

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. MAMERTO RESPECIA AND SANTIAGO LAGUNAN, DEFENDANTS AND APPELLANTS.

G.R. No. 13569. April 29, 1960

Ponente: ENDENCIA, J.

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ENDENCIA, J.:

Found guilty by the Court of First Instance of Surigao of illegal possession of dynamite and sentenced each of the appellants to undergo the indeterminate penalty of three (3) months, arresto mayor, as minimum to one (1) year and six (6) months, prision correccional, as maximum, to pay a fine of P600.00 or serve subsidiary imprisonment in case of insolvency, and not satisfied with the penalty imposed upon them, they appealed from the decision on the ground that the court erred:

- In not imposing on the accused the minimum straight penalty within the range and between the period of three months to ten months, instead of imposing on them the indeterminate penalty of three months, arresto mayor, as minimum, to one year and six months as maximum, in view of the presence of the mitigating circumstance of their voluntary plea of guilty; and
- In applying the Indeterminate Sentence Law to the case of appellants and, consequently, in imposing the indeterminate sentence of three months minimum to one year and six months maximum.

Appellants pleaded guilty when they were arraigned and for this reason they claim that in view of their plea, the trial court should have applied the penalty provided for in Act 2255 as amended by Act 3023, in its minimum period in accordance with Art. 64, paragraph 2, of the Revised Penal Code, which, they allege, is supplementary to special laws. They contend that by virtue of their plea of guilty, they deserve the penalty of three months and ten months, and not that imposed on them by the trial court. Further, they claim that the trial court, should not have applied the Indeterminate Sentence Law, for in doing so it resulted in the lengthening of their sentence.

Carefully considered, appellants' contentions are untenable, for, in the first place, offenses which are punishable under the special laws are not subject to the provisions of Art. 64 of the Revised Penal Code, and in several cases we held that the provisions of the Revised Penal Code regarding the application of the circumstances modifying the criminal liability of the accused are not applicable to special laws (*People vs. Ramos*, 78 Phil., 392; 44 Off. Gaz., 3288; *People vs. Gonzales*, 82 Phil., 307; 46 Off. Gaz., 1583).

As to appellants' contention that because of the application of the Indeterminate Sentence Law, the penalty imposed upon them has been more than it should be, we likewise find not well taken, for the trial court, under its discretion, could, have imposed even a longer penalty of from three months to two years, it appearing that the penalty provided by law for illegal possession of dynamite is imprisonment of not less than three months and not more than two years. The penalty in question is therefore within the legal range and we find no reason for modifying it.

Appellants invoke, however, the doctrine laid down in *People vs. Nang Kay*, 88 Phil., 515, wherein it was held that the Indeterminate Sentence Law should not be applied if it would lengthen the penalty of the accused, but evidently the said doctrine has no application to the case at bar because herein the court has imposed a shorter sentence than what it could mete out to the appellants. On the other hand, in the recent case of *People vs. Felicisimo Aguiro*, July 31, 1958, we affirmed the penalty of two to five years' imprisonment imposed by the trial court in a case of illegal possession of firearm for the reason that the penalty thus imposed was within the legal range. Accordingly, we find no reversible error committed by the trial court as pointed out by the appellants; if at all, the error of the trial court was in qualifying the imprisonment imposed on the accused of three months as *arresto mayor* and of one year and six months as *prision correccional*, terms which are peculiar to the crimes punished by the Revised Penal Code and not applicable to crimes punished by special laws. Consequently, the penalty imposed upon the appellants should be considered as three months to one year and six months imprisonment.

Wherefore, with the modification above-stated, the judgment appealed from is hereby affirmed in all other respects, with costs against the appellants.

Paras, C. J., Bengzon, Montemayor, Bautista Angelo, Labrador, Concepcion, Barrera, and Gutierrez David, JJ., concur.

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