

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. JOSE LOPEZ Y GUIEB (ALIAS EMILIO YANGCO, MARCELO MAGNO, ETC.), DEFENDANT AND APPELLANT.

G. R. No. 45106. August 26, 1936

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

This is an appeal taken by the accused Jose Lopez y Guieb (alias Emilio Yangco, Marcelo Magno, etc.), from the judgment of the Court of First Instance of Manila, the dispositive part of which reads as follows:

"Wherefore, the court finds the accused guilty of the crime of estafa charged in the information, defined and punished in article 315, case 3, of the Revised Penal Code, in connection with subsection 2, paragraph (d) thereof, and, taking into consideration his plea of guilty with no aggravating circumstance present, sentences him to four (4) months and one (1) day of arresto mayor, to indemnify Kinkwa Meriyasu & Co. in the sum of three hundred seventy-seven pesos and eighty centavos (P377.80), with the corresponding subsidiary imprisonment in case of insolvency, and to pay the costs of the suit. It is so ordered."

Instead of presenting a brief, the attorney de oficio appointed by this court to defend the appellant filed the following petition dated May 15, 1932:

"Comes now the undersigned attorney of the appellant and respectfully represents:

"That after a careful study of this case, he found out that—

"(a) The appellant has pleaded 'guilty* in the lower court of the crime charged against him in the information;

"(b) The trial court has imposed upon the appellant the minimum of the minimum penalty provided by law for the crime charged in the information;

"(c) The trial court has committed no error to the prejudice of the appellant; and

"(d) This appeal of the appellant has no reason whatsoever.

"Wherefore, he respectfully prays that he be relieved from preparing any brief for the appellant and that the decision appealed from be affirmed."

On June 18, 1936, there was received in the office, of the clerk of this court a motion filed by the accused-appellant praying, for the reasons therein stated, that he be granted the benefits of Act No. 4221, that the execution of the judgment rendered against him be ordered suspended and that he be placed on probation.

This motion must be filed by him in the Court of First Instance of Manila which is authorized by section 1 of said Act No. 4221 to place him on probation, after the proceedings therein provided.

Wherefore, not finding any error in the judgment appealed from, it is affirmed in toto, with the costs to the appellant. So ordered.

Avanceña, C. J., Abad Santos, Imperial, Diaz. Recto, and Laurel, JJ., concur.

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