

102 Phil. 846

[G. R. Nos. L-10249-60. January 14, 1958]

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. RUFINO CRISOSTOMO, JUANITA FERNANDEZ, A. O. JEAN OR ALFREDO DE JESUS, NG GUAT, GEORGE PHILIPS, KHO SUI, NENA TAN, IRINEO SIA, TIU TIAN, YAO TION, SEE LAI, TIU TOC, CHUA CHEOK AND TAN PO, DEFENDANTS AND APPELLEES.

D E C I S I O N

REYES, J.B.L., J.:

On October 26, 1954, Ng Guat, et al. were under nine separate informations of the same tenor, charged by the Provincial Fiscal of Rizal before the Justice of the Peace Court of Caloocan with a violation of Article 195 (*a*) of the Revised Penal Code for maintaining and operating, on or about July 19, 1954, in their respective places of business, slot machines (jackpots), which are mechanical devices or contrivances whereby the winning or losing of money by the players or bettors wholly or chiefly depends upon chance or hazard.

Similarly, on November 15, 1954, Rufino Crisostomo, et al. were charged before the Justice of the Peace Court of Navotas with the same offense, under three separate informations.

Upon motion to quash of counsel of the accused in all the aforementioned criminal cases, the Justice of the Peace Courts of both Caloocan and Navotas ordered the dismissal of the charges on the ground of prescription of the offenses alleged, with the exception of the case against accused George Philips, wherein the Justice of the Peace Court of Caloocan reconsidered the order of dismissal and ordered the reinstatement of the charges against him, because when the offense charged was discovered by the authorities, as well as when the information against him was filed, this particular accused was outside the country.

From the orders of dismissal of the Courts of Navotas and Caloocan, the Provincial Fiscal appealed to the Court of First Instance of Rizal; the latter, however, affirmed the orders of the inferior courts. Whereupon, the prosecution interposed the present appeals to this Court (G. R. Nos. L-10249 to 10260).

The sole question raised by these appeals is whether the offenses in question, being punishable by *arresto menor* or a fine not exceeding 200 pesos, prescribe in 2 months. The trial court so held, in the light of Article 9 taken in connection with the penultimate paragraph of Article 90 of the Revised Penal Code which considers said offenses as light offenses that prescribe in two months; but the State contends that the offenses prescribe in 10 years, since under the provisions of Article 27 in conjunction with the third paragraph of Article 90, also of the Revised Penal Code, a fine of not less than 200 pesos is a correctional penalty that prescribes in ten years.

The above question has already been decided and settled by this Court in the case of *People vs. Yu hai*^[1] G. R. L-9598, promulgated on August 15, 1956 (52 Off. Gaz., No. 11, 5116), followed by the cases of *People vs. Aquino*,^[2] G. R. L-9357-70, promulgated August 21, 1956, and *People vs. Canson*^[3] L-8848-58, promulgated May 23, 1957 (53 Off. Gaz., No. 19, 6512). In said cases we have ruled, for the reasons stated therein, that an offense punishable by *arresto menor* or a fine not exceeding 200 pesos is only a light offense under Article 9 of the Revised Penal Code, and prescribes in two months under Article 90, par. 6. The trial court, therefore, did not err in quashing the present informations on the ground that the offenses charged had already prescribed.

However, considering that the informations here in question also involve twelve violations of the gambling law which have to be dismissed, not because of the innocence of the accused, but simply because of the failure of the prosecution to file the charges on time, we deem it apposite to reiterate our comments in *People vs. Canson*, *supra*, to wit:

“We see no reason for abandoning the doctrine laid down in said two cases. At the same time, we realize the conflict or discrepancy between Articles 9 and 26 of the Revised Penal Code, as pointed out by the lower court and the prosecution. It would greatly be desirable if the Legislature resolved this conflict by suitable legislation, or amendment of the Revised Penal Code. The Executive Department, through the office of the Secretary of Justice and the Office of the Solicitor General, might make representations with the Legislature as to the necessity or wisdom of making an exception in the case of a violation of the gambling law (Article 195 of the Revised Penal Code), classified as a light offense for the purposes of prescription. It has always been the policy of the Government to curb and minimize, even eliminate, the evils of gambling, specially in the form of slot machines, popularly known as “one-arm bandits”, which are often patronized by

that element of the community which could least afford to lose money on the same, not realizing the inexorable law of averages, namely, that despite occasional and rare hits of the jackpot, in the long run, they always lose. Or if the Legislature is not favorably inclined towards the amendment suggested, the Department of Justice might brief and circularize prosecuting attorneys to be more alert in the prosecution of violations of the gambling law, so that the corresponding complaints or information could be filed within the present prescriptive period of two months.”

The orders appealed from are affirmed, without pronouncement as to costs. So ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepcion, Endencia and Felix, JJ., concur.

^[1]99 Phil., 725.

^[2]99 Phil., 1059, (unreported)

^[3]101 Phil., 537.