

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. JESUS L. CRISOSTOMO, DEFENDANT AND APPELLEE.

G.R. No. L-16945. August 31, 1962

Ponente: PAREDES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/2970857de395/>

PAREDES, J.:

On September 3, 1959, Jesus L. Crisostomo was charged before the Court of First Instance of Bulacan, with the crime of estafa, described and punished under Article 316, par. 2 of the Revised Penal Code, in an information worded as follows—

"That on or about the 16th day of September, 1946, in the municipality of Malolos, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the said accused with intent to defraud, did then and there wilfully and feloniously, sell, transfer and convey, by way of absolute sale unto the spouse Teodoro Faustino and Regina Pangan for P15,000.00, Philippine Currency, by executing a public instrument duly recorded with the Register of Deeds, over a parcel of land containing an area of three (3) hectares, more or less, situated in Bugyong, Calumpit, Bulacan, stating in the said deed of sale that the said property was free from all liens and encumbrances of whatever nature, knowing that said statement was false, as the property was (already) previously encumbered by way of mortgage, to one Antonio Villarama, said mortgage still valid and subsisting at the time of the date aforementioned, and which fact came to the knowledge of the said spouses only in 1953, thereby defrauding and damaging said spouses in the sum of P15,000.00 as the property was later sold at public auction as a consequence of a foreclosure proceedings against the accused Jesus L. Crisostomo, to the damage and prejudice of the said spouses in the amount of P15,000.00, Philippine Currency."

On October 18, 1959, the accused, moved to quash the information, on the ground that the offense had already prescribed. On November 21, 1959, after an exchange of pleadings by the prosecution and defense, the trial court issued an order, the pertinent portions of which are reproduced hereunder—

"* * *. The motion to quash and the opposition thereto in effect raise two questions, first, the starting point for the computation of the prescriptive period, and second, the length of such prescriptive period.

* * * * *

* * *. The defendant contends that the offense charged prescribe in 5 years, it being punishable with arresto mayor (Art. 90, paragraph 3, Revised Penal Code.) On the other hand, the prosecution contends that the offense charged prescribes in 15 years because aside from the penalty of arresto mayor, the law also imposes a fine of not less than the value of the damage caused and not more than three times such value, which in this case would be a minimum of P15,000.00. The prosecution fortifies its contention with the Supreme Court's decision in *People vs. Basalo*, 101 Phil., 57; 53 Off. Gaz., [15] 4814).

After a review of the motion and the opposition thereto and the memorandum filed by the parties, the court believes that defendant's position is the correct one and that the prosecution's reliance on *People vs. Basalo*, supra, is misplaced. In the *Basalo* case, the defendant was charged with violation of the Chattel Mortgage Law, penalized by Article 319, paragraph 2 of the Revised Penal Code with arresto mayor or a fine amounting to

twice the value of the mortgage personal property. In computing the prescriptive period of the offense, the Supreme Court, sustaining the contention of the Solicitor General, took as the basis, not the penalty of *arresto mayor* (a correctional penalty under Article 25 of the Revised Penal Code, which prescribes in 5 years) but the fine of P640.00 representing twice the value of the mortgaged property, which fine is a correctional penalty under Article 26 of the same Code. Thus, the Supreme Court said the following:

'In conclusion, we hold that to determine the prescriptibility of an offense penalized with a fine, whether imposed as a single or as an alternative penalty, such fine should not be reduced or converted into a prison term, but rather it should be considered as such fine under Article 26 of the Revised Penal Code; and that for purposes of prescription of the offense defined and penalized in Article 319 of the Revised Penal Code, the fine imposable therein if correctional or afflictive under the terms of Article 26, same Code, should be made the basis rather than that of *arresto mayor*, also imposable in said Article 319.' (People vs. Basalo, 101 Phil., 57; 53 Off. Gaz., [15], 4814, 4818).

It will be noted from the foregoing citation that the Supreme Court took the fine imposable as the basis for computing the prescriptive period of the offense for two reasons, firstly, because the fine there imposable was prescribed by law as an alternative penalty, and secondly, because the said fine was correctional. In other words, a fine may be taken as the basis for computing the prescriptive period of an offense when such fine is imposed as a single or as an alternative penalty and when it is either correctional or afflictive under the provisions of Article 26 of the Revised Penal Code.

In the instant case the offense charged is also punishable with a fine which is afflictive in nature (Article 26, Revised Penal Code), but such fine is not imposed either as a single or as an alternative penalty, but is imposed in conjunction with *arresto mayor* in its minimum and medium periods. For this reason, the court is of the opinion that the afflictive fine imposable should not be taken as the basis for computing the prescriptive period, but that such computation can be based only upon the penalty of *arresto mayor* in its minimum and medium periods.

The foregoing conclusion of the court finds support in the very text of Article 26 of the Code itself. Thus, the Code says, 'A fine, whether imposed as a single or as alternative penalty, shall be considered * * *.' (Article 26). In other words, the classification of fine into afflictive, correctional or light, under Article 26, should be made only when a fine is imposed either as a single or as alternative penalty; and that no such classification should be made where the fine is imposed in conjunction with, another penalty (See Reyes, the Revised Penal Code, 1956, Vol. I, p. 293).

* * * * *

WHEREFORE, this case is not maintainable because of prescription of the offense charged, and the same will be, as it is hereby dismissed, with costs *de oficio* and the cancellation of the bond filed by defendant for his provisional release."

The people appealed from the above order on two counts, both of which pose the question as to "When does a crime punishable under Article 316, par. 2, of the Revised Penal Code, prescribe?"

The provisions of the Penal Code which are necessary for the resolution of the issue at bar, are hereunder reproduced:

"ART. 316. Other forms of swindling.—The penalty of *arresto mayor* in its minimum and medium periods and a fine of not less than the value of the damage caused and not more than three times such value, shall be imposed upon:

* * * * *

2. Any persons who, knowing that real property is encumbered, shall dispose of the same, although such

encumbrance be not recorded."

ART. 26. Fine.—When afflictive, correctional, or light penalty.—A fine, whether imposed as a single or as an alternative penalty, shall be considered an afflictive penalty, if it exceeds 6,000 pesos; a correctional penalty, if it does not exceed 6,000 pesos but is not less than 200 pesos; and a light penalty, if it be less than 200 pesos."

ART. 90. Prescription of crimes.—Crimes punishable by death, reclusion perpetua, or reclusion temporal shall prescribe in twenty years,

Crimes punishable by other afflictive penalties shall prescribe in fifteen years.

Those punishable by a correctional penalty shall prescribe in ten years; with the exception of those punishable by *arresto mayor*, which shall prescribe in five years.

* * * * *

When the penalty fixed by law is a compound one, the highest penalty shall be made the basis of the application of the rules contained in the first, second, and third paragraphs of this article."

Contrary to the conclusions of the learned trial court, We are of the opinion that the present case comes within the aegis of the Basalo case, (*supra*), where this Court declared that there is no legal justification for converting or reducing the fine into a prison term in case of insolvency "and that for the purposes of prescription of the offense, define and penalized in Article 319 of the Revised Penal Code, the fine imposable therein if correctional or afflictive under the terms of article 26, same code, should be made the basis rather than that of *arresto mayor*, also imposable in said article 319".

But the accused-appellee contends that in the Basalo case, the penalty provided is "*arresto mayor* or fine (Art. 319 par. 2, Rev. Penal Code), while in the case at bar, the penalty imposable is *arresto mayor* and fine" (Art. 316, par. 2, same Code), which carry two different juridical concepts altogether. In other words, the accused-appellee and the trial court contend that in the computation of the period of prescription, *arresto mayor*, the penalty attached to the offense and which prescribe in five (5) years, should be made the basis, disregarding the fine which ranges from P15,000.00, at least, to P45,000.00, imposable upon the accused in this particular case. Upon the other hand, the State maintains that the fine, which Article 26 classifies as afflictive, since it exceeds P6,000.00, and which prescribes in fifteen (15) years (article 90), should be made the medium of the computation.

The interpretation and construction made by the trial judge on the pertinent provisions of the penal code, as heretofore reproduced, can not but lead to absurd results. If a fine, standing alone as a principal penalty and for an amount less than that embezzled by herein appellee (say P640.00 like the Basalo case, *supra*), the offense prescribes in 10 years, there is no sense in holding that in the case of the accused-appellee, where the penalty, if found guilty, is imprisonment (*arresto mayor*) and fine for P15,000.00 to P45,000.00, would only prescribe in five (5) years. Apparently, article 26 points out that it is only when a fine is imposed as a single penalty or as an alternative one, as provided in article 319, par. 2, Rev. Penal Code (Basalo case), that classification thereof into afflictive, correctional or light penalties may be made. However, whatever doubt said article 26 might engender, is cast away by the last paragraph of Article 90, which provides that, "When the penalty fixed by law is a compound one, the highest penalty shall be made the basis of the application of the rules contained in the first, second and third paragraphs of this article" (See also *People vs. Rufo Cruz*, 108 Phil., 255; 58 Off. Gaz. [13] 2679). Under the facts alleged in the present information, the fine is a higher penalty than *arresto mayor*, because by virtue of its amount P15,000.00 to P45,000.00, it is afflictive; while *arresto mayor* is merely correctional. Certainly, article 26 provides the classification, while article 90 indicates when such classification should be applied.

The trial court reasoned out "that when a fine is imposed as an alternative penalty, the presumptive intention of

the legislature is to consider the fine to be at least of the same gravity as the other penalty and the court has a choice whether to impose the fine or the penalty, whereas when a fine is imposed in conjunction with another penalty (like the present), the fine is considered merely as an additional penalty and is subordinated to the main penalty, and the court has no choice and must impose the fine in conjunction with the other penalty". The position of the trial court is untenable. The same is not warranted by the language of article 26, which declares without qualification, that a fine is either afflictive, correctional or light penalty. The Revised Penal Code contains no provision which states that a fine when imposed in conjunction with an imprisonment is subordinate to the main penalty. In conjunction with imprisonment, a fine is as much a principal penalty as the imprisonment. Neither is subordinate to the other. On the contrary, in the instant case, the fine is higher than the imprisonment because it is afflictive in view of the amount involved and as stated heretofore, it is the basis for computation to determine the prescriptive period. We conclude, therefore, that where the Revised Penal Code provides a penalty consisting of imprisonment and fine, whichever penalty is the higher, should be the basis in computing the period of prescription.

The cases cited by the accused-appellee and the trial court, in support of the order of dismissal (*People vs. Dinsay*, 40 Off. Gaz. 12 Supp., 50 *People vs. Maneja*, 72 Phil. 256; *People vs. Yuhiaia Haya*, 99 Phil., 725; *People vs. Aquino, et al.*, G. R. Nos. L-9357-70, Aug. 21, 1956), are not applicable in the case at bar, for not only are the facts at variance, but the issues therein raised are also different.

The period of prescription of offense charged in the case at bar, is, therefore, fifteen (15) years. And from whatever date the computation may start, whether from September 16, 1945, the date of the fraudulent transaction, or from 1953, the year the offended parties gained actual knowledge of the fraud, the fifteen years had not prescribed when the information was filed on September 3, 1959.

Conformably with all the foregoing, the Order appealed from should be, as it is hereby reversed and another entered, remanding the case for appropriate proceedings. No costs.

Bengzon, C. J., Padilla, Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Dizon, Regala, and Makalintal, JJ., concur.

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.