

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS, PEDRO PANGILINAN Y AGUSTIN, ETC., DEFENDANT-APPELLANT.*G.R. No. 48970. November 22, 1943*

Ponente: OZAETA, J.

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Appellant was accused of having stolen a truck valued at 4,500, with the aggravating circumstance of recidivism, it being¹ alleged that he had previously been convicted once of theft by virtue of a final judgment rendered by a competent court. Upon arraignment on January 8, 1943, he pleaded not guilty. But when the case was called for trial on January 27, 1943, appellant, then assisted by his present counsel, asked leave of the court to withdraw his former plea of not guilty and substitute it with that of guilty. The information was then and there read to him again, whereupon the court interrogated him as follows:

"Juzgado: (Al acusado) Ha entendido usted la querella que se le ha leído ?—Acusado: Si, señor.

"P.—Se declara usted culpable o no culpable?—R.—Me declaro culpable.

"P.—Usted sabe que por declararse culpable, el Juzgado le ha de condenar de acuerdo con la ley?—R.—Si, señor.

"P.—Insiste usted en su declaracion de culpabilidad ?—R. —Si, señor."

Upon his plea of guilty the fiscal recommended that an indeterminate penalty of four months and twenty-one days of arresto mayor to one year, eight months, and twenty-one days of prision correccional be imposed upon the accused. The trial court accepted the minimum of four months and twenty-one days of arresto mayor but raised the maximum to two years, eleven months, and ten days of prision correccional. As the penalty imposed by the court was not agreeable to the accused, it being higher than that recommended by the fiscal, the accused was permitted to take the witness stand in an effort to secure from him any modifying circumstances that might justify the acceptance of the fiscal's recommendation. On the witness stand the accused, instead of stating facts tending to mitigate his penalty, denied having stolen the truck by saying that it had been given to him by another person. The court did not believe his testimony and maintained the sentence imposed on him.

Thereafter the accused, thru his counsel, filed a motion to reopen the case on the ground that his plea of guilty had been induced by the promise of the fiscal "that if I plead guilty to the charge against me, he will recommend the minimum penalty of four months and twenty-one days." In reply to that motion Assistant Fiscal Francisco Geronimo said:

"* * * What really happened was this: Before this case was called for hearing the undersigned had a talk with counsel for the accused, informing him that the evidence for the prosecution was quite strong. The accused was not yet in the Court then. Counsel suggested the possibility that his client might change his plea from not guilty to that of guilty. The undersigned then told him that in that case his client would be entitled under the law to one mitigating circumstance, which is the plea of guilty, and for that reason he (the undersigned) would be willing to recommend an indeterminate sentence of 4 mos. and 21 days of arresto mayor as the minimum penalty, and 1 year, 8 mos. and 21 days of prision correccional as the maximum penalty, which is within the

range prescribed, by law, should the accused finally decide to plead guilty. * * *"

The court denied the motion to reopen the case, and from the order of denial the accused has appealed to this court.

Upon the facts above stated, we find no merit whatever in this appeal. It cannot be gainsaid that the accused, assisted by counsel, knowingly and voluntarily asked leave of the court to change his previous plea of not guilty to that of guilty and insisted on the last plea notwithstanding warning of the court that on account thereof he would be sentenced according to law. It is not denied by counsel for the appellant that the penalty meted out by the court was in accordance with the law. The mitigating circumstance of plea of guilty was wiped out by the aggravating circumstance of recidivism. The value of the truck stolen by the accused being P4,500, the crime falls under paragraph 3 of article 809 of the Revised Penal Code, which penalizes it with prison correctional in its minimum and medium periods, the range of which is from six months and one day to four years and two months. The maximum of the penalty imposed by the trial court falls within the medium degree of that range.

Upon all the facts and circumstances of this case, the trial court had no reason to doubt the guilt of the accused, and it was perfectly justified in not allowing the latter to trifle with a solemn judicial proceeding by changing his plea from not guilty to guilty and, after hearing the sentence, change it again to not guilty, solely because the penalty meted out by the court, altho in accordance with the law, was not satisfactory to him. Every accused must realize that he cannot attach a string to his plea of guilt. Truth is immanent and immutable; it is absolute and unconditional; it cannot be affected or converted into an untruth by any extraneous influence. Therefore, appellant's position—that he is guilty if the penalty for the crime is that recommended by the fiscal but not guilty if it is that actually imposed by the court—is untenable. The order appealed from is, moreover, in full consonance with the doctrine laid down by this Court in *People vs. Ubaldo and Tuason*, 55 Phil., 94.

The order is affirmed, with costs.

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

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