

JOSE A. ARCHES, RECURRENTE Y APELANTE, CONTRA ANACLETO I. BELLASILLO Y EL FISCAL PROVINCIAL DE CAPIZ, RECURRIDOS Y APELADOS.

G.R. No. L-1779. June 19, 1948

Ponente: BRIONES, J.

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BRIONES, J.:

1. DERECHO PENAL Y PROCIDIMIENTO CRIMINAL; DELITOS CONTINUOS; PRESCRIPCION; CASO DE AUTOS.-El que en la querella se diga que "en o hacia el ano 1939 hasta este fecha * * * el acusado, deliberada y maliciosamente, bloquea y obstruye el curso del rio Talaga y riachuelo Lacturan mediante la constraccion de 3 diques en el segundo, sin autorizacion del Secretario de Obras Publicas y comunicaciones, con grave perjuico de los habitantes de los barrios de Tanza y Banica * * *," no significaque el periodo de 4 anos para la prescripcion de que habla el apelante deba harcerse partir del ano 1939 en que, el parecer, se levantaron por primera vez los digues, con infraccion de la Ley del Commonwealth No. 383 que prohíbe y castiga tales actos de obstruccion. Tiene razon el Procurador General al decir que se trata de una infraccion cuntinua. Mientras los diques esten actualmente alli, obstreyendo el curso del rio y riachuelo de que se trata, no hay ninguna solucion de continuidad, el delito no cesa; por tanto, mal puede correr el periodo de descripcion, la cual tendria lugar solamente desde que el delito se cometio y se acabo.

Feria, Pablo, Perfecto, Bengzon, Padilla, y Tuason, MM., estan conformes.

Paras, J., concurs in the result.

Se confira la sentencia.

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