

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. IRINEO TUMLOS, DEFENDANT AND APPELLANT.

G.R. No. L-46428. April 13, 1939

Ponente: VILLA-REAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/9308771f1716/>

VILLA-REAL, J.:

The defendant Irineo Tumlos appeals to this court from the judgment of the Court of First Instance of Iloilo finding him guilty of the crime of theft of large cattle defined and punished in article 310, in relation to article 309, of the Revised Penal Code, and sentencing him to suffer the indeterminate penalty of from two months and one day of arresto mayor to two years, four months and one day of prision correccional, with the accessories prescribed by law and costs, by virtue of an information reading as follows:

"The undersigned acting provincial fiscal accuses Irineo Tumlos of the crime of qualified theft committed as follows:

"That on or about November 21, 1937, in the municipality of Sara, Province of Iloilo, Philippines, and within the jurisdiction of this court, said defendant, wilfully and without using force upon things or violence or intimidation against persons, took, with intent to gain and without the consent of their owner, five cows valued at P39 and belonging to Ambrosio Pecasis.

"An act punishable by law.

"Iloilo, July 11, 1938."

In support of his appeal the appellant assigns as the only error allegedly committed by the lower court in the aforesaid judgment its failure to sustain the defense of "autrefois convict" or double jeopardy, interposed by said defendant.

On or about November 21, 1937, eight cows belonging to Maximiano Sobrevega and five belonging to his son-in-law, Ambrosio Pecasis, then grazing together in the barrio of Libong-cogon, municipality of Sara, Province of Iloilo, were taken by the herein defendant without the knowledge or consent of their respective owners. The deputy fiscal of Iloilo filed on July 11, 1938, an information against the said defendant for the offense of theft of the eight cows belonging to Maximiano Sobrevega, which resulted in his being sentenced, on July 15, 1938, to an indeterminate penalty of from one year, eight months and twenty-one days to five years, five months and eleven days of prision correccional, with the accessories prescribed by law and costs. In the information filed in the present case the same defendant is charged with the theft of five cows belonging to Ambrosio Pecasis, committed on November 21, 1937, the date of the commission of the theft of the eight cows of Maximiano Sobrevega charged in the previous information.

The question to be decided in the present appeal is whether or not the conviction of the accused for the theft of the eight cows belonging to Maximiano Sobrevega constitutes a bar to his conviction for the theft of the five cows belonging to Ambrosio Pecasis, which were grazing together with the aforesaid eight cows belonging to

Maximiano Sobrevega in the same place from which they were stolen at the same time, under the legal procedural principle of "autrefois convict" or double jeopardy.

The theft of the thirteen cows committed by the defendant took place at the same time and in the same place; consequently, he performed but one act. The fact that eight of said cows pertained to one owner and five to another does not make him criminally liable for two distinct offenses, for the reason that in such case the act must be divided into two, which act is not susceptible of division.

The intention was likewise one, namely, to take for the purpose of appropriating or selling the thirteen cows which he found grazing in the same place. As neither the intention nor the criminal act is susceptible of division, the offense arising from the concurrence of its two constituent elements cannot be divided, it being immaterial that the subject matter of the offense is singular or plural, because whether said subject matter be one or several animate or inanimate objects, it is but one.

Therefore, as the five cows alleged to be stolen by Irineo Tumlos were integral parts of the thirteen cows which were the subject matter of theft, and as he had already been tried for and convicted of the theft of eight, he cannot now be convicted of the theft of the other five.

Wherefore, as he had already been put in jeopardy of being convicted of the theft of the five cows in question when he was tried for and convicted of the theft of the eight which together with the five form an integral part of the thirteen which were the subject matter of the offense, the conviction of the herein defendant Irineo Tumlos for the said five cows in the present case would be the second, in violation of his constitutional right not to be punished twice for the same offense; hence, he is acquitted of the charge, which is dismissed, with costs de oficio. So ordered.

Avanceña, C. J., Imperial, Diaz, Laurel, Concepcion, and Moran, 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.