

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. AMADEO CORRAL, DEFENDANT-APPELLANT.

G.R. No. 48938. September 27, 1943

Ponente: OZAETA, J.

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OZAETA, J.:

Appellant was prosecuted and convicted in the Court of First Instance of Davao of a violation of article 159 of the Revised Penal Code, which reads as follows:

"Art. 159.—Other cases of evasion of service of sentence. —The penalty of prision correctional in its minimum period shall be imposed upon the convict who, having been granted conditional pardon by the Chief Executive, shall violate any of the conditions of such pardon. However, if the penalty remitted by the granting of such pardon be higher than six years, the convict shall then suffer the unexpired portion of his original sentence."

It appears that after serving three years, three months, and twenty days of a sentence of eight years and one day of prision mayor plus a fine of P250 for falsification of a public document, appellant, on July 31, 1913, was released from Bilibid in virtue of a conditional pardon extended to him by Governor-General Forbes and duly accepted by him, the conditions being as follows: (1) "that he shall not reside in the city of Manila nor in the province of Rizal hereafter during the period of his sentence and (2) shall not again be guilty of any infraction of the law punishable by imprisonment for one year or more."

Because of having voted in the general elections of June 5, 1934, notwithstanding his legal disqualification on account of previous conviction, appellant was prosecuted in criminal cases Nos. 3262 and 3263 in the Court of First Instance of Davao for illegal voting and perjury in election matter, respectively, and was convicted in both cases and sentenced in the first case to suffer six months' imprisonment and to pay a fine of P300 and in the second case to suffer one year of imprisonment and to pay a fine of P300. Both sentences were affirmed by this Court on January 31, 1936, in G. R. Nos. 42300 and 42311.

The only question for us to decide is whether appellant, in view of his subsequent conviction for violation of the Election Law as above stated, violated that condition of his pardon that he "shall not again be guilty of any infraction of the law punishable by imprisonment for one year or more."

Appellant's principal contention is that said condition should be interpreted as being limited to the duration of his sentence. The trial court, in a well-prepared decision, analyzed the two conditions of the pardon and pointed out that while the first condition regarding the choice of residence was limited to the duration of the sentence against the prisoner, no such limitation was made as to the second condition regarding any future infraction of the law punishable by imprisonment for one year or more. Counsel for the appellant criticizes the trial court's interpretation as "nothing more than a resort to pedantic technicality." He argues that if the condition of the pardon in question is to be interpreted to extend indefinitely beyond the period of the sentence, or, in other words, for the rest of appellant's life, appellant will "forever be in a situation where the proverbial sword of Damocles will be perpetually hanging over his head, constantly exposed to the danger of being subjected to two

punishments, to wit: the punishment for the crime that he might unfortunately commit, and the punishment for the violation of the condition of his pardon." "Under such circumstances," he continues, "the pardon ceases to be a pardon. It becomes an eternal condemnation. The pardon is not a relief. It is a perpetual torture. The pardon is not correctional. It is inhuman. And all these are incompatible with the fundamental concept of pardon."

We cannot accept counsel's view. His criticism of the trial court's interpretation as being "nothing more than a resort to pedantic technicality" is unwarranted, ill-measured, and unseemly. His concept of a conditional pardon is manifestly wrong. He considers it unreasonable and unjust for a prisoner, whose remaining term of imprisonment is remitted, to be subjected to the condition that he shall not again violate the law even after the expiration of the time during which he would have been confined were it not for the pardon. We think such condition is perfectly reasonable. Christ Himself in His divine mercy imposed it when He pardoned a sinner and said: "Go and sin no more." We fail to see any injustice in it. In the first place, if the injunction against future violation of law were to be limited to the time of the sentence against the prisoner, society would gain nothing by the remission of that sentence; it could protect itself better against his possible recidivism or relapse into criminality during that period of time by not remitting his sentence. In the second place, a conditional pardon is ordinarily granted on the basis of the prisoner's good behavior in the penitentiary and on the assumption that he has been sufficiently reformed and that if released he would become law-abiding; and to fortify such assumption it is driven home to him that a relapse on his part would subject him to two punishments as indicated by counsel. Therefore, in his case the sword of Damocles is but a sword of Justice, pointing to him the road that leads away from the penal institution towards the goal of happiness and freedom. It would seem to be an aberration to regard such constant admonition to be good as "an eternal condemnation."

In his second assignment of error appellant attempts to bolster up, his interpretation of the condition of his pardon by invoking his own testimony to the effect that one Clyde B. Ely, who read to him the pardon in Corregidor, explained to him that during the period of his conviction he should not commit any violation of the law or any crime punishable for more than one year; and that because of these explanations he accepted the pardon. Appellant even went to the extent of swearing that "had Mr. Ely explained to me that the conditions imposed in the pardon would continue throughout my life, I would not have accepted the pardon and would have preferred to serve the rest of my sentence in prison." In other words, appellant would have the court believe that he would have preferred to stay for nearly five more long years in the penitentiary rather than be perpetually enjoined from committing a crime. That is abnormal, if not preposterous. And yet counsel for the appellant has the temerity of urging us to believe and accept such testimony in lieu of the terms of the pardon itself, and he even comments thereon in the following language: "Rather than carry forever a burden of not committing a crime punishable by one year or more because he is a social being, the accused-appellant testified that he would have served the full sentence instead." That is plainly another aberration. We are astounded by the incredible fact that a lawyer could in all solemnity assert before this Court that it is a burden not to commit a crime.

The only error we find in the sentence of the trial court is the application to the accused of the Indeterminate Sentence Law, thru oversight, no doubt, of section 2 of said law, which says that it shall not apply to those who having been granted conditional pardon shall have violated the terms thereof. The penalty provided by article 159 of the Revised Penal Code for the offense in question is prison correccional in its minimum period, the medium degree of which is one year, one month, and eleven days to one year, eight months, and twenty days.

Wherefore, the judgment appealed from is hereby modified by sentencing the appellant to suffer one year, one month, and eleven days of prison correccional and to pay the costs.

Yulo, C.J., Paras, and Bocobo, JJ., concur.

Moran, J., concurs in the result.

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