

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. VICENTE FLORES Y MONDRAGON, ACCUSED-APPELLANT.

G.R. No. 137491. November 23, 2000

Ponente: DAVIDE JR., C.J.

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DAVIDE JR., C.J.:

In an Information filed on 14 October 1996, accused-appellant Vicente Flores y Mondragon (hereafter VICENTE) was charged before the Regional Trial Court of Dumaguete City with the violation of Section 9, Article II of R.A. 6425,[1] as amended. The case was docketed as Criminal Case No. 12731 and assigned to Branch 35 thereof. The information alleges:

That on October 11, 1996, at about four o'clock in the afternoon, at Sitio Tontonan, Barangay Bal-os, Basay, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully and unlawfully PLANT and CULTIVATE Indian hemp or Marijuana plants, all having a total weight of 230 grams, without authority of law.

CONTRARY TO LAW.[2]

When arraigned on 8 January 1999, VICENTE, in the presence and with the assistance of his counsel, pleaded guilty to the crime charged.[3] The trial court inquired into the voluntariness of the plea and VICENTE's comprehension thereof. It informed VICENTE that the offense with which he was charged and which he admitted carries the penalty of reclusion perpetua to death; but VICENTE was firm in his plea of guilty.

As a result of VICENTE's voluntary plea of guilty, the trial court on 12 January 1999 promulgated an Order,[4] the pertinent portion of which reads:

In view therefore of the spontaneous and voluntary plea of guilty entered by accused Vicente Flores y Mondragon, the Court finds him guilty beyond reasonable doubt of violating Section 9, Article II of R.A. 6425 as amended, otherwise known as the Dangerous Drugs Act of 1972, and appreciating in his favor the mitigating circumstance of plea of guilty without any aggravating circumstance to offset the same, and applying the Indeterminate Sentence Law, hereby sentence him to reclusion perpetua and to pay a fine of five hundred thousand pesos, without subsidiary imprisonment, however, in case of insolvency, and to pay the cost.

The accused shall be credited with the full time of his preventive imprisonment in accordance with Art. 29 of the Revised Penal Code as amended by R.A. 6127, if the conditions prescribed therein have been complied.[5]

Not satisfied with the penalty imposed by the trial court, VICENTE moved to reconsider the same. He contended that since only 230 grams of marijuana were found to have been cultivated and planted by him, then in accordance with Section 17 of R.A. No. 7659 and with the doctrine enunciated in *People v. Simon*,[6] he should be sentenced to suffer only the penalty of six (6) months of arresto mayor, as minimum, to two years and four (4) months of prision correccional, as maximum.

On 2 February 1999, the trial court issued an order denying the motion for reconsideration for lack of merit.[7]

Not satisfied, VICENTE appealed to us. On 5 July 1999 we accepted the appeal.

In his Appellant's Brief, VICENTE alleges that:

I

THE COURT A QUO GRAVELY ERRED IN IMPOSING THE PENALTY OF RECLUSION PERPETUA IN THE CASE AT BAR IN THE LIGHT OF THE PREVAILING JURISPRUDENCE ON THE MATTER.

II

CONSIDERING THE COURT A QUO'S FINDING THAT THE CASE AT BAR INVOLVES A CAPITAL OFFENSE, IT GRAVELY ERRED IN NOT PROPERLY OBSERVING THE PROVISIONS OF SECTION 3, RULE 116 OF THE RULES OF COURT.

Then in his Supplemental Appellant's Brief, which we admitted on 6 March 2000, VICENTE submits this additional assignment of error:

THE COURT A QUO GRAVELY ERRED IN IMPOSING A FINE OF FIVE HUNDRED THOUSAND PESOS IN THE CASE AT BAR IN THE LIGHT OF THE PREVAILING JURISPRUDENCE ON THE MATTER.

He contends that the quantity of the marijuana involved in this case is only 230 grams. Conformably then with Section 20 of R.A. No. 6425, as amended by Section 17 of R.A. 7659[8] and the rule laid down in *People v. Simon*,[9] reclusion perpetua cannot be imposed on him. Applying in his favor the Indeterminate Sentence Law, he can be sentenced only to an indeterminate penalty ranging from six (6) months of arresto mayor, as minimum, to two (2) years and four (4) months of prision correccional, as maximum. It also follows that no fine could be imposed on him because, as pronounced in *People vs. Simon*, "fine is imposed as a conjunctive penalty only if the penalty is reclusion perpetua to death."

Anent the second assigned error VICENTE argues that since the trial court was of the view that the case at bar involved a capital offense, it erred in not properly observing the procedure provided for in Section 3, Rule 116 of the Rules of Court which states:

Sec. 3. Plea of guilty to capital offense; reception of evidence. - When the accused pleads guilty to a capital offense, the court shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea and require the prosecution to prove his guilt and the precise degree of culpability. The accused may also present evidence in his behalf.

VICENTE asserts that in *People v. Dayot*[10] we held that under this section, the judge is required to accomplish three things: (1) to conduct a searching inquiry into the voluntariness and full comprehension of the consequences of the accused's plea; (2) to require the prosecution to prove the guilt of the accused and the precise degree of his culpability; and (3) to inquire whether or not the accused wishes to present evidence on his behalf and allow him to do so if he so desires. This procedure is mandatory, and a judge who fails to observe it commits a grave abuse of discretion.

In the Appellee's Brief the Office of the Solicitor General agrees with VICENTE as regards the latter's first assigned error in the Appellant's Brief and the additional assigned error in the Supplemental Appellant's Brief. It disagreed with him on the second assigned error because Section 3 of Rule 116 of the Rules of Court is not applicable in this case. VICENTE did not plead to a capital offense since the imposable penalty for the offense charged is only prision correccional under the law and according to the current jurisprudence. The applicable provision is Section 4 of Rule 116, which provides:

SEC. 4. When the accused pleads guilty to a non-capital offense, the court may receive evidence from the parties to determine the penalty to be imposed.

However, such reception is within the discretion of the court.

The appeal is meritorious.

We agree with VICENTE that the trial court erred in imposing on him the penalty of reclusion perpetua and ordering him to pay a fine of Five Hundred Thousand Pesos on the basis of Section 9, Article II of R.A. No. 6425 as amended, which reads:

SEC. 9. Cultivation of Plants which are Sources of Prohibited Drugs.- The penalty of reclusion perpetua to death and a fine ranging from five hundred thousand pesos to ten million pesos shall be imposed upon any person who shall plant, cultivate or culture on any medium Indian hemp, opium poppy (*papaver somniferum*) or any other plant which is or may hereafter be classified as dangerous drug or from which any dangerous drug may be manufactured or derived.

It is true that under this section the prescribed penalty is reclusion perpetua to death and a fine ranging from five hundred thousand pesos to ten million. However, this section is subject to the provision of Section 20 of R.A. No. 6425, as amended by Sec. 17 of R.A. No. 7659, the pertinent portion of which reads as follows:

SEC. 20. Application of Penalties, Confiscation and forfeiture of the Crime. - The penalties for offenses under Section 3, 4, 7, 8, and 9 of Article II and Section 14, 14-A, 15 and 16 of Article III of this Act shall be applied if the dangerous drugs involved is in any of the following quantities:

x x x

5. 750 grams or more of indian hemp or marijuana;

x x x

Otherwise, if the quantity involved is less than the foregoing quantities, the penalty shall range from prision correccional to reclusion perpetua depending upon the quantity.

Consequently, the penalty prescribed in Section 9 will apply only if the quantity of the dangerous drugs involved falls within the first paragraph of Section 20 as amended, i.e., 750 grams or more of Indian hemp or marijuana. If the quantity is lower than that specified therein, i.e., less than 750 grams, the penalty shall be from "prision correccional to reclusion perpetua," pursuant to the second paragraph of said Section 20. Withal, the penalty under Section 9 shall be applicable depending on the quantity of the regulated drugs involved.

On the basis of the foregoing, considering that the Indian hemp or marijuana plants found in the possession of VICENTE had a total weight of only 230 grams, the imposable penalty is only prision correccional pursuant to our decision in *People v. Simon*.^[11] We quote these pertinent portions thereof:

(1) Where the quantity of the dangerous drug involved is less than the quantities stated in the first paragraph of Section 20 of R.A. No. 6425, the penalty to be imposed shall range from prision correccional to reclusion temporal, and not reclusion perpetua. The reason is that there is an overlapping error, probably through oversight in the drafting, in the provisions on the penalty of reclusion perpetua as shown by its dual imposition, i.e., as the minimum of the penalty where the quantity of the dangerous drugs involved is more than those specified in the first paragraph of the amended Section 20 and also as the maximum of the penalty where the quantity of the dangerous drugs involved is less than those so specified in the first paragraph.

(2) Considering that the aforesaid penalty of prision correccional to reclusion temporal shall depend upon the quantity of the dangerous drugs involved, each of the component penalties thereof - prision correccional,

prision mayor, and reclusion temporal - shall be considered as a principal imposable penalty depending on the quantity, such that the quantity of the drugs enumerated in the second paragraph should then be divided into three, with the resulting quotient, and double or treble the same, as the bases for determining the appropriate component penalty. Thus, if the marijuana is below 250 grams, the penalty to be imposed shall be prision correccional; from 250 to 499 grams, prision mayor; and 500 to 749 grams, reclusion temporal.

(3) The modifying circumstances in the Revised Penal Code may be appreciated to determine the proper period of the corresponding imposable penalty or even to effect its reduction by one or more degrees; provided, however, that in no case should such graduation of penalties reduce the imposable penalty lower than prision correccional.

(4) In appropriate instances, the Indeterminate Sentence Law shall be applied and considering that R.A. No. 7659 has unqualifiedly adopted the penalties under the Revised Penal Code with their technical significations and effects, then the crimes under the Dangerous Drugs Act shall now be considered as crimes punished by the Revised Penal Code; hence, pursuant to Section 1 of the Indeterminate Sentence Law, the indeterminate penalty which may be imposed shall be one whose maximum shall be within the range of the imposable penalty and whose minimum shall be within the range of the penalty next lower in degree to the imposable penalty.[12]

In the instant case, VICENTE pleaded guilty under the information charging him with willful and unlawful planting and cultivation of marijuana with a total weight of 230 grams. It is settled that a plea of guilty not merely joins 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 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.[13] Thus, when formally entered on arraignment, it is sufficient to sustain a conviction for any offense charged in the information, without the necessity of requiring additional evidence, since by so pleading, the defendant himself has supplied the necessary proof.[14]

With the foregoing as our touchstones, VICENTE's plea of guilty warrants the imposition of the penalty of prision correccional pursuant to the second paragraph of Section 20 of R.A. No. 6425, as further amended by Section 17 of R.A. No. 7659, conformably with our ruling in *People v. Simon*. Applying the Indeterminate Sentence Law, the penalty imposable should be an indeterminate penalty whose minimum should be within the range of the penalty next lower in degree, which is *arresto mayor*, and whose maximum should be the proper period of prision correccional taking into account the proven modifying circumstance. Having voluntarily entered a plea of not guilty, which is a mitigating circumstance,[15] then applying Article 64 of the Revised Penal Code, the maximum would be the medium period of prision correccional. More concretely, VICENTE can thus be sentenced to suffer an indeterminate penalty ranging from four (4) months of *arresto mayor* as minimum, to two (2) years, four (4) months and one (1) day of prision correccional medium, as maximum.

Considering the reduction of the penalty herein imposed, the other contention of VICENTE that the penalty of fine should be deleted must be sustained. Section 17 of Republic Act No. 7659 does not prescribe any fine in cases involving a quantity of less than 750 grams of Indian hemp or marijuana.[16] Fine is imposed as a conjunctive penalty only if the penalty is *reclusion perpetua* to death.[17] In light of the foregoing disquisitions, VICENTE's other assignment of error as to the failure of the trial court to comply with the requirements of Section 3, Rule 116 of the Rules of Court must fail.

Section 3, Rule 116 provides that when the accused pleads guilty to a capital offense, the court shall conduct a searching inquiry into the voluntariness and full comprehension of the consequences of his plea and require the prosecution to prove his guilt and the precise degree of culpability. The accused may also present evidence on his

behalf. In the present case, VICENTE, as previously discussed, stands charged in the information of an offense in which the maximum penalty imposable is only prision correccional considering that the quantity of marijuana involved is only 230 grams. As to whether the offense charged is capital or not, the only determinant factor is the information itself. A cursory reading of the information herein will show that VICENTE is being charged of a non-capital offense. Perforce, the applicable rule should be Section 4 of Rule 116, which provides that when the accused pleads guilty to a non-capital offense, the court may receive evidence from the parties to determine the penalty to be imposed. While the present Rules of Court makes it mandatory for the court, when the accused pleads guilty to a capital offense, to take additional evidence as to the guilt of the accused and the circumstances attendant upon the commission of the crime after the entry of plea of guilty, that is not so in non-capital offenses. In the latter, the reception of evidence is discretionary with the court.[18] It cannot then be said that the trial court erred when it failed to require the prosecution to present evidence in order to have some basis for the decision. At any rate, records will show that herein accused was asked in open court searching questions by the trial judge to determine the voluntariness and the full comprehension of his plea.[19]

WHEREFORE, the challenged decision of Branch 35 of the Regional Trial Court of Dumaguete City is hereby **AFFIRMED** subject to the **MODIFICATION** that accused VICENTE FLORES y MONDRAGON is hereby sentenced to suffer an indeterminate penalty ranging from four (4) months of arresto mayor as minimum to two (2) years, four (4) months and one (1) day of prision correccional as maximum, and the fine of Five Hundred Thousand pesos imposed upon him is ordered **DELETED**.

It appearing from the records that VICENTE has been under detention since 15 July 1998,[20] thereby having served more than the maximum of the indeterminate penalty herein imposed, his immediate release from custody is hereby ordered, unless he is held for some other cause. The Director of the Bureau of Corrections shall submit a report on the release or otherwise of accused-appellant Vicente Flores y Mondragon within five (5) days from receipt of a copy of this decision.

Costs de oficio.

SO ORDERED.

Puno, Kapunan, Pardo, and Ynares-Santiago, JJ., concur.

[1] The Dangerous Drugs Act of 1972, as further amended by R.A. 7659.

[2] Original Record (OR), 3; Rollo, 4.

[3] Id., 22.

[4] Per Judge Temistocles B. Diez.

[5] OR, 27.

[6] 234 SCRA 555 [1994].

[7] Id., 35.

[8] Entitled "An Act to Impose the Death Penalty on Certain Heinous Crimes. Amending for that Purpose the Revised Penal Code, as Amended, other Special Laws and for Other Purpose," approved on 13 December 1993 and which took effect on 31 December 1993 (People v. Simon, supra note 6).

[9] Supra note 6.

[10] 187 SCRA 637 [1990].

[11] Supra note 6. See also *People v. De Lara*, 236 SCRA 291, 299 [1994].

[12] See *People v. Tranca*, 235 SCRA 455, 465-467 [1994].

[13] *People v. Rapirap*, 102 Phil. 863 [1958], as cited in the case of *People v. Derilo*, 271 SCRA 633, 650 [1987].

[14] *People v. Salazar*, 105 Phil. 1058 [1959]; *People v. Mongado*, 28 SCRA 642 [1969].

[15] Article 13, par. 7, Revised Penal Code.

[16] *People v. Doroja*, 235 SCRA 238 [1994].

[17] *People v. Elamparo*, G.R. No. 121572, 31 March 2000 citing *People v. Simon*, supra note 6.

[18] 2 FLORENZ D. REGALADO, REMEDIAL LAW COMPENDIUM 383 (7th ed. 1995).

[19] Rollo, 39.

[20] OR, 13.

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