

THE PEOPLE OP THE PHILIPPINES, PLAINTIFF AND APPELLANT VS. CIPRIANO REVIL Y CUAYSON, DEFENDANT AND APPELLEE.*G.R. No. 11061. December 29, 1958*

Ponente: PADILLA, J.

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In the Court of First Instance of Manila Cipriano Revil y Cuayson was charged with a violation of sections 4 (a) and 8 of Circular No. 20 of the Central Bank, in connection with section 34, Republic Act No. 265, for his failure to sell foreign exchange, consisting of United States dollar checks, money orders and bills in the total sum of \$23,197.77, to authorized agents of the Central Bank within one business day following the receipt or acquisition thereof (criminal case No. 35766). Upon arraignment on 20 June 1956, with the advice of Counsel, he entered a plea of guilty. On 23 June 1956 the Court rendered judgment convicting and sentencing him to suffer the penalty of one month imprisonment, to pay a fine of P3,000, with subsidiary imprisonment in case of insolvency, and to pay the costs. It reserved however, its judgment on the defendant's petition that the seized suitcase, clothing and other personal effects and the dollar checks, money orders and bills be returned to him. After the defendant had filed a memorandum in support of his contention and the Court had heard the parties, on 9 July 1956 it ordered that the suitcase, clothing and other personal effects be returned to him and—

* * * that the dollar bills and checks taken from the accused, and enumerated in the inventory made by an agent of the National Bureau of Investigation on May 7, 1956, be exchanged with Philippine money in the Central Bank of the Philippines and the value thereof delivered to the accused, Cipriano Revil y Cuayson.

In the sentence meted out to the aforesaid accused, a fine of Three Thousand Pesos (F3,000) was imposed upon him. If the amount has not so far been paid, let a writ of execution to cover the amount in question be issued and served upon the Central Bank of the Philippines.

The prosecution has appealed insisting that the Court should have ordered the forfeiture of the United States dollar checks, money orders and bills which the defendant failed to sell to authorized agents of the Central Bank in violation of Circular No. 20 of the Central Bank in connection with section 34 of Republic Act No. 265, charged in the information. The Court gave due course to the appeal over the objection of the appellee, who reiterated and urged upon this Court to dismiss the appeal. The appellant and the appellee filed their respective briefs.

It appears that on 23 June 1956 the appellee commenced to serve sentence; that on 9 July 1956 the Court entered the order appealed from; that on 17 July 1956 he paid the fine of F3,000 and the costs of P16; and that on 20 July 1956 the prosecution filed its notice of appeal from the order.

To uphold the appeal and to order the forfeiture of the U. S. dollar checks, money orders and bills in favor of the State, after the entry of the order that an equivalent amount of Philippine currency be exchanged for them, would place the defendant in double jeopardy, for such forfeiture would increase the penalty already imposed upon him. Such is the ruling in *People vs. Paet y Velasco*, 53 Off. Gaz. 668. Hence the instant appeal is legally untenable.

The appeal taken by the prosecution in this case is dismissed, without pronouncement as to costs.

Paras, C. J., Bengzon, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L. and Endencia, JJ., concur.

Appeal dismissed.

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