

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS,
ENGRACIA SILVERIO (ALIAS ENGRACIA DE SANTOS, ENGRACIA
SANTOS), DEFENDANT AND APPELLANT.**

G. R. No. 45346. January 30, 1937

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

Having pleaded guilty to an information charging her with the crime of estafa, the appellant was sentenced by the Court of First Instance of Manila to six months and one day of prision correctional, to indemnify the offended party in the sum of P205, with subsidiary imprisonment in case of insolvency, and to pay the costs.

In support of this appeal it is now contended that the lower court erred in not appreciating in favor of the appellant the mitigating circumstance of her having entered a plea of guilty. This contention is without merit. The amount alleged in the information to have been embezzled or misappropriated by the appellant is P205. The penalty prescribed for the offense thus committed is arresto mayor in its maximum period to prision correctional in its minimum period. (Revised Penal Code, article 315, case 3.) Appreciating in favor of the appellant the mitigating circumstance of plea of guilty, the prescribed penalty should be imposed in its minimum period, that is, from four months and one day of arresto mayor to one year of prision correctional. It is within the sound discretion of the trial court to fix the penalty within the range allowed by law. The penalty of six months and one day of prision correctional imposed upon the appellant is within the proper range.

The judgment appealed from is, therefore, affirmed costs against the appellant. So ordered.

Avancena, C. J., ViLla-Real, Imperial, Diaz, Laurel, and Concepcion, JJ., concur.

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