. Ng Pek*, 46 Off. Gaz., Supp. [1] 360; 81 Phil., 562).

Secondly, it should be noted that the withdrawal of an appeal under this section rests within the sound discretion of the court. In imposing a higher penalty and not allowing the withdrawal of the appeal by the accused appellant, the court did not abuse its discretion; on the contrary it was soundly exercised. The move to withdraw the appeal was made only at a time when the court appeared disposed to impose a higher penalty, when it denied the recommendation of one of her attorneys to impose a P20.00 fine. No one should be allowed to trifle with the solemn judicial procedure (*People vs. Pangilinan*, 74 Phil. 451) as by permitting parties to a case to take appeals and withdraw them at pleasure, after they become certain that the forthcoming judgment would work adversely to them. Parties and attorneys should realize that the ethics of the market place are not those of courts of justice.

As the plea of guilty was only taken when the case was on appeal with the Court of First Instance, it was rightfully not considered a mitigating circumstance (*People vs. Herminio*, 64 Phil. 403).

Finding none of the errors alleged to have been substantiated, we affirm the judgment appealed from with costs against appellant. So ordered.

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

*93 Phil., 567.

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