

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. BERNARDO SANCHEZ, DEFENDANT AND APPELLANT.

G.R. No. 4825. March 27, 1909

Ponente: MAPA, J.

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MAPA, J.:

The defendant herein pleaded guilty to the crime of libel as charged in the complaint, and the trial court sentenced him to the penalty of six months' imprisonment with hard labor, and costs.

After the case was closed and when the trial court was about to enter judgment, counsel for the defendant presented a motion requesting that his client be permitted to withdraw the plea of "guilty," and substitute that of "not guilty." The court below peremptorily overruled the motion, and the defense argues in this instance that such overruling is error. The legal provisions governing this point are contained in section 25 of General Orders, No. 58, as follows:

"A plea of guilty can be put in only by the defendant himself in open court. The court may at any time before judgment upon a plea of guilty, permit it to be withdrawn and a plea of not guilty substituted."

The section reads may, and this word shows that it is not mandatory but discretionary upon the court to permit the substitution of the plea of guilty for that of not guilty. And this court has already so held in case No. 2496, *The United States vs. Sixto Molo* (5 Phil. Rep., 412), where it is said that (p. 414): "Under the provisions of this section (section 25), after the defendant has interposed one plea, either guilty or not guilty, his right to change his plea is within the discretion of the trial court." Therefore, the error assigned as to this point is unfounded.

The accused maintains that the newspaper article that gave rise to the complaint is not, in any sense, a libelous article. It is sufficient to read the facts as stated in the complaint, to which the defendant has pleaded guilty, in order to be fully convinced of the contrary. By such a declaration the latter has admitted that it is true, as alleged in the complaint, that the words and terms used in the writing above alluded to mean and signify, among other things, that the injured party, who is a lawyer by profession, is a useless and ignorant lawyer * * *; that his head is hollow-like a drum * * * that he does not see or understand, or serve for anything, that his law-office is deserted, being visited only by flies, and that he is a doctor in brutalities, licensed in savagery, and teaches brutality and inhumanity; all of which is, and can not certainly be otherwise than contrary to law, and highly prejudicial to the good name, credit, and reputation of a lawyer.

The defense finally alleges that the penalty imposed by the judgment is excessive, inasmuch as the complaint contains no allegation of any qualifying circumstance to demonstrate the criminal perversity of the accused, his evil intentions, or a habit of defaming others. There is no better answer to this than the allegations of the complaint:

"The said Bernardo Sanchez-so it reads-knowingly, willfully, unlawfully, and criminally, and with intent to defame, caused to be edited and did edit a newspaper under the name of 'Ang Pudlos' with the exclusive object of attacking the honor and reputation of persons * * *."

The crime of libel is punished by Act No. 277 with a fine not exceeding two thousand dollars, or with imprisonment not exceeding one year, or both. As may be seen, there is no mention of the imposition of hard labor; for this reason the imprisonment imposed by the judgment appealed from should be understood to be without hard labor.

With this sole modification the judgment is hereby affirmed with the costs of this instance against the appellant.

Arellano, C. J., Torres, Johnson, Carson, Willard, JJ., concur.

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