

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. GENEROSA DE LA CRUZ, DEFENDANT AND APPELLANT.

G.R. No. 42890. September 20, 1935

Ponente: VICKERS, J.

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VICKERS, J.:

The appellant Generosa de la Cruz was charged in the Court of First Instance of Pampanga with the crime of murder. She pleaded guilty to the charge on February 28, 1934, but was not sentenced because she was under eighteen. It was ordered that she be confined in the government reformatory until she reached the age of eighteen, when she should be returned to the court for the corresponding sentence.

The appellant was born on October 2, 1916. Therefore at the time of the commitment she lacked only seven months of being eighteen years old.

On September 18, 1934 the Director of Public Welfare reported to the Court of First Instance of Pampanga that the conduct of the appellant while in the Training School for Girls had been satisfactory, and that she would be eighteen on October 2, 1934. He recommended that the case be terminated, and that an order for her final release be issued. The report was referred to the provincial fiscal, who returned it with the statement that he was not in a position to recommend her release, because he believed it would be an injustice to the family of the deceased to have the appellant released within so short a time. In view of this opposition of the provincial fiscal, the court ordered the Director of Public Welfare to bring the appellant into court in order that the proper decision might be issued in the case. The Director of Public Welfare complied with the order of the court, and the recommendation for her release was set for hearing, with notice to the fiscal and the attorney for the appellant. The appellant was released on a bond of ₱5,000. Apparently no evidence was taken. After considering the arguments of the fiscal and the attorney for the appellant, the court ordered that the appellant be confined in the government reformatory until she became of age ("El Juzgado vuelve a ordenar la reclusion de la acusada Generosa de la Cruz en el reformatorio del Gobierno hasta que llegue a la mayor edad.").

From that order the appellant appealed to this court, alleging that the lower court erred in ordering the confinement of the accused anew in the government reformatory without any sufficient reason, and in not ordering her final release.

The provincial fiscal maintained that since section 3 of Act No. 3203 was not expressly repealed by the Revised Penal Code, the provision therein exempting from the operation of the law the case of a minor accused of an offense punishable by life imprisonment or death, such section was still in force and article 8.0 of the Revised Penal Code was not applicable to the present case. The lower court overruled that contention, correctly holding that the said provision had been impliedly repealed by the Revised Penal Code.

In considering the sixth paragraph of article 30 of the Revised Penal Code the lower court said:

"Pero interpretando literahnente la frase 'sera devuelto al tribunal para que pronuncie sentencia definitiva de libertad', tendríamos dos inconvenientes: Primero, el que una persona a quien le faltase algunos dias o menos para cumplir la edad de 15 años, pued'e cometer un delito de asesinato, casi impunemente, porque si observa buena conducta en el reformatorio o institución donde fuefe enviada, el tribunal tendria que ponerla despues en libertad y sobreseer la causa contra ella; y, segundo, el que las facultades del tribunal quedan de este modo delegadas al Comisionado de Bienestar Ptblico, y por este motivo, ha teriido que recurrir al texto ingles de la Ley, habiendo encontrado en el lo siguiente: 'He shall be returned to the court in order that the same may order his final relea.se', lenguaje que es diferente del empleado en el texto castellano, porque mientras en este la disposici6n es mandatoria, en aquel es discrecional del Tribunal el ordenar su libertad, o no."

It was provided in section 7 of Act No. 3203 that upon the termination of the probation period the minor should be returned to the court for either sentence or dismissal. Said section was amended by Act No. 3559 by adding thereto the following paragraph:

"In all cases where any such minor delinquent is returned to the court for either sentence or dismissal the court shall render such final judgment of either sentence or dismissal as in the opinion of the court the records of such minor during his confinement in the institution to which he was committed or during his probation period and the recommendation of the Public Welfare Commissioner shall justify."

Act No. 3559 was, however, expressly repealed by article 367 of the Revised Penal Code, and it was superseded by the sixth paragraph of article 80, which reads as follows:

"If the minor has behaved properly and has complied with the conditions imposed upon him during his confinement, in accordance with the provisions of this article, he shall be returned to the court in order that the same may order his final release."

In repealing Act No. 3559 and substituting therefor the provision we have just quoted, we think it was the intention of the Legislature to make it the duty of the trial judge to order the final release of a minor who, as in this case, has remained in the training school for the full period for which he was committed and behaved properly, and whose final release has been recommended by the Director of Public Welfare. The law does not require that a minor who has been found guilty of a crime and committed to a training school shall be released when he becomes eighteen, if his conduct has been good, but when he reaches his majority, unless the court has fixed a less period.

It would seem that the lower court erred in its original order in committing the minor to the training school only until she should become eighteen, instead of twenty-one years old; but since the appellant remained in the training school for the period ordered by the court and her conduct during that time was satisfactory, and the Director of Public Welfare reported that fact to the court and recommended her final release, and the report as to her good conduct was unquestioned, it was incumbent upon the court to approve the recommendation. If under these circumstances the minor should be recommitted, it would take away the incentive to good conduct.

For the foregoing reasons, the order appealed from is set aside, and it is ordered that the appellant be released, and the case declared terminated, with the costs de oficio.

Avanceña, C.J., Hull, Diaz, and Recto, JJ., concur.

Order set aside, defendant acquitted, and case declared terminated.

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