

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.  
POL, DEFENDANT AND APPELLANT.***G. R. No. 45537. July 30, 1937*

Ponente: IMPERIAL, J.

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Dy Pol was charged in the Court of First Instance of Iloilo with having committed the crime of falsification of a public document by virtue of an information alleging: That on or about July 23, 1936, in the municipality of Iloilo, Province of Iloilo, and within the jurisdiction of said court, the said accused, being the manager of the commercial establishment known as "Mambucal" belonging to Chua We, voluntarily and unlawfully appeared before notary public Pedro Davila and, pretending to be Chua We, executed and ratified a deed selling said commercial establishment to Dy Pol, signing it as Chua We; thereby making false manifestations in the statement of facts and making it appear that Chua We had sold him said commercial establishment, when in fact and as the accused well knew, Chua We never appeared before the notary public, executed the document or sold the commercial establishment "Mambucal"; and as a consequence thereof the accused succeeded in appropriating, to his own benefit, articles and merchandise from the establishment "Mambucal" in the amount of P438.52, to the damage and prejudice of Chua We.

The accused pleaded guilty upon arraignment and the court forthwith sentenced him to an indeterminate penalty of from four months and one day of arresto mayor to two years, four months and one day of prision correctional, to indemnify the offended party in the sum of P438, with subsidiary imprisonment in case of insolvency, and to pay the costs. The accused appealed therefrom and in this instance his attorney insists solely upon the reduction of the penalty imposed on the ground that the mitigating circumstances of plea of guilty and lack of irreparable material damage to the offended party were present in the commission of the crime.

The plea of guilty spontaneously entered by the accused prior to the presentation of the evidence for the prosecution constitutes mitigating circumstance under article 13, subsection 7, of the Revised Penal Code, and the court took it into consideration in imposing the indeterminate penalty prescribed in its minimum periods. The other mitigating circumstance invoked by the appellant, which is that the crime committed by the accused has caused no irreparable material damage to the offended party, is not recognize<sup>^</sup> by the Revised Penal Code. Neither is it among those which may be considered as similar in nature and analogous to those expressly recognized, in accordance with article 13, subsection 10, and therefore it cannot correctly be taken into consideration.

The crime confessed by the accused is punished by article 172 of the Revised Penal Code with prision correctional in its medium and maximum periods and a fine of not more than P5,000. Under the Indeterminate Sentence Law, Act No. 4103, as amended by Act No. 4225, the indeterminate sentence that should be imposed is from four months and one day of arresto mayor to two years, four months and one day of prision correctional, a fine of P200, the indemnity, with the corresponding subsidiary imprisonment in case of insolvency of both sums, with costs.

Wherefore, modifying the appealed judgment, the accused-appellant is sentenced to the penalty of from four months and one day of arresto mayor to two years, four months and one day of prision correctional, to pay a fine of P200, to indemnify the offended party in the sum of P438.52, with the corresponding subsidiary imprisonment in case of insolvency of both sums, and to pay the costs of both instances. So ordered.

Avancena, C. J., Villa-Real, Abad Santos, Diaz, Laurel, and Concepcion, JJ., concur.

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