

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS.
YU HAI ALIAS “HAYA”, DEFENDANT AND APPELLEE.**

G.R. No. L-9598. August 15, 1956

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

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

On October 22, 1954, Yu Hai alias "Haya" was accused in the Justice of the Peace Court of Caloocan of a violation of Article 195, sub-paragraph 2 of the Revised Penal Code, for having allegedly permitted the game of panchong or paikiu, a game of hazard, and having acted as maintainer thereof, in the municipality of Caloocan on or about the 26th day of June, 1954. The accused moved to quash the information on the ground that it charged more than one offense and that the criminal action or liability therefor had already been extinguished; and the Justice of the Peace Court, in its order of December 24, 1954, sustained the motion to quash on the theory that the offense charged was a light offense which, under Article 90 of the Revised Penal Code, prescribed in two months.

The provincial fiscal appealed to the Court of First Instance of the province, which affirmed the order of dismissal of the information. Wherefore, the provincial fiscal appealed directly to this Court.

The sole issue is the period for the prescription of the offense charged, punishable under Article 195 of the Revised Penal Code by arresto menor or a fine not exceeding P200. The lower court held that the crime charged is a light offense as defined in Article 9 of the Code, and prescribed in two months; while the Solicitor General argues that as the crime charged may be punished by a maximum fine of P200 (a correctional penalty under Article 26), the same prescribe, also under Article 90, in ten years.

The pertinent legal provisions of the Revised Penal

Code are:

"Art. 90. Prescription of crimes.—

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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.

The crime of libel or other similar offenses prescribe in two years. The offenses of oral defamation and slander by deed shall prescribe in six months.

Light offenses prescribe in two months.

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'Art. 9. Grave felonies, less grave felonies, and light felonies.—

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Less grave felonies are those which the law punishes with penalties which in their maximum period are correctional, in accordance with the above mentioned article.

Light felonies are those infractions of law for the commission of which the penalty of arresto mayor or a fine not exceeding 200 pesos or both, is provided."

"Art. 26. Fine, when afflictive, correctional, or light.—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."

Under Article 90, supra, "light offenses prescribe in two months". The definition of "light offenses" is in turn to be found in Article 9, which classifies felonies into grave, less grave, and light, and defines "light felonies" as "those infractions of law for the commission of which the penalty of arresto menor or a fine not exceeding 200 pesos or both is provided". The offense charged is punishable by arresto menor or a fine not exceeding 200 pesos (Article 195). Hence, it is a "light offense" under Article 9 and prescribes in two months under Article 90.

The Solicitor General argues that as the crime charged may be punished by a maximum fine of P200, which under Article 26 is a correctional penalty, the time for prescription thereof is ten years, pursuant to paragraph 3 of Article 90. This argument is untenable. In the first place, while Article 90 provides that light offenses prescribe in two months, it does not define what is meant by "light offenses", leaving it to Article 9 to fix its meaning. Article 26, on the other hand, has nothing to do with the definition of offenses, but merely classifies fine, when imposed as a principal penalty, whether singly or in the alternative into the categories of afflictive, correctional, and light penalties. As the question at issue is the prescription of a crime and not the prescription of a penalty, Article 9 should prevail over Article 26.

In the second place, Article 90 could not have intended that light offenses as defined by Article 9 would have two prescriptive periods—two months if they are penalized by arresto menor and/or a fine of less than P200, and ten years if penalized by a maximum fine of P200. Under the theory of the Solicitor General, the difference of only one peso in the imposable fine would mean all the difference of nine years and ten months in the prescriptive period of the offense. And what is worse, the proper prescriptive period could not be ascertained until and unless the court decided which of the alternative penalties should be imposed; which the court could not properly do if the offense had prescribed, for then it could no longer be prosecuted. These absurd results the law-makers could not have wittingly intended, especially since more serious offenses as those punishable by arresto mayor (a correctional penalty) prescribe, also under Article 90, in five years, while other "less grave" offenses like libel, and oral defamation and slander, prescribe in even shorter periods of time, two years and six months respectively. As held in the case of *People vs. Florendo*, 73 Phil. 679, there is no reason to suppose that the law-maker would raise the prescriptive period for certain light offenses over other light offenses.

It should also be noted that under Article 9, a light felony is one punishable by arresto menor or a fine not exceeding 200 pesos or both. Now, if we are to follow the argument of the Solicitor General that Article 26 should prevail over Article 9 if the offense is punishable by a maximum fine of P200, we would again have the absurd situation that an offense penalized by arresto menor or fine not exceeding P200 in the alternative, would be a less grave felony, while the more serious one, which the law penalizes with both imprisonment of arresto menor and a fine not exceeding P200, remains only a "light offense".

Finally, criminal statutes are to be strictly construed against the government and liberally in favor of the accused. As it would be more favorable to the herein accused to apply the definition of "light felonies" under Article 9 in connection with the prescriptive period of the offense charged, the same should be followed. Under Article 90, the offense charged, being a light offense, prescribed in two months. As it was allegedly committed on June 26, 1954

and the information filed only on October 22, 1954, the lower court correctly ruled that the crime in question has already prescribed.

The decision appealed from is affirmed, with costs de oficio. So ordered.

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

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