

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. SEGUNDINO ABEJERO Y CID, DEFENDANT AND APPELLANT.

G.R. No. 13470. March 27, 1961

Ponente: PADILLA, J.

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PADILLA, J.:

Segundino Abejero y Cid was charged in the Court of First Instance of Camarines Sur with the crime of robbery committed as follows:

That on or about July 5, 1967, in the night thereof, in the municipality of Libmanan, province of Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the accused herein with intent of gain and by means of force upon things, did, then and there, willfully, unlawfully and feloniously enter the Bicol Central Academy Building through the West window and then pried open one board flooring in said building through which the said accused passed down to the basement of said building where the accused, without the knowledge and consent of the owner or person in-charge of the articles therein, take, steal and carry away the following articles, to wit:

(Here follows a list of the articles consisting of typewriter, clock, bottles of ink, pens, postage stamps, ruled tablet paper and bond paper with a total value of P269.) which articles all valued to a total amount of P269.00, to the damage and prejudice of said offended party in the said sum of P269.00 but that all subject items have been recovered from the possession of the said accused. (Crim. case No. 5306.)

Upon arraignment on 6 November 1957, the defendant, assisted by counsel de oficio, entered a plea of guilty. On 20 November 1957 the Court rendered judgment sentencing the defendant to "an indeterminate penalty which shall not be less than one year nor more than two years, four months and one day, both of prision correccional, and to pay the costs." All the goods or articles taken by the defendant were recovered. In imposing the penalty, the Court took into consideration the mitigating circumstance of plea of guilty. On 26 November 1957 the defendant, by counsel de parte, filed a verified "motion to set aside the judgment and change the plea of guilty to not guilty," with an affidavit subscribed and sworn to by the defendant attached thereto, on the ground that at the time he entered the plea of guilty, he was not aware of the meaning and consequence of his act; that he entered the plea of guilty without knowing the consequent penalty to be imposed for the crime charged; that the defendant is a minor of good moral character; and that he is suffering from a mental defect. On 3 December 1957 the Court denied the defendant's motion. He has appealed.

The appellant assails the refusal of the trial court to set aside its judgment sentencing him to imprisonment for the duration stated at the beginning of this opinion and to allow him to withdraw his plea of guilty and enter one of not guilty.

The record shows that at the time of his arraignment before the Court of First Instance the appellant was assisted by, a counsel de oficio; and that he entered a plea of guilty after the information had been read to him and translated into the local dialect and he had been asked whether he understood its meaning (see certificate of arraignment, transcript of stenographic notes and minutes of the proceedings). As the appellant was assisted by

counsel, the Court was no longer in duty bound to warn him of the seriousness and consequence of his plea.[1] Moreover, in his statement sworn to before the Justice of the Peace of Libmanan, Camarines Sur, he recounted how he had committed the crime with which he was charged, and at the second stage of the preliminary investigation conducted by the Justice of the Peace, the latter apprised the appellant of his right to be assisted by counsel and that if he could not afford to engage the service of one the Court would appoint a counsel de oficio for him, and warned him that his plea of guilty could be taken against him at the trial of the case, but notwithstanding such warning he insisted on entering a plea of guilty. His Honor, the trial judge, already had performed his duty,[2] and the appellant cannot claim now that he had been deprived of a fundamental right. Neither can he profess ignorance of the import of his act when he entered a plea of guilty upon arraignment before the Court of First Instance for he was assisted by counsel. Being a third year high school student, the appellant cannot pretend ignorance of the consequence flowing from his plea of guilty. His pretense that he was suffering from a mental defect at the time of the arraignment has not been shown. All the circumstances point out that it is an afterthought.

The crime committed by the appellant is robbery as provided in paragraph 5, Article 294, of the Revised Penal Code as amended by Republic Act 18. The penalty is prision correccional in its maximum, period to prision mayor in its medium period. Having entered a plea of guilty upon arraignment before presentation of the evidence for the prosecution, the appellant is entitled to a mitigating circumstance. There being no aggravating circumstance to offset it, the penalty should be imposed in its minimum period. Applying the Indeterminate Sentence Law, the penalty to be imposed upon the appellant is from four (4) months and one (1) day of arresto mayor to four (4) years two (2) months of prision correccional, as minimum, and from four (4) years, two (2) months and one (1) day to six (6) years, one (1) month and ten (10) days, both of prision correccional, as maximum.

The sentence appealed from is modified as above stated, with costs against the appellant.

Bengzon, Acting C. J., Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, and Dizon, JJ., concur.

[1] People vs. Dacio, 98 Phil., 863; 62 Off. Gaz. 2515.

[2] People vs. Sim Ben, 98 Phil., 138; 52 Off. Gaz. 211-212.

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