

ARSENIO MACAU, PETITIONER, VS. THE HONORABLE EULOGIO P. REVILLA, JUDGE OF FIRST INSTANCE OF BULACAN, AND BUENAVENTURA OCAMPO, PROVINCIAL FISCAL OF BULACAN, RESPONDENTS.

G.R. No. 25308. February 18, 1926

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

This is a proceeding instituted by Arsenio Macali against the Honorable Eulogio P. Revilla, Judge of First Instance of Bulacan, and the Provincial Fiscal of Bulacan, Buenaventura Ocampo, in which he prays that an order of mandamus be issued ordering the respondent judge to allow the appeal filed by the petitioner on December 1, 1925, and to forward to this court the record of criminal case No. 4438, People of the Philippine Islands vs.. Arsenio Macali, of the Court of First Instance of Bulacan, for a review of the judgment entered therein.

The respondents, in answer to the complaint, admit all the facts therein set forth and, as a special defense, allege that the petitioner had waived his right to appeal and had begun to serve his sentence surrendering himself to the proper authorities for the execution of the judgment and stamping his thumb mark on the order of commitment of his person to the Director of Prisons.

The bare facts resulting from the pleadings and from the oral argument of counsel for both parties are the following: October 29, 1924, the respondent Provincial Fiscal of Bulacan filed in the Court of First Instance of said province a complaint against the herein petitioner Arsenio Macali, accusing him of the crime of murder. On November 18, 1925, the said Provincial Fiscal of Bulacan, after obtaining the permission of the court, amended the said complaint, changing the crime of murder for that of homicide. On being arraigned upon the amended information on November 18, 1925, and at the suggestion of his attorney, petitioner pleaded guilty. Immediately thereafter, the respondent judge, Honorable Eulogio P. Revilla, rendered judgment, sentencing the petitioner to seventeen years, four months, and one day reclusion temporal, with the accessories of the law, to indemnify the heirs of the deceased in the amount of P1,000, without subsidiary imprisonment in case of insolvency on account of the nature of the principal penalty, and to pay the costs of the action. On the same day, November 18, 1925, upon hearing the judgment rendered against him, the herein petitioner, through ignorance, stated that he waived his right to appeal from said judgment and surrendered himself to the proper authorities, who thereupon proceeded to commit him to Bilibid, the petitioner having stamped his thumb mark on the order issued for that purpose, addressed to the Director of Prisons. On December 1, 1925, the herein petitioner filed an appeal with the Court of First Instance of Bulacan, stating that he withdrew the waiver of his right to appeal that he had formerly made, and that he thereby appealed to the Supreme Court from the judgment rendered against him. On December 11, 1925, the respondent Judge of First Instance of Bulacan disallowed the appeal. Petitioner excepted in due time to this order disallowing his appeal.

If the accused were intelligent and possessed of a certain degree of education, his plea of guilty, his waiver of the

right to appeal and his submission to the authorities for confinement would undoubtedly be sufficient to make the judgment final and subject to execution and to take him out of the judicial power and put him under the executive control, even though the period of fifteen days fixed in section 47 of General Orders No. 58, for the perfection of appeals in criminal cases, may not have expired; but when dealing with an ignorant person, without the least amount of education, as the herein petitioner, who at the mere suggestion of his attorney pleads guilty to a grave crime, such as homicide, and waives his right to appeal from a judgment whereby he is sentenced to suffer the afflictive penalty of seventeen years, four months and one day of reclusion temporal, and to pay an indemnity of P1,000, there is sufficient reason, if not of a juridical nature, of a social character, to stop and ponder to see if that person has Understood the whole extent of, and all the consequences following, such a waiver of a right that the constitution and statutes grant him. (Section 15 [8] of General Orders No. 58; section 3, Jones Law.) When he found himself separated from the outside world and from the persons that are dear to him by the thick iron bars of a jail, the petitioner then felt the consequences of his plea of guilty and of his waiver of his right to appeal from the judgment rendered against him, and hurriedly filed an appeal, withdrawing the said waiver. This is a very clear indication that he did not well understand the significance and extent of his confession of guilt, nor of the consequences of his waiver of his right to appeal.

In the case of *United States vs.. Rota* (9 Phil., 426), cited in *United States vs.. Agcaoili* (31 Phil., 91), this court said the following: " 'The procedure for the trial of criminal, causes makes no specific provision for the trial of a cause when the defendant pleads guilty. We are of the opinion, and so hold, that the Courts of First Instance may sentence defendants in criminal causes who plead guilty to the offense charged in the complaint, without the necessity of taking testimony. However, in all cases, and especially in cases where the punishment to be inflicted is severe, the court should be sure that the defendant fully understands the nature of the charges preferred against him and the character of the punishment to be imposed before sentencing him. * * * ' " And in the said case of *United States vs.. Agcaoili*, supra, this court, furthermore, said the following: "While it is true that a judgment convicting and sentencing a defendant may lawfully be pronounced upon a solemn plea of 'guilty' in open court and on arraignment, entered by the accused with full knowledge of the meaning and effect of his plea, nevertheless, where the complaint charges a capital offense, the possibility of misunderstanding or mistake in so grave a matter justifies and in most instances requires the taking of such available evidence in support of the allegations of the information as the trial judge may deem necessary to remove all reasonable possibility that the accused might have entered his plea of 'guilty' improvidently, or without a clear and precise understanding of its meaning and effect."

The waiver of the right to appeal, like the plea of guilty, must be voluntary, that is to say, the accused must understand the significance and the meaning of his act, as also the consequences deriving therefrom. If in pleading guilty to a grave crime such as homicide, in waiving his right to appeal from a heavy sentence, such as one depriving him of his liberty for seventeen years, four months and one day, and ordering him to pay an indemnity of P1,000, in surrendering himself to the authorities because he could not find bondsman and in stamping his thumb mark in the order of mittimus, the herein petitioner did so, without knowing the full significance nor the meaning and consequences of such acts, due to his ignorance and lack of instruction, it cannot properly be said that he voluntarily renounced his right to appeal, and that he submitted himself voluntarily to serve the sentence imposed upon him; wherefore the said judgment did not become final and subject to execution, and since the fifteen days fixed by law for perfecting an appeal in criminal cases had not elapsed, the trial court has jurisdiction to admit the appeal filed by the petitioner.

However, as the petitioner has pleaded guilty and was sentenced without any trial, this court cannot review his case. But this is no bar to the revision of the information, as regards its validity and sufficiency, since these requisites have not been admitted by the plea of guilty (17 C. J., 32, par. 3295); and also of the judgment, as

regards the qualification of the crime and the degree of the penalty imposed.

Wherefore, the petition is granted and the respondent judge is ordered, immediately upon receipt of this order, to allow the appeal filed by the petitioner and proceed in connection therewith as prescribed by law, without special pronouncement as to costs. So ordered.

Avanceña, C. J., Johnson, Street, Malcolm, Villamor, Ostrand, and Romualdez, JJ., concur.

Johns, J., did not take part.

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