

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. FRANCISCO FELICIANO (ALIAS TARZAN), DEFENDANT AND APPELLANT.

G. R. No. L-3822. July 31, 1951

Ponente: JUGO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/10cefe4c4a04/>

JUGO, J.:

Francisco, Ernesto, and Fidel, all surnamed Feliciano, were charged with murder before the Justice of the Peace court of San Fernando, La Union. After the preliminary investigation, the case was forwarded to the Court of First Instance of said province. The Provincial Fiscal, after examining the witnesses for the prosecution and the defendants themselves, filed an information before the Court of First Instance for murder against Francisco Feliciano alias Tarzan only, moving for the dismissal of the case as against Fidel Feliciano and Ernesto Feliciano, which motion was granted by the court. The case was set for trial on January 21, 1950, but upon motion of the accused Francisco Feliciano, the trial was postponed for further assignment. It was finally set for April 4, 1950.

Four days before said date, that is, on March 30, 1950, the court, in the presence of the defense counsel Evaristo Ortega and the Provincial Fiscal, Luis H. Sison, heard the case. The defendant's counsel stated to the court at said hearing that the accused was ready to plead guilty to the charge of homicide instead of murder, with the two mitigating circumstances of incomplete self-defense of a relative and lack of education. The Provincial Fiscal, upon being asked by the court, answered that he agreed that "as alleged and recounted by the defense counsel, the facts tally with the facts recounted by the counsel."

The court, presided over by Honorable Roman Campos, ordered that the accused Francisco Feliciano be arraigned and the information was read to the latter and interpreted to him in Ilocano, his dialect. He pleaded guilty. After the plea of guilty, the Judge dictated his decision in open court, but when he reached that part where the penalty was to be imposed, he paused and asked the Fiscal the following question: "What is your recommendation, Fiscal?" and the latter answered: "Eight months straight penalty of prison correctional and P6,000 indemnity."

The court then sentenced the defendant to an "imprisonment of eight (8) months of prison correctional, to pay the heirs of Enrique Espiloy, the deceased, the amount of P6,000, with subsidiary imprisonment in case of insolvency, and to pay one-third of the costs. The accused is credited with one-half of the preventive imprisonment." On the same day, March 30, the order of commitment was issued, remanding the accused to the Provincial Warden, with the words "the time of imprisonment to commence to run from the 30th day of March, 1950." On the same day the Provincial Warden signed and returned to the clerk of court the corresponding receipt in which it was stated that beginning March 30, 1950, the accused had started serving his sentence and that on the same day he had also issued the writ of execution addressed to the sheriff to collect the indemnity awarded to the heirs of the deceased and the costs.

On April 10, 1950, the private prosecutor, Attorney Narciso A. Aquino, filed a motion for reconsideration in which he stated, among other things, that he had been notified that the trial of the case would take place on April

4, 1950, and for that reason he could not attend the hearing on March 30 and pointed out certain alleged mistakes of the Fiscal in accepting the plea of guilty for homicide with two mitigating circumstances. The assistant Provincial Fiscal who was present at the hearing of the motion, defended the decision of Judge Campos. The motion was heard before Judge Jose P. Flores, who reserved his decision.

In an order dated April 14, 1950, but read to the accused and filed with the clerk of court on April 15, 1950, Judge Flores set aside the decision of Judge Campos dated March 30, 1950, and sentenced the defendant to an indeterminate penalty of from eight (8) years, two (2) months and one (1) day of prision mayor to fifteen (15) years and four (4) months of reclusion temporal.

A motion for reconsideration was filed by the defendant on April 20, 1950, but was denied. The defendant appealed.

It is clear that the order of Judge Flores dated April 14 but delivered to the clerk of court and promulgated to the accused on April 15 was issued beyond the fifteen day period within which the court may modify its decision, because it was sixteen days after the order of Judge Campos had been promulgated. The motion for reconsideration filed by the private prosecutor did not suspend the fifteen day period (*People vs. Tamayo*, [*] 47 Off. Gaz., 6150).

Furthermore, the defendant began to serve the sentence imposed by Judge Campos on March 30, 1950, as shown by the order of commitment signed by Judge Campos and the receipt of said order signed by Mariano M. Gaerlan, Provincial Warden (Appendices C and D), in both of which the following words appears as the last paragraph: "The time of imprisonment will commence to run from the 30th day of March 1950." The defendant having commenced to serve the sentence of Judge Campos from March 30, 1950, the court could no longer alter the decision which had thereby become final (*Gregorio vs. Director of Prisons*, 43 Phil. 650, 651).

For the reason that the fifteen-day period had elapsed from the date of the promulgation of the first sentence on March 30, 1950 until the court modified the penalty by its order, promulgated on April 15, and for the further reason that the appellant had already commenced to serve the sentence imposed upon him by the original decision when the order was promulgated, the order of the court dated April 14 is null and void and the decision dated March 30 is in full force and effect.

The Solicitor General, in his brief, while upholding the appellant, makes a severe criticism of the Judge who rendered the original decision, and of the Fiscal who recommended the penalty therein given, for imposing a penalty lower by two degrees instead of one than that prescribed for homicide on account of the two alleged mitigating circumstances, and for failing to require the defense counsel to present his evidence with regard to them. The penalty should have been at least six (6) years and one (1) day of prision mayor instead of eight (8) months of prision correctional.

In view of the foregoing, judgment is hereby rendered setting aside and declaring null and void the order dated April 14, 1950, and declaring in full force and effect the decision dated March 30, 1950, without costs. It is so ordered.

Paras, C. J., Feria, Pablo, Bengzon, Padilla, Tuason, Montemayor and Reyes, JJ., concur.

[*] 86 Phil., 200.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.