

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS. ARSENIA TAMBA Y LUQUIRO, DEFENDANT AND APPELLANT.

G.R. No. L-18768. February 28, 1964

Ponente: BAUTISTA ANGELO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/5f87e3439999/>

BAUTISTA ANGELO, J.:

Arsenia Tamba y Luquiرو was charged with arson with homicide before the Court of First Instance of Davao under an information stating that, with grave abuse of confidence, willfully, unlawfully and feloniously, she burned the house owned and inhabited by one Carlos S. Gavila to the damage and prejudice of its owner in the total amount of P30,000.00, and as a result minor Regino Gavila III was burned to death.

Upon arraignment, the accused, with the assistance of her counsel de oficio, pleaded guilty to the charge. Thereupon, the court rendered decision finding her guilty as charged "under Art. 321, paragraph 1, in relation to Article 249, of the Revised Penal Code, and conformity with Article 48 of the same Code, hereby sentences her to RECLUSION PERPETUA with the accessory penalties provided by law, to indemnify Carlos S. Gavila in the amount of P30,000.00, and the heirs of Regino Gavila III in the amount of P3,000.00, without subsidiary imprisonment in case of insolvency because of the penalty imposed and to pay the costs."

The accused now appeals from this decision raising the same question already raised by her counsel at the hearing held before the court a quo to the effect that it was error for said court to have found the accused guilty of homicide under Article 321, paragraph 1, in relation to Article 249, considering that the information does not expressly allege that the accused knew that the house was occupied at the time she set fire to the same.

We find merit in this contention, for this Court has already held that "Knowledge on the part of the accused that the building set fire to is occupied, is an essential element of the form of arson defined in Article 549 (new Article 321) of the Penal Code, and the information must contain allegations to the effect that the accused had such knowledge at the time of the commission of the crime in order to sustain a conviction under that article.[1] Here the information does not allege that the accused had knowledge that the building was occupied at the time she set fire to it, and considering that a plea of guilty admits only what is alleged in the information, the accused can only be found guilty of what is actually alleged therein which at most constitutes the crime of arson described in Article 321, paragraph 2, subsection (b), of the Revised Penal Code, dealing with the burning of an inhabited building, the offender not knowing whether or not such building was occupied at the time of the commission of the crime.

Arson under this provision is punishable with reclusion temporal, in the same manner as homicide under Article 249 of the Revised Penal Code. Applying Article 48 of the same Code, reclusion temporal should be applied in its maximum period, or from 17 years 4 months and 1 day to 20 years. There being present the aggravating circumstance of nighttime which is offset by the mitigating circumstance of plea of guilty, said penalty should be imposed in its medium period, or from 18 years 2 months and 21 days to 19 years 1 month and 10 days reclusion temporal. Applying the Indeterminate Sentence Law, as amended, we hereby sentence the accused to suffer a

penalty the minimum of which should be not less than 12 years of prision mayor and the maximum not more than 19 years 1 month and 10 days of reclusion temporal.

Modified as above indicated, we hereby affirm the decision appealed from in all other respects, with costs de oficio.

Bengzon, C. J., Padilla, Labrador, Concepción, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

[1] *People v. Macalma*, 44 Phil., 170 *Valentin Ilo, et al. v. Court of Appeals, et al.*, 108 Phil., 938.

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.