

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. FERNANDO BMTLADO Y LUMUGDA, DEFENDANT AND APPELLANT.

G. R. No. 17444. August 19, 1921

Ponente: JOHNSON, J.

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JOHNSON, J.:

It appears from the record that on the 18th day of December, 1920, one of the assistant prosecuting attorneys of the City of Manila presented a complaint in the Court of First Instance, charging the defendant with the crime of qualified theft. The complaint alleged:

"That on or about the 11th day of April, 1920, in the City of Manila, Philippine Islands, and within the jurisdiction of this court, the said accused did voluntarily, unlawfully, and feloniously and with intent of gain and without the consent of its owner, take, abstract and carry away the sum of \$120 consisting of six twenty (20) dollar bank notes belonging to Lieutenant W. S. Murray, to the damage and prejudice of the latter in the amount of P240 Philippine pesos, equivalent to 1,200 pesetas.

"That the crime was committed with the aggravating circumstances of the same having been perpetrated in the dwelling of the offended party and in the nighttime, and the further circumstance that the herein accused had been previously convicted four times by this same court of the crime of theft. Contrary to law."

Upon said complaint the defendant was duly arrested, arraigned, and plead "not guilty." Later, when the cause was called for trial the defendant withdrew his plea of "not guilty" and substituted therefor the plea of "guilty;" whereupon the Honorable George R. Harvey, judge, in consideration of the plea of guilty on the part of the defendant and after consideration of the facts set out in the complaint, sentenced him to be imprisoned for a period of two years, eleven months, and eleven days of presidio correccional, with the accessory penalties of the law, to indemnify the offended person in the sum of \$60, and in case of insolvency to suffer subsidiary imprisonment in accordance with the provisions of the law, and to pay the costs. From that sentence the defendant appealed to this court.

The appellant contends that the lower court committed an error in sentencing him to be imprisoned for a period of two years, eleven months, and eleven days, for the reason that the lower court was without authority to consider the aggravating circumstance of former convictions four different times for the crime of theft.

An examination of the complaint above shows that it alleges that the defendant had been convicted for the crime of theft four times before the commencement of the present action. To that complaint, the defendant plead guilty. His plea of guilty not only admitted that he had committed the theft described in the body of the complaint, but also admitted the fact that he had been convicted four different times for the crime of theft theretofore in the same court in which the present complaint was presented.

An appeal from a judgment of conviction, which is based upon a plea of guilty, raises no question of fact, and this court will look to the record only for the purpose of ascertaining whether the penalty imposed is in accordance with the law based upon the facts alleged in the complaint. (U. S. vs. Tamarra, 21 Phil., 143; U. S. vs. Barba, 29

Phil., 206; U. S. vs. Jamad, 37 Phil., 305.)

A plea of guilty is an admission of all the material facts alleged in the information. When the information charges not only the crime but also that the defendant had been convicted theretofore, a plea of guilty to the charge admits not only the facts constituting the crime with which he is charged in the present case but also the fact that he had been convicted theretofore in the manner charged in the complaint. (U. S. vs. Barba, 29 Phil., 206; U. S. vs. Look Chaw, 18 Phil., 573.)

The essence of the plea of guilty in a criminal trial is that the accused admits his guilt freely, voluntarily, and with full knowledge of the consequences and meaning of his act, and with a clear understanding of the precise nature of the crime or crimes charged in the complaint or information. A plea of guilty, when formally entered on arraignment, is sufficient to sustain a conviction of any offense charged in the information without the introduction of further evidence, the defendant himself having supplied the necessary proof by his plea of guilty. (U. S. vs. Dineros, 18 Phil., 566; U. S. vs. Jamad, 37 Phil., 305.)

The defendant having admitted his guilt of the facts charged in the complaint, the only question left for decision is the penalty. The record shows that the amount of money stolen was \$120 (P240) and that \$60 only was recovered. Considering the amount of the theft, the appellant must be sentenced in accordance with paragraph 3 of article 518 in relation with paragraph 3 of article 520 of the Penal Code, or with the immediate superior grade to that fixed in paragraph 3 of article 518 in its maximum degree, which is six years and one day to eight years of presidio mayor. After a full consideration of the facts and the plea of guilty of the defendant, we are of the opinion and so decide that the sentence of the lower court should be modified and that the appellant should be sentenced to be imprisoned for a period of six years and one day of presidio mayor, with the accessory penalties of the law, to indemnify the offended party in the sum of \$60 and to pay the costs. So ordered.

Araullo, Street, Avancena, and Villamor, JJ., concur.

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